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ICE WORKSITE ENFORCEMENT—UP TO THE JOB?

HEARING

BEFORE THE

SUBCOMMITTEE ON
IMMIGRATION POLICY AND ENFORCEMENT

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

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ICE WORKSITE ENFORCEMENT—UP TO THE JOB?

WEDNESDAY, JANUARY 26, 2011

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

The Subcommittee met, pursuant to notice, at 1 p.m., in room 2141, Rayburn House Office Building, the Honorable Elton Gallegly (Chairman of the Subcommittee) presiding.

Present: Representatives Gallegly, Smith, Poe, Gowdy, Ross, Lofgren, Pierluisi, and Jackson Lee.

Staff Present: (Majority) George Fishman, Subcommittee Chief Counsel; Marian White, Clerk; and Tom Jawetz, Minority Counsel.

Mr. GALLEGLY. Good afternoon, everyone.

One of the things about chairing a Committee, I like to see my trains run on time. And today is probably a better example than most, when we are fighting the weather. And we are expecting votes on the floor here in the next 30 to 45 minutes, and there will be a series. So I want to try to get as much in before we have to break as possible.

I welcome everyone here today and just say that the Subcommittee on Immigration Policy and Enforcement is holding its first hearing of the 112th Congress. I would like to take this opportunity to welcome the Members of the Subcommittee as we begin our work this session.

I especially want to welcome Congresswoman Lofgren. I know she is on her way. I have worked with Zoe for many years and she is a very capable person. Ms. Lofgren, as you know, was the Chairwoman during the previous two Congresses, and she brings with her a great deal of expertise on the issues under the jurisdiction of this Subcommittee.

Let me now turn to today's hearing, which will be an overview of ICE's worksite enforcement efforts.

We are in the midst of a job depression more severe than most Americans have witnessed in their lifetimes. Over 14 million Americans are currently unemployed. The most vulnerable American workers have been especially hard-hit. The official unemployment rate for native-born Americans without a high school degree exceeds well over 20 percent, and their underemployment rate exceeds 32 percent. That is almost a third of that entire class of workers.

And yet, at the same time, millions of illegal immigrants hold jobs. Even when low-skilled Americans can find jobs, their wages are depressed by illegals and other low-skilled immigration. Harvard economist George Borjas has estimated that immigration in recent decades has reduced the wages of native-born workers without a high school degree by almost 9 percent.

The Immigration Reform and Control Act of 1986 made it unlawful for employers to knowingly hire or employ immigrants not eligible to work and required employers to check the identify and work eligibility documents of all new employees.

Unfortunately, IRCA simply asked employers to see if the documents presented by their employees reasonably looked genuine. The easy availability of millions of counterfeit documents have made a mockery of this process. Compounding the flawed design of IRCA, first the INS and then U.S. Immigration and Customs Enforcement failed to vigorously enforce the employer sanctions law.

Then, in 2006, the Bush administration reinvigorated worksite enforcement. It placed a new focus on criminal prosecutions of both illegal immigrant workers who steal Americans' identities and employers who knowingly employ illegal immigrants. The number of civil arrests increased from 445 in the year 2003 to 5,184 in the year 2008. And the number of criminal arrests increased from 72 to 1,103. And the number of criminal convictions increased from 156 to 908.

The net result of this new strategy was more jobs and higher wages for American and other legal workers. One employer subject to a worksite enforcement action raised wages by more than a dollar an hour and hired 200 legal workers. At another, 400 legal workers applied for the 361 jobs left by deported illegal immigrants.

As Chairman Smith will elaborate, the Obama administration has relaxed the get-tough strategy of the Bush administration's ICE director, Julie Myers. ICE still audits the employment records of employers, but what happens to the illegal workers that it uncovers?

Minnesota Public Radio reported about the aftermath of an audit that identified 1,200 illegal immigrants in well-paying janitorial jobs. "The most important rumor to dispel was that the workers were arrested." In the story, a retired ICE official wondered "how effective this enforcement will be, considering the workers are free to move into other jobs." And a representative of the Immigration Law Center believes that the vast majority of the 1,200 illegal workers will "probably try to wait it out, hoping for the laws to change so they can work here legally."

The Obama administration's strategy clearly does a grave disservice to American workers. At today's hearing, we will hear from both ICE and its critics as to the optimal worksite enforcement strategy. The result of ICE's efforts must be that those jobs that are available go to Americans and to legal residents.

At this time, I would like to yield to my good friend. And, as I said in my opening statement, I have had the honor of working with Zoe Lofgren for many years. I have great respect for her. And while we don't always agree on every issue, I think we have

worked in a very civil way, and our differences have never been personal.

So, with that, I would yield to my friend and neighbor from California, Ranking Member Zoe Lofgren.

Ms. LOFGREN. Thank you very much. And I want to congratulate you, Mr. Gallegly, as the new Chair of this Committee and Mr. King as Vice-Chair and, certainly, Mr. Smith as Chair of the Committee.

Today's hearing is the first of many I expect we will have on the role that immigration plays in the U.S. economy and its impact on American jobs. And I hope and actually do expect, as you have just noted, that throughout these hearings, as with the new Congress, our two sides of the aisle will put aside heated rhetoric and work to solve some of the intractable problems that the country has been facing for far too long.

I think everyone agrees that our immigration laws are broken. For decades, these laws have not met the needs of our country—not of American businesses, American workers, or American families. And it is these broken laws that have led us to the morass we now find ourselves in.

Rather than fix those laws, like one would fix a broken car, some may now be suggesting that we just step on the pedal harder. But you can't keep enforcing a broken system without doing real damage. The truth is that continuing to increase enforcement without reforming the broken system will actually hurt the economy and American workers. Yes, increased enforcement may open up a particular job here or there, but this approach will actually destroy many more jobs than it creates.

What we often hear from colleagues on the other side of the aisle is that this issue boils down to simple math: that every time we find and deport an undocumented worker, we open a job for a native worker. But this math is bad math. It simply does not take into account the complex realities of our economy.

We held a hearing last September on our agricultural labor force, which is composed mostly of unauthorized workers. Under their simple math, the wrong math, if we just removed these workers, Americans would run to fill those jobs. But that is not even remotely true. Experts from all sides agree that, even in this poor economy, Americans are not returning to the fields as migrant workers to pick tomatoes, apples, or strawberries. And the increase in wages necessary to get U.S. workers to go to the fields as migrants would hike production costs so high that U.S. food products would no longer be competitive with imported products. The end result would be the closure of American farms, a less secure America, and mass offshoring of millions and millions of U.S. jobs.

Let's be clear here. If we just ramp up enforcement without reforming the system, job losses in agriculture would not be confined to the fields. The Department of Agriculture reports that every on-farm job supports or creates about 3.1 upstream and downstream jobs—jobs in manufacturing, seed production, processing, packaging, distribution, and accounting—that are overwhelmingly filled by United States workers. The truth is that every time we deport a farm worker, we also deport three other jobs that are held by Americans.

This is the real math we need to heed. Enforcement without reform may open up a job here or there, only to destroy four others over here.

Over the past 4 years, this Subcommittee held dozens of hearings on our immigration system. We heard time and time again from economists, business leaders, experts from all backgrounds and across ideological lines that an enforcement-only approach is damaging to businesses and workers. Some are now asking us to pay no attention to that testimony. They are asking us to simply step on the gas, whatever the damage.

Our laws need to be fixed so that they can work for our economy, our people, and our country. Yes, we need to secure our borders and make sure that only authorized workers are employed in the United States. But we also need an immigration system that meets the needs of our economy, one that grows when and where we need workers and shrinks when and where we don't. Without that, we will keep spending billions of taxpayer dollars enforcing broken laws.

Some argue we need to enforce our laws and secure our border before we can ever discuss reforms to our broken system. But the truth is that every day that passes is a day in which we pursue an enforcement-only approach, and that is damaging to our country.

I have additional comments, Mr. Gallegly, but, given that the bells have rung, I would ask unanimous consent to put the additional comments in the record. And perhaps we can hear from some of our witnesses before the vote.

Mr. GALLEGLY. Without objection.

Ms. LOFGREN. I yield back.

[The prepared statement of Ms. Lofgren follows:]

Statement of Ranking Member Zoe Lofgren
Subcommittee on Immigration Policy and Enforcement
Hearing on ICE Worksite Enforcement – Up to the Job?

Wednesday, January 26, 2011, at 1:00 p.m.

Today's hearing is the first of many I expect we will have on the role that immigration plays in the U.S. economy and on American jobs. I hope that throughout these hearings, as with the new Congress, our two sides will be able to put aside heated rhetoric and finally solve some of the intractable problems this country has been facing for far too long.

Everyone agrees that our immigration laws are broken. For decades, these laws have not met the needs of our country—not of American businesses, American workers, or American families. It is these broken laws that have led us to the morass we now find ourselves in.

But rather than fix those laws, like one would fix a broken car, some may now be suggesting that we just step on the pedal harder. But you can't keep enforcing a broken system without doing real damage.

The truth is that continuing to increase enforcement without reforming our broken system will actually hurt the economy and American workers. Yes, increased enforcement may open up particular jobs here or there. But this approach will actually destroy many more jobs than it creates.

What we often hear from my colleagues on the other side of the aisle is that this issue boils down to simple math: that every time we find and deport an undocumented worker, we open a job for a native worker.

But this math is bad math. It simply does not take into account the complex realities of our economy. We held a hearing last September on our agricultural labor force, which is composed mostly of unauthorized workers. Under their simple math, if we just remove these workers, Americans will run in to fill those jobs. But that's not even remotely true.

Experts from all sides agree that even in this economy, Americans are not returning to the fields to pick tomatoes, apples or strawberries. And the increase in wages necessary to get U.S. workers to go to the fields would hike production costs so high that U.S. food products would no longer be competitive with imported products. The end result would be the closure of America's farms, a less-secure America, and the mass off-shoring of millions and millions of U.S. jobs.

Let me be clear here. If we just ramp up enforcement, without reforming the system, job losses in agriculture would not be confined to the fields. The Dep't of Agriculture reports that every on-farm job supports or creates about 3.1 upstream and downstream jobs—jobs in manufacturing, seed production, processing, packaging, distribution, and accounting that are overwhelmingly filled by U.S. workers. The truth is that every time we deport a farm worker, we also deport 3 other jobs held by Americans.

This is the real math we must heed. Enforcement without reform may open up a job over here, only to destroy four others over there.

Over the past four years, this Subcommittee held dozens of hearings on our immigration system. We heard time and again from economists, business leaders, and experts from all backgrounds and across ideological lines that an enforcement-only approach is damaging to businesses and workers.

But some are now asking us to pay no attention. They're asking us to simply step on the gas—whatever the damage.

Our laws need to be fixed so that they work for our economy, our people, and our country. Yes, we need to secure our borders and make sure that only authorized workers are employed in the United States. But we also need an immigration system that meets the needs of our economy, one that grows when and where we needs workers, and shrinks when and where we don't. Without that, we will keep spending billions of taxpayer dollars enforcing broken laws.

Some argue that we need to enforce our laws and secure our border before we can ever discuss reforms to our broken system. But the truth is that every day that passes is a day in which we pursue an enforcement-only approach. There is nothing new here. We have been pursuing an enforcement-only approach for more than two decades. And if you've been paying the slightest bit of attention, you know it isn't working.

As we move forward, we must focus on the truth, not just the sound bites. While it might be tempting to scapegoat immigrants and blame all of our troubles on them, that just wouldn't be true.

Instead, we should learn from our nation's history. A prominent pattern of that history has been the tendency to celebrate our proud immigrant heritage while fearing immigrants present and those to come.

In the 1700s, German immigrants were said to have "swarmed" into our country without regard for our laws or values. Some stoked fear, claiming the Germans were not assimilating like past immigrants and that they would come to "Germanize" the country. In the 1840s, high unemployment led to attacks against the Irish and Roman Catholics, who were described as job-stealing, illiterate criminals. The country saw violent riots and the destruction of more than 100 Catholic churches, schools and homes.

In the 1870s, an economic crisis led to brutal anti-Chinese riots and passage of the infamous Chinese Exclusion Act. In the 1910's, the attacks turned against Italian and

Greek immigrants, who were said to be genetically inferior to previous European immigrants. World War I led to renewed attacks on Germans. The Red Scare led to movements against Russians and Poles. And World War II led to the internment of Japanese.

In each case, it was said that new arrivals lacked the virtues of earlier immigrants, that they took jobs away from native-born workers, and that they would never be fully integrated into American life. But in each case, these fears turned out to be unfounded. These immigrants are now our parents and grandparents, our employers, our scientists, our engineers.

We must remember this. We need not sew division and distrust. We need not find scapegoats. We need not scare workers into thinking they are pitted against each other in a zero-sum economy. We need not set the native born against the foreign born, our fears against our ideals, our past against our future.

Mr. GALLEGLY. Now, I would yield to the gentleman, the Chairman of the full Committee, my good friend from Texas, Lamar Smith.

Mr. SMITH. Thank you, Mr. Chairman.

And Mr. Chairman, congratulations to you on the first hearing of this Subcommittee. You have mentioned some compliments directed toward Ms. Lofgren, the gentlewoman from California, in

her previous role as Chair of this Subcommittee. She ought to reread those comments because they were very complimentary even though she may have missed some of them.

I also happen to agree with something she said at the very end of her opening statement, and that is that only authorized workers should be employed. And we can certainly agree with that.

I do have an opening statement. I will try to get through it fairly quickly. And, as you pointed out, Mr. Chairman, I think we have a couple of votes, but hopefully our witnesses won't mind waiting for us to vote and return.

With unemployment over 9 percent for 20 months, jobs are scarce and families are worried. According to the Pew Hispanic Center, 7 million people are working in the United States illegally. These jobs should go to legal workers, and securing these jobs for American and legal immigrant workers should be a priority of the Federal Government.

The Office of Immigration and Customs Enforcement, ICE, should enforce the law and conduct more worksite enforcement activities. Each time ICE arrests, detains, or deports an illegal worker, it creates a job opportunity for an American worker. Each time the Department of Justice brings a criminal action against an employer who knowingly hired illegal workers, it sends a powerful message that their employment will not be tolerated.

Unfortunately, worksite enforcement has plummeted under the Obama administration. Administrative arrests have fallen 77 percent from 2008 to 2010. Criminal arrests have fallen 60 percent. Criminal indictments have fallen 57 percent, and criminal convictions have fallen 66 percent. And the number of the investigative hours devoted to worksite enforcement has fallen by 34 percent in the last 2 years.

How does the Administration justify these policies? With millions of Americans unemployed, it is hard to imagine a worse time to cut worksite enforcement efforts by more than half.

ICE will testify today that it has increased the number of audits of companies' employment eligibility verification forms they filled out for their employees. The number of audits has increased from 503 in 2008 to over 2,000 in 2010, and the amount of fines has gone up, as well.

However, these audits are of questionable benefit. The GAO has found that, quote, "ICE has faced difficulties in settling and collecting final fine amounts that meaningfully deter employers from knowingly hiring unauthorized workers. ICE officials told us that, because fine amounts are so low, the fines do not provide a meaningful deterrent. The amount of mitigated fines may be, in the opinion of some ICE officials, so low that they believe that employers view the fines as a cost of doing business, making the fines an ineffective deterrent for employers who attempt to circumvent the law," end quote.

Stewart Baker, the Department of Homeland Security's Assistant Secretary for Policy Development in the prior Administration, said that, quote, "the fines are ridiculously low, sometimes less than a New York City parking ticket."

And what happens to the illegal workers who are seldom arrested? They go down the street and knock on the door of the next employer and take possibly another job from an American worker.

Critics of worksite enforcement claim that illegal immigrants hold jobs that Americans won't do. But even in the agriculture industry, where amnesty supporters insist we need illegal workers, 50 percent of the agriculture jobs are held by citizens and legal immigrants. Statements that are Americans are not willing to do these jobs demeans the hardworking Americans who actually do this work on a daily basis.

Citizens and legal immigrants should not be forced to compete with illegal workers for jobs. The Administration should put the interest of American workers ahead of illegal workers. All the Administration has to do is conduct worksite enforcement. Twenty-six million Americans who are unemployed or underemployed are asking the question, "Mr. President, why aren't you protecting American jobs?"

Thank you, Mr. Chairman. And I yield back.

Mr. GALLEGLY. Thank you, Mr. Chairman.

I would yield just a moment to the Ranking Member for a unanimous consent request.

Ms. LOFGREN. Thank you, Mr. Chairman.

I do request unanimous consent to submit a series of statements prepared for today's hearing from leaders in the labor, faith, refugee, and immigration advocacy community. And, in lieu of the time, I would simply submit the lists and statement to the record.

Mr. GALLEGLY. Without objection.

[The information referred to follows:]

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January 26, 2011

LCLAA's Statement for the Immigration Subcommittee
in the House of Representatives

The Labor Council for Latin American Advancement (LCLAA) urges Congress to prioritize fixing our country's broken immigration system. The current administration has set record highs in the number deportations of undocumented immigrants: 400,000 were deported last year, an increase of 10 percent from the last administration. These enforcement-only measures are a band-aid approach to a monumental problem with negative social, economic and political repercussions.

Undocumented workers promote our nation's economic growth through their contribution to the tax base. The deportation of these contributing members to our economy is fiscally irresponsible. It is estimated that a deportation-only policy would result in a loss of trillions of dollars over the span of 10 years whereas immigration reform would add trillions of dollars to the U.S. GDP over the same period.

Instead of criminalizing these workers, LCLAA calls for a comprehensive approach to immigration that protects workers and secures our nation's borders. Narrow-minded policies focused on enforcement weaken rather than strengthen our communities by separating families. They undermine workers' rights and allow employers to have the upper hand. As a result, workers in the U.S face higher rates of workplace violations.

LCLAA urges the 112th congress to be fiscally responsible as our nation recovers from an economic recession. Through immigration reform, this congress can take leadership to deal realistically with the vital workforce that is already in our nation and guide us towards economic growth.

National and Individual Faith Statements

House Judiciary Subcommittee on Immigratiou Policy aud Euforcement

For the January 26, 2011 Hearing: "ICE Worksite Enforcement – Up to the Job?"

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Office of Government and International Affairs
American Jewish Committee

Submitted on behalf of the American Jewish Committee to
The House Judiciary Subcommittee
on Immigration Policy and Enforcement

Hearing on
Immigration and Customs Enforcement (ICE) Worksite Enforcement - Up to the Job?

January 26, 2011

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From its founding in 1906, the American Jewish Committee (AJC) has been a strong voice in support of fair and generous treatment of immigrants, participating actively in many of the major immigration debates of our time: opposing reductions in the flow of legal immigrants; supporting increased "family unification" immigration; supporting efforts to reduce the flow of illegal immigration and enforce immigration laws within the context of due process and humane treatment; supporting policies that assure that the U.S. fulfill its role as a haven for refugees fleeing persecution; supporting access to public benefits for legal immigrants on the same basis as citizens; and supporting programs designed to educate and integrate new citizens.

In advocating for these policies, AJC acts in accord with the American Jewish community's longstanding interest in, and commitment to, a United States immigration and refugee policy that represents our nation's best traditions. According to Jewish tradition, "strangers" are to be welcomed and valued, as we were once "strangers in the land of Egypt." The Torah tells us: "The strangers who sojourn with you shall be to you as the natives among you, and you shall love them as yourself; for you were strangers in the land of Egypt" (Leviticus 19:33-34). Further, we recall how our parents and grandparents made their way to this country seeking a better life, often fleeing persecution, and know that we have prospered because of all that this country has offered us. That same opportunity should be available for others as well.

AJC continues to reaffirm its commitment to fair and generous immigration policies, as fundamentally good for the United States and consistent with Jewish values. Even today, Jewish immigrants, refugees and asylum seekers immigrate to the United States from all corners of the world, including such places as the former Soviet Union, Yemen, Iran, and Central and South America. But our commitment to appropriate immigration policies is not only about the Jewish community, which today constitutes only a small portion of the immigration flow. It is fundamentally about what we see as in the best interests of our country overall, as well as assuring that our nation acts in accord with its highest values. At the same time, we recognize the urgent need for reform of our visa, border and admissions systems, in order to keep out those who wish to do us harm. American immigration policies must be consistent with safeguarding our national security through maintaining control over our nation's borders and enforcing the nation's immigration laws in a fashion consistent with due process and humane treatment. In that same vein, AJC supports measures to strengthen worksite enforcement programs, so long as the proposed enforcement measures are enacted as a component of larger comprehensive immigration reform package, and on condition that those measures are fair, humane, and include adequate safeguards to prevent abuse, protect sensitive biometric information, and provide for a reasonable appeals process. We are also committed to measures that better incorporate newcomers into American society and culture.

We call for immigration reform because each day in our congregations, service programs, healthcare facilities, and schools we witness the human consequences of a broken and outdated system. We see the exploitation of undocumented workers and the plight of separated families, as well as the escalation of community fear due to enforcement measures that are neither smart nor humane. Comprehensive immigration reform would help put an end to this suffering, opening the door to a better life for those who desire to work hard and contribute in a positive way to American society but for now must live in the shadows, a situation that offends the dignity of all human beings.

History has demonstrated that immigrants enrich this nation economically and culturally, and immigration remains a central ingredient to retaining America's economic strength and its proud tradition of democratic pluralism. According to a CATO Institute report, legalization of immigrants would yield significant income gains for American workers and households.[4] The study found that legalization of low-skilled immigrant workers would result in an income gain of 1.27 percent of GDP or $180 billion for U.S. households. Furthermore, legalization would allow immigrants to have higher productivity and create more openings for Americans in higher skilled occupations. As such, a fair and generous immigration policy not only reflects our highest values of freedom, opportunity, and family cohesion, but would also benefit our nation materially.

Comprehensive immigration reform must provide a holistic approach to reforming our immigration system. Such reform should include:

1. **Changes to family immigration laws and adjusting quotas for future flows of immigrants, including high and low-skilled worker visas.**

Family is the cornerstone of American society. United families build strong individuals and strong communities. Right now, many immigrant families remain separated for years – sometimes even decades – because of the bureaucratic visa delays. Comprehensive immigration reform means reforming the immigration system to expedite the visa process in favor of family reunification. This includes making family-based visas more accessible, reducing the current backlog of family-based visas, and generally reorienting the visa system to prioritize family unity. Further, it is important that, in reforming the immigration system, we push back against efforts to deny citizenship to immigrant children born in the United States, which violates the 14th Amendment of the U.S. Constitution. Also, we must ensure that family-based visas are not placed in competition with other visa categories. Provisions such as these are inhumane and harmful to the goal of family unity.

The current immigration system has not been updated in 20 years, and the massive backlog in visa applications is one of many clear signs that the system is not working. Instead of a steady, manageable flow of legal immigration that unites families and meets our nation's high and low-skilled employment needs, we have an out-of-control flow of illegal immigration. Every year, thousands of visas go unused because of bureaucratic red tape, meaning that an average of 20,000 immigrants who could legally receive a visa do not get one. The system is broken, and we need to fix it now.

2. **A path to legalization for immigrants already in the United States.**

There are an estimated 11 million undocumented immigrants currently residing in the United States. Comprehensive immigration reform would provide these immigrants with a path to legal status and eventual earned citizenship. This track to citizenship should be realistic, rather than being so burdensome that it prevents integration. Reasonable criteria may include learning English, having a job, maintaining a criminal-free background, and/or paying a modest fine. However, fines should not be excessive, exemptions should be made for vulnerable populations, and immigrants should not have to return to their country of origin to apply for legal status or citizenship. These measures would only deter participation in the legalization process.

3. Facilitation and support for immigrant integration.

Many immigrants desire to naturalize but lack the necessary tools. AJC believes that the successful acculturation of immigrants is fundamental to a sound immigration policy, and urges greater efforts to facilitate newcomers' adjustment to American society. Acculturation efforts should convey an understanding of and appreciation for American democratic institutions, patriotism, and constitutional principles, including equality under the law and due process. At the same time, without a vigorous commitment to pluralism and respect for immigrant cultures, America risks increasing ethnic tension and resentment. Both the successful incorporation of immigrants and a respect for pluralism are necessary to preserve the "American dream" and sustain democracy.

Consistent with these beliefs, AJC supports the creation and/or reinvigoration of, as well as increased funding for programs and practices designed to effectively acculturate immigrants, including increased support for programs for adults and children. Also, comprehensive immigration reform should include greater emphasis on the importance of learning English by newcomers—adults and children—with greater funding for such programs so that all who wish to do so have the opportunity to learn English upon their arrival in the U.S. or soon thereafter. Finally, there must be recognition that acculturation cannot be accomplished without the significant participation of community institutions.

4. Smart and humane enforcement measures that bolster our national security.

Border policies must be consistent with humanitarian values and with the need to treat all individuals with respect, while allowing the United States to implement its immigration laws and identify and prevent the entry of criminals, and of persons who wish to do us harm or otherwise pose a risk to our national security.

In updating and reforming border security measures, there should be (1) greater intelligence sharing regarding potential terrorists among the nation's intelligence and gatekeeper agencies; (2) increased use of state-of-the-art anti-fraud technology to create counterfeit-resistent passports and visas, and analyze suspect documents; (3) layers of security with multiple screening points for those departing for and arriving in the U.S.; and (4) improvements in the system that tracks foreign nationals who enter and leave the U.S., including the vigorous monitoring of those who enter with student, visitor, or employment visas; matching of entries into and exits from the U.S. in order to better alert the government to those who stay in the U.S. beyond the terms of their visas; and improved enforcement of applicable laws for those who overstay their visas.

To the extent Congress considers, as part of a larger comprehensive immigration reform package, creating or reforming worksite enforcement measures, those measures should be accompanied by the creation of and investment in an effective, modern, and accurate employment document verification system that includes adequate safeguards to protect workers from discrimination in the workplace. Those safeguards should provide assurances that worker biometric information is used for employer verification only, and that no national database of biometric information is created. Also, safeguards should include the creation of an easily accessible and expeditious appeals process, and a meaningful attempt to create universal employer access to the necessary biometric identification technology. With these safeguards in place, AJC would consider supporting a comprehensive immigration reform package

that includes measures to strengthen and reform worksite enforcement and improve employment verification tools.

5. Reforming detention policies, due process protections, and special protection for asylum seekers, refugees and vulnerable populations.

Immigration policies should respect human rights and ensure due process for all persons. We have witnessed how indiscriminate immigration raids have caused trauma and hardship for thousands of individuals. Such raids separate families, destroy communities, and threaten the basic rights of immigrants and U.S. citizens alike. The suffering caused by the overreliance on Immigration and Customs Enforcement (ICE) raids in homes and workplaces, and by the INA 287(g) program (which has led to widespread misuse of local law enforcement in civil immigration matters and racial profiling, and has imposed a chilling effect on communities), underscores the problems with current U.S. immigration policies and the urgent need for reform.

We urge the Administration and Congress to reduce the use of detention for immigrants, especially vulnerable groups and those seeking asylum, and improve detention conditions by enacting clear, enforceable reforms that include rigorous medical treatment standards and increased access to pastoral care, legal counsel and legal orientation programs. Furthermore, the government should expedite the release of asylum seekers and others who pose no risk to the community, and expand the use of community-based alternatives to detention, which are more humane and cost effective. In short, enforcement measures such as detention and raids should be narrowly tailored, and should be carried out in a humane fashion and in accord with due process.

In sum, AJC calls upon our elected officials to enact legislation that includes the following: An opportunity for hard-working immigrants who are already contributing to this country to come out of the shadows, regularize their status upon satisfaction of reasonable criteria and, over time, pursue an option to become lawful permanent residents and eventually United States citizens; reforms in our family-based immigration system to significantly reduce waiting times for separated families who currently wait many years to be reunited; the creation of legal avenues for workers and their families who wish to migrate to the U.S. to enter our country and work in a safe, legal, and orderly manner with their rights fully protected; reduce the use of detention for immigrants, especially vulnerable groups and those seeking asylum; a worksite enforcement programs that is humane and includes appropriate safeguards; and border protection policies that are consistent with humanitarian values and with the need to treat all individuals with respect, while allowing the authorities to carry out the critical task of identifying and preventing entry of terrorists and dangerous criminals, thereby bolstering our national security as well as pursuing the legitimate task of implementing American immigration policy.

AJC urges our elected officials to conduct the immigration reform debate in a civil and respectful manner, mindful not to blame immigrants for our social and economic ills or for the atrocities committed by the few who have carried out acts of terrorism. A polarized process lacking in civility hinders deliberative discourse and fails to serve our nation's best interests.

As a faith-based organization, we call attention to the moral dimensions of public policy and pursue policies that uphold the human dignity of each person, all of whom are made *b'tselem elohim*, in the image of G-d. We engage the immigration issue with the goal of fashioning an immigration system that

facilitates legal status and family unity in the interest of serving the God-given dignity and rights of every individual, even as it enhances out national security and promotes respect for the rule of law. It is our collective prayer that the legislative process will produce a just immigration system of which our nation of immigrants can be proud.

AJC appreciates the opportunity to submit this statement and welcomes your questions and comments.

[1] Peter B. Dixon and Maureen T. Rimmer, *Restriction or Legalization? Measuring the Economic Benefits of Immigration Reform*, Center for Trade Policy Studies, CATO Institute, No. 40, August 13, 2009, P.1.

HIAS

Statement for January 26, 2011 Immigration Subcommittee Hearing on Worksite Enforcement

For 130 years, the Hebrew Immigrant Aid Society (HIAS), the American Jewish community's international migration agency, has advocated for a generous immigration system that honors America's tradition as a nation of immigrants and a safe haven for refugees fleeing persecution.

Effective enforcement of our nation's immigration laws can only be accomplished as part of comprehensive immigration reform at the federal level. Congress must enact legislation that brings undocumented immigrants in the United States out of the shadows by providing a pathway to legal status; creates safe and legal avenues for future flows of immigrants; quickly reunites families; integrates newcomers into our communities; and establishes border protection and enforcement policies that enhance our national security.

Critical to the success of U.S. immigration enforcement policy is a commitment to honoring the core American values of welcoming immigrants, protecting refugees, defending civil liberties, promoting pluralism and ensuring just treatment of newcomers. HIAS firmly believes that Congress can create effective and efficient programs to enforce U.S. immigration laws, process visas, screen entrants, remove immigration violators and defend the national security of the U.S. while at the same time respecting and upholding these values.

Congress will not fix our broken immigration system by continuing to focus exclusively on enforcing current laws. This approach undermines the significant contributions immigrants make to our economy and results in family separation and needless fear and suffering in our communities. We urge the 112th Congress to carefully consider and enact legislation that will provide our country with an immigration system that honors our history and serves our security, economic, and humanitarian interests.

THE HEBREW IMMIGRANT AID SOCIETY Washington Office • 1775 K Street NW Ste. 50 • Washington, DC 20006 • 202-212-4200 • Fax 202-212-4001 • www.hias.org

Interfaith Worker Justice

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STOP WORKPLACE IMMIGRATION RAIDS NOW

Policy Statement of the Board of Directors, Interfaith Worker Justice

Interfaith Worker Justice categorically opposes all immigration raids at workplaces across the United States. These raids target racial and ethnic groups that appear to be "foreign" and are blatantly discriminatory; tear families apart, often leaving children without parents or caregivers; impoverish entire communities; undermine basic civil liberties; deter workers from reporting serious workplaces abuses, including health and safety violations and theft of wages by unscrupulous employers; and do nothing to fix a broken immigration system. In the language of war, these impacts may be seen as "collateral damage," the unfortunate side effects of enforcing the law. But these raids are an affront to human dignity, a totally disproportionate response to the concern and need to enforce immigration laws, as flawed as they are.

We understand that many people of good will are troubled about the issue of immigration, given the problems native-born workers face in today's workplace, including job insecurity, rising unemployment and a downward push on wages and benefits. Interfaith Worker Justice is dedicated to organizing the religious community to support the rights of all workers, particularly those earning low wages. When our government actively generates fear and havoc among immigrant workers and their families, fuels the fires of bigotry and turns groups of workers against each other based on race, ethnicity and immigration status, we are all diminished.

As people of faith, we recognize and honor the social and economic contributions made by immigrant workers, regardless of their national origin or immigration status. In order to promote human dignity, the civil and workplace rights of all workers must be upheld. From placing food on our tables, making our clothes, or caring for our sick, immigrant workers provide many of our daily needs. While we rely on their work, we allow immigrant workers to be denied basic rights because of their legal status. While many live and work without legal documentation—there are an estimated 12 million undocumented people in the US—legal residents and naturalized citizens also experience discrimination.

Workplace raids are not carried out to apprehend identified law breakers, as is sometimes claimed by the Department of Homeland Security's Immigration and Customs Enforcement agency (ICE). ICE agents, often wielding assault rifles, sweep into workplaces and detain hundreds of employees—nearly 600 at a recent raid in Mississippi alone. These raids can only be seen as attempts to terrorize immigrant communities and to score political points. The raids violate basic human rights and offend deeply held American and faith values, such as family unity, welcoming immigrants, and the value of work.

It is time for these raids to stop. Interfaith Worker Justice condemns all workplace immigration raids, and calls for an immediate moratorium on all such raids. IWJ calls on Congress and the President to pass comprehensive immigration reform legislation. Comprehensive immigration reform must aim to provide full and equal protections of employment and labor laws, civil liberties and civil rights for all workers in the U.S. Reform should work to remove economic incentives for the exploitation of immigrant labor and strengthen requirements to fairly consider hiring native-born workers. Permanent status must be favored over temporary status, and families must be valued and allowed to remain intact.

Lutheran Immigration and Refugee Service

www.lirs.org

LIRS Statement on Worksite Enforcement

House Judiciary Subcommittee on Immigration Policy and Enforcement

January 26, 2011 Hearing: "ICE Worksite Enforcement – Up to the Job?"

BALTIMORE, January 26, 2011–From 2006-2008, the Department of Homeland Security's Immigration and Customs Enforcement (ICE) conducted a number of large-scale immigration raids. Some of these enforcement sweeps made national headlines because of the number of immigrants who were apprehended. But these raids also became "breaking news" as a result of the response from local leaders who decried their destructive impact on families, businesses and communities. Lutheran Immigration and Refugee Service (LIRS), the national organization established by Lutheran churches in the United States to serve uprooted people, joined then with community and faith leaders to call on the federal government to rethink its approach to worksite enforcement – and stands by that challenge today.

The largest single-site immigration raid in history took place in August 2008 at an electrical equipment plant in Laurel, Mississippi. In total, ICE arrested 595 immigrant workers. Following the raid, many community members lived in fear – even causing some parents to keep their kids at home instead of sending them to school. The Rev. H. Julian Gordy, Bishop of the Southeastern Synod of the Evangelical Lutheran Church in America (ELCA) and chair of the Conference of Bishops' immigration task force, reflected, "Given the harmful impact of these raids, we must reform our immigration enforcement policies to better protect our communities and families."

One of the most controversial immigration raids occurred in May 2008 in Postville, Iowa, a small town with less than 2,400 inhabitants. ICE agents swept in to the town with helicopters and arrested 389 immigrant workers at a meat processing plant, nearly 20 percent of the town's population. Speaking to hundreds of community members in Postville shortly after the raid, the Rev. Steven L. Ullestad, ELCA Bishop of the Northeastern Iowa Synod, offered the following sobering assessment:

"Businesses are dramatically impacted. Teachers wonder how many jobs will be lost for next year. Landlords have lost renters, bankers have lost clients, (and) grocery store owners their customers. People who have been active and responsible members of their community have been lost."[1]

Furthermore, ICE agents used aggressive negotiating tactics and brought charges of aggravated identify theft against the workers, nearly all of whom were represented by overburdened appointed counsel. The U.S. Supreme Court later ruled that the federal government overstepped in applying these charges.

Months following the Postville raid, ICE revealed that it had spent over $5.2 million to conduct this one enforcement operation.[2] Recognizing the extreme hardship small towns like Postville and Laurel faced, many questioned whether U.S. taxpayers were benefiting from these costly enforcement operations.

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[1] "ELCA Synod Bishop Calls for Immigration Reform," *ELCA News Service*, May 20, 2008, accessed, January 24, 2011, http://www.wfn.org/2008/05/msg00165.html.

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In April 2009, Secretary of Homeland Security Janet Napolitano announced a shift in policy, issuing guidance that ICE would focus worksite enforcement resources on the criminal prosecution of employers who knowingly hired unauthorized immigrant workers. In fiscal year 2010, ICE conducted audits of more than 2,740 companies and levied nearly $7 million in civil fines on businesses that employed undocumented workers.[3] In addition, ICE recently announced plans to establish an audit office to strengthen its efforts to investigate businesses' hiring records.[4]

Despite ICE's shift away from large-scale immigration raids, smaller enforcement efforts continue to impact communities. According to recent media reports, on January 20, 2011, ICE conducted a raid in Ellensburg, Washington, a city of 17,000 residents. Federal officers apprehended 30 immigrants in their homes, leaving community members to struggle with the consequences, such as caring for the children separated from their families. The following day, hundreds of people gathered at a local church to discuss what happened and how to support those directly affected.

"Communities and families will continue to suffer until the federal government overhauls our immigration system in a way that strikes a fair balance between America's commitment to continue welcoming migrants and the need to enforce U.S. laws," stated Linda Hartke, LIRS President and CEO. "LIRS stands with all who contribute to build welcoming communities for newcomers and we are committed to working with the 112th Congress and the Administration to continue to advance bipartisan immigration reforms."

LIRS welcomes refugees and migrants on behalf of the Evangelical Lutheran Church in America, the Lutheran Church—Missouri Synod and the Latvian Evangelical Lutheran Church in America. Founded in 1939, LIRS assists and advocates on behalf of refugees, asylum seekers, unaccompanied children, immigrants in detention, families fractured by migration and other vulnerable populations and provides services to migrants through over 60 grassroots legal and social service partners.

If you have any questions about this statement, please feel free to contact Eric B. Sigmon, LIRS Director for Advocacy, at (202) 626-7943 or via email at esigmon@lirs.org.

To read the July 14, 2010 LIRS statement on immigration reform submitted to Congress, "The Ethical Imperative for Reform of our Immigration System," click here: http://bit.ly/hrRtzv.

To read the May 12, 2009 LIRS statement on the one year anniversary of the Postville immigration raid, click here: http://bit.ly/dPrnxp.

To read the July 24, 2008 statement by LIRS and ELCA Bishop Ullestad of the Northeastern Iowa Synod on the Postville immigration raid submitted to Congress, click here: http://bit.ly/fBzstc.
To read the May 20, 2008 statement by LIRS and ELCA Bishop Ullestad of the Northeastern Iowa Synod on the impact of the Postville immigration raid submitted to Congress, click here: http://bit.ly/g6itus.

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[3] William Petroski, "Taxpayers' Costs Top $5 million for May Raid at Postville," *The Des Moines Register*, October 14, 2008, accessed January 24, 2011, http://www.midwesthumanrights.org/taxpayers-costs-top-5-million-may-raid-postville
[4] Miriam Jordan, "Crackdown on Illegal Workers Grows," *Wall Street Journal*, January 20, 2011, accessed January 23, 2011, http://online.wsj.com/article/SB10001424052748703951704576092381196958362.html.
[4] Ibid.

January 26, 2011

Dear Member of Congress,

Since the Congregation of the Sisters of the Good Shepherd was founded in France in 1835, we have dedicated ourselves to serving poor and marginalized women and families. The work of the Sisters on 5 continents, in 70 countries, 22 States, and 2 U.S. Territories is based on the belief that the individual worth of each person is supremely important. For us that means everyone, regardless of age, sex, culture or religion, has the right to a basic quality of life that provides adequate income, shelter, opportunities for education and employment, health care and nutrition. As vowed women religious in the Catholic Church, our faith requires that everyone should be treated with the utmost dignity and respect.

Based upon these values, the Sisters of the Good Shepherd in the United States, speaking through our advocacy office, The National Advocacy Center of the Sisters of the Good Shepherd, request that you enact fair and comprehensive immigration reform. This reform should include a path to citizenship, preference for family unity, and job portability which allows workers to change employers. Further, we call upon an end to laws and policies that provide for detention for months without charges, secret hearings and ethnic profiling.

As part of immigration reform and to reduce the "push factors," we urge the implementation of policies that foster economic and social developments for people living in poverty and promoting human development are central priorities; supporting effective programs that foster long-term development and empowerment of the poor; and eliminating the debt of the poorest countries in ways that reduce poverty and promote human dignity.

The longer we delay in the passage and implementation of comprehensive immigration reform, the greater the injustice to the people whose only crime was to come here to work to provide for their families. For years we have benefited by their labor. Now, through immigration reform, both the immigrants and the native-born will have the opportunity to prosper from a reinvigorated economy.

Thank you for your consideration of our request.

Sincerely,

Sr. Gayle Lwanga Crumbley, RGS
National Co-ordinator
National Advocacy Center Sisters of the Good Shepherd

To Our Government of the United States of America:

To willfully seek out, and deport persons of other countries who may have entered illegally is an unethical and immoral practice. Our country is based and built upon the hard work of immigrant communities since our inception. The tactics that have been used by our immigration services in our community have at best been illegal-lack of appropriate warrants for arrest , lack of appropriate legal representation and sometimes violent.

Families have been separated leaving young United States children citizens at risk.
Please consider an expedited ethical immigration policy. We are spending a lot of money on seeking out, detaining, and transporting immigrants.

Please make some sound decisions on this topic before our standing in the world shows us to be a police type state with little consideration for the constitutional rights of all. Please reread Amendment XIV section 1 of our Constitution

Thanks,
Carol Rose Kahn

This is a partial quote from the Editorial Page in the Chicago Tribune:

We must Prioritize Worksite Enforcement Efforts and stop Harmful Large Scale Immigration Raids because we need to grow the economy to save Social Security. If Deportations keep happening we will never have more workers and consumers.

"Each employed person is paid fractionally less than the true worth of their labor. When this is added up across a population of hundreds of millions of workers the result is economic growth. We need to grow the economy just as rapidly as possible which requires more workers and consumers. To save Social Security we need to have more prospective new Americans. We know there is a demand, since we've seen the desperation that drives those who cross deserts and swim rivers in hopes of reaching America. These poor souls just want a better life for themselves and for their children and they believe they can find it here. When they go to work, they contribute to Social Security. If their numbers are sufficient and their productivity great enough, they will help save Social Security for the rest of us native-born folks. They can and will contribute and pay enough taxes like most Americans. By taxing those who are earning we will not default on our Social Security obligations to future retirees because current payments go right out to current Social Security recipients. Future retirees depend completely upon future workers for the benefits. The U.S. population is not growing fast enough so the only solution is to grant citizenship to as many immigrants as possible who want to become citizens and stay in the US to bring solvency to the Social Security Trust Fund."

PASS FAIR AND HUMANE IMMIGRATION REFORM!

Sr. Marybeth Mc Dermott C.S.J.
Sisters - Brothers for Immigrants

As a psychologist, I've interviewed almost 200 immigrants who are applying for a green card. These people are invariably good hardworking people, most of which primarily want to make a better life for their children. They've faced tremendous odds to make this happen, working jobs that are well below their level of training. Their children are encouraged to do well in school and try extra hard to do so. My Great-Great Grandfather, a university student, came here as an indentured servant to escape militaristic Prussia in the mid 18th century. These immigrants that I interview remind me of him with their strong work ethic and burning desire for a better life. I pray with these people and their unified desire is to be allowed to stay in this country and work to make a better life. We need to make this possible for them!

Barbara Spitzer, Ph.D.,
Immigration Interviewer
Member of St. John's Lutheran Church, Stamford CT and Member of the Evangelical Lutheran Church in America Committee on Social Policy

National and Congregational Faith Statements
House Judiciary Subcommittee on Immigration Policy and Enforcement
For the January 26, 2011 Hearing: "ICE Worksite Enforcement – Up to the Job?"

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A Statement on Just and Humane Immigration Reform

Adopted by the Alliance of Baptists
Convocation, July 31, 2010

Background:

One of the advantages of our being a member body of the National Council of the Churches of Christ in the USA and Church World Service, is being able to partner with other faith groups on statements and resolutions advocating for peace, justice and equity such as their recent statements to promote just and human immigration reform in the 111th U.S. Congress. The Alliance support of such immigration reform is consistent with the Alliance Covenant and Mission, which states:

> *In a time when historic Baptist principles, freedoms, and traditions need a clear voice, and in our personal and corporate response to the call of God in Jesus Christ to be disciples and servants in the world, we commit ourselves to ... the proclamation of the Good News of Jesus Christ and the calling of God to all peoples to repentance and faith, reconciliation and hope, social and economic justice....*
>
> *To keep faith with our Covenant ... we side with those who are poor (and) pursue justice with and for those who are oppressed.*

As congregations and individuals within the Alliance witness the consequences of our current flawed immigration system, we are compelled to stand in solidarity with those impacted by our nation's policies. The current U.S. immigration process separates family members, many who have waited decades to be reunited, and hurts productivity as those wishing to work in this country, also endure lengthy backlogs.

Such a system leaves many realizing feeding their children necessitates crossing the border illegally. Reaching a point of desperation, many risk their lives to cross the desert, where hundreds of them die every year. Thousands of immigrants have been arrested in mass raids and hundreds of thousands have been detained or deported, with little or no access to legal counsel. Children have been detained in detention centers lacking proper educational or religious services, and at least 83 people have died in such facilities due to inadequate medical treatment.

Such enforcement measures leave children without parents, families separated without knowledge of loved ones' whereabouts, and those who arrived as infants deported to countries they never called home. Many immigrants who endure detention and deportation are lawful permanent residents; many seek asylum from persecution; and still others simply seek the better life the United States promises.

When these issues are discussed, too often much of the public discussion blames immigrants for the nation's problems, rather than uniting to enact policies that are beneficial to all persons. Anti-immigrant sentiment has become such an accepted norm throughout the United States that some local laws bar immigrants from receiving social services and deny funding to charitable organizations that do not check immigration status prior to administering services. Local police act as immigration officials, resulting

in racial profiling and a widespread fear of reporting crimes, which compromises community safety, yet law enforcement turns a blind eye to employer exploitation of immigrants. The public discussion needs to be enriched and informed by the voice of the prophetic religious community.

Furthermore, these issues stem from underlying, global causes of migration, such as war, environmental exhaustion, poverty, and inequitable trade and development policies that are often ignored. This presents us with a noble challenge: to work together to address the underlying global causes of migration at the same time we improve the ways we answer the knock at our church doors. We know that root causes of migration include global poverty and unjust practices of international monetary organizations. The Jubliee Act (HR 4405) would broaden and deepen debt cancellation, allowing countries to invest more in education, health care, and public infrastructure, thus, reducing the number of people forced to seek economic opportunties away from their home.

As we consider the causes and realities of human migration, we together affirm these convictions concerning God's creation and commandment to love one another:

> 1) God created human beings in God's image, and as such each person is a precious and sacred reflection of the Creator.
> 2) God's people are a pilgrim people. Throughout Biblical history, the people of God have been sojourners, refugees, and migrants. God protected them as they moved, multiplied, and maintained the earth. The Bible teaches us to defend, protect, and honor the rights and humanity of the sojourner, stranger, refugee, and immigrant. God calls us to welcome the stranger.
> 3) Jesus calls us to love our neighbor as ourselves and Jesus also said that people of faith will be judged on the way we treat foreigners in our midst.

Today -- as in all other times-- the Church is called to rise in unequivocal defense of the stranger, the sojourner, the widow and orphan, and our most vulnerable neighbors

As we seek to love our neighbors and welcome the stranger, we also seek laws that are humane and just. In light of the highest political ideals grounded in justice, equality and freedom, our nation's official treatment of immigrants continues to be a grave affront to the mandates of Christian faith, which does not abide bad treatment of the stranger, the visitor, or those who seek asylum from persecution. Our faith-inspired legacy calls us to reexamine our immigration policies and services in light of the current situation, and to work for swift federal reform that is humane, just and sustainable.

Because of our commitment to God's justice, we -- the Alliance of Baptists -- join other faith leaders and communities in calling on the 111th and the 112th U.S. Congress to pass just, humane, equitable and comprehensive immigration reform that:

- **Allows undocumented immigrants and their families to earn lawful permanent residency upon the satisfaction of reasonable criteria and eventually pursue citizenship;**
- **Expands legal avenues of entry for families who are separated and for those who seek work;**

- **Aligns border policies and internal enforcement policies with humanitarian values and due process protections**

We pledge to raise our voices in advocacy for immigrants, refugees and other displaced peoples by supporting legislation that provides just, human, equitable and compressive immigration reform in meetings, letters and other communications with our congressional representatives and senators.
We call on our Alliance of Baptists Congregations to:

- **Lead in prayer, teaching, and preaching about the biblical, spiritual and moral basis for compassionate hospitality toward immigrants.**
- **Pray, study and search our hearts and minds with respect to our own attitudes and preconceptions regarding immigrant peoples, and, to provide opportunities in our churches for us to hear the stories of our immigrant sisters and brothers whether they come to us with our without official documents.**
- **Join with other faith leaders and communities in calling on the 111th and 112th U.S. Congress to enact the Jubliee Act which would expand debt cancellation and provide a framework for responsible lending to poor countries.**

(With thanks to National Council of Churches of Christ, USA, Church World Service and Ecumenical Advocay Days for educational materials and advocacy information on the need for comprehensive immigration reform. See www.nccusa.org; www.churchworldservice.org; www.advocacydays.org)

Representative Assembly, Congregation of the Humility of Mary, Davenport, IA

RATIONALE: It has been acknowledged that the current US Federal Immigration system is inadequate in failing to protect the human rights and dignity of immigrant people living in our country. The failure of Congress to enact federal legislative immigration reform is currently resulting in efforts by some individual states to enact their own laws that further discriminate against persons of diverse backgrounds and cultures.

WHEREAS: In our CHM Mission Statement we "commit ourselves as individuals and as a congregation to work for justice within the human family...." The current intolerant treatment of immigrant persons obligates us as Christians to stand in solidarity with our immigrant sisters and brothers by making a public statement of support for them.

RESOLUTION: The members of the Congregation of the Humility of Mary stand in solidarity with our immigrant sisters and brothers and urge the U.S. Administration and Congress to enact fair and comprehensive federal Immigration Reform without delay. Legislation should reflect our own immigrant history, tradition and values as a nation: protecting and respecting the dignity of *all* people, acknowledging the value and contributions of immigrants, preserving the unity of families, and providing a path to legalization and eventual citizenship for honest, hardworking but undocumented immigrants who desire to make their home in this country.

CHURCH WORLD SERVICE

Statement from Church World Service, for submission to the Congressional Record, pertaining to the House Judiciary Committee Hearing on Worksite Enforcement, Wednesday, January 26th 2011

For 65 years, Church World Service has been committed to welcoming newcomers to the United States and helping them and their families thrive and meaningfully contribute to their new communities. It is through the lens of our member communions and refugee resettlement offices and affiliates that we approach the topic of immigration and, more specific to today's hearing, "worksite enforcement."

The U.S. immigration system is badly in need of repair. Some in our network have noted, ironically, that our borders bear two signs: "Do Not Enter" and "Now Hiring." There is a demand for immigrants to fill jobs that U.S.-born Americans do not fill, even in the current economic situation, particularly in agriculture, construction, manufacturing and various service industries. These immigrants work hard, contribute to our economy, and quickly become part of the fabric of our communities. Most economists agree that due to its lowering birth rates, the United States needs to increase immigration to sustain and grow our economy. Our current visa system, however, has not been updated for decades and needs to be modernized to meet the demands of today's globalized markets and the needs of separated families.

Despite the need for immigrant employees, some in Congress are opposed to increasing visas, and thus have increased the need for prospective immigrants who want to provide a better life for their families to enter the United States illegally or overstay a short-term visa. To effectively reduce undocumented immigration, congress must authorize additional family-based and employment-based visas in line with the demands seen in both categories' waitlists. Enforcement-only strategies, however, will not fix our broken immigration system, but will only compound these problems and cause additional human suffering.

In recent years, under both the George W. Bush and Barack Obama administrations, "worksite enforcement" has come to mean workplace raids, during which Immigration and Customs Enforcement (ICE) enters a place of employment and requires documentation from workers on the spot. Those workers are typically arrested and brought into detention facilities or deportation proceedings. In many cases, such actions have left children stranded at school bus stops without parents, spouses frantically trying to find information about the others' whereabouts, and communities torn apart by a government-imposed disaster. In the case of Postville, Iowa, in particular, an estimated 20 percent of the town was directly impacted by the raids, reducing the town's vivacity in employment, community and family togetherness. Workplace raids do not just impact a place of employment – they impact entire communities negatively.

With current realities of limited resources to enforce immigration laws, we at Church World Service seek to emphasize to all members of Congress the importance of focus, efficiency, process, and humane treatment. Workplace raids do not meet these criteria, as they are blanket attempts to remove undocumented immigrants. They drastically impact all workers and their families, are excessively costly, employ no process by which employees are identified or mistakes can be corrected, and are disgraceful to the human dignity of all persons. Enforcement of immigration laws should instead target perpetrators of trafficking and smuggling in persons, drugs and arms; violent criminals, and bad-actor employers who lure and exploit immigrant workers. Worksite enforcement should focus on holding businesses accountable to labor standards so that all workers are treated justly and with respect, rather than on arbitrary raids that negatively impact workers, families and communities.

As an organization committed to working with communities and members of Congress to welcome newcomers and to improve U.S. immigration policies, we ask members of this committee and all members of Congress to explore tangible, and humane reforms that will improve visa policies, protect workers, and provide a pathway to legal status for undocumented immigrants. Through these reforms, Congress can modernize and improve the U.S. immigration system, and by so doing, benefit the U.S. economy, raise the bar for the treatment of all workers, and strengthen communities.

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Sisters of Charity of the Blessed Virgin Mary

We, the members of the 2010 Senate of the Sisters of Charity of the Blessed Virgin Mary, do proclaim and affirm our commitment to comprehensive immigration reform.

USA Migrant Resolution 2011

Whereas, immigrant workers and their families, because of their immigration status, are also systematically denied access to a driver's license, decent healthcare, social services, and quality education;

Let it be resolved:

That we, as people of faith living and working with immigrants, hereby endorse the following principles as guidelines for a better world for immigrants in the United States. We urge all others to uphold these principles as we work together to improve the conditions for low-wage immigrant workers and their families.

JUSTICE - All immigrant workers deserve and must receive the following support to lead healthy, decent and productive lives:

- True legalization should be given in the form of permanent legal status and citizenship. This should not be limited to any country of origin or work industry.
- Greater protection and enforcement of international labor laws, which will guarantee at least minimum wage and security from blacklisting, harassment and intimidation of any kind.

DIGNITY - All immigrant workers and their families deserve:
Clean, safe and proper working conditions to prevent illness, stress and workplace accidents.

- Access to decent and quality healthcare, and nutrition.
- Permanent, stable and secure work.
- Access to quality education.
- Access to safe affordable housing.

DEMOCRACY - All immigrant workers and their families must hold the same freedoms and rights as any member of their host country. Immigrant families must be able to voice their concerns.

Endorsed by:

African American Ministers Leadership Council
American Friends Service Committee
Annunciation House, Inc.
Arkansas Justice for Our Neighbors
Board of Church and Society (NY Conference, United Methodist)
Casa Esperanza
Catholic Migrant Farmworker Network
Clergy and Laity United for Economic Justice -LA
Columban Center for Advocacy and Outreach
Conference of Major Superiors of Men
Congregation Peace with Justice Committee of the Sisters of Providence-St. Mary-of-the-Woods, IN
Congregation of St. Joseph, Peace and Justice Team
Dominican Sisters of Houston
East Bay Sanctuary Covenant
Episcopal Community Services of Long Island

USA Migrant Resolution 2011

Gloria Dei Lutheran Church
Gloria Dei Step Up Center
Intercommunity Justice and Peace Center-Cincinnati
Interfaith Worker Justice
Irish Apostolate USA
Justice and Peace/ Domincans in North America
Kitchen Table Ministries
Leadership Conference of Women Religious
Leadership Council, Sisters of Charity of St. Elizabeth, Convent Station, NJ
Leadership Team, Sisters of St. Francis, Clinton, IA
Maryknoll Office of Global Concerns
Medical Mission Sisters, Alliance for Justice
Mexican American Catholic College
Missionary Oblates Justice, Peace and Integrity of Creation Office
Muslim Public Affairs Council
Network, a National Catholic Social Justice Lobby
Office of Immigration and Refugee Services, American Baptist Home Mission Societies
P. Francis Murphy Justice and Peace Initiative
Pax Christi USA
Presbyterian Peace Fellowship, Stony Point, NY
Promoter of Peace and Justice, Sinsinawa Dominicans
Provinicial Council of the Viatorian Community
Sister of Mercy, NyPPaW
Sisters and Brothers of Immigrants, Archdiocese of Chicago
Sisters of Humility Nonviolence Action Planning Group
Sisters of Mercy of the Americas, South Central Community
Sisters of Notre Dame:Base Communities
Sisters of Providence Leadership Team
Sisters of the Most Precious Blood
Sojourners
The African American Ministers in Action
UCC Justice and Witness Ministries
Unitarian Universalist Association of Congregations
Welcoming Immigrants Network
WPA Conference United Methodist Women

FOR IMMEDIATE RELEASE: January 26, 2011
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Costly and Ineffective Enforcement-Only Approach is not the Immigration Reform We Need

WASHINGTON, D.C – Ahead of the House Immigration Subcommittee Hearings on Worksite Enforcement today, SEIU International Secretary-Treasurer Eliseo Medina issued the following statement:

"Congress must reject any attempt to fund costly and ineffective enforcement-only immigration policies. Once again, some are trying to distract us with failed policies that would do nothing to eliminate the underground economy, slow the illegal flow of immigrants across our border or advance the serious economic recovery that working families need.

"Instead of solving problems, too many of our leaders want to keep throwing away billions of taxpayer dollars on border walls and ineffective band-aid policies that we know don't work. We cannot continue to escalate spending every year on programs that do nothing to fix our broken immigration laws. The only solution is real reform that will hold bad actor employers accountable for depressing wages, bring undocumented workers out of the shadows and onto the tax rolls, and set future immigration levels according to the needs of our economy. This smart, comprehensive approach is the only way to stop the flow of illegal immigration across the borders and restore fairness for all workers over the long term.

"Make no mistake, the labor movement remains united in our pursuit of this goal because we know Americans want action on immigration reform. But we need strong leaders who will champion real solutions that address the causes of our broken immigration system - not simply throw billions of dollars into failed policies to score cheap political points. It's time for Democrats and Republicans to roll up their sleeves and get immigration reform done, get it done right, and make sure it works for America."

# # #

SEIU - With 2.2 million members in Canada, the United States and Puerto Rico, SEIU is the fastest-growing union in the Americas. Focused on uniting workers in healthcare, public services and property services, SEIU members are winning better wages, healthcare and more secure jobs for our communities, while uniting their strength with their counterparts around the world to help ensure that workers--not just corporations and CEOs--benefit from today's global economy.

Written Statement of Emily Tulli
Worker Rights Policy Attorney, National Immigration Law Center

House Committee on the Judiciary
Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law

Hearing on: ICE Worksite Enforcement - Up to the Job?

January 26, 2011

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

Brief Summary of Recommendations

Immigration enforcement at the worksite should create higher wages and better conditions for workers. U.S. Immigration and Customs Enforcement (ICE) should target the worst employers with the most egregious labor records and use its enforcement muscle against labor lawbreakers and other abusive employers. We also ask Congress to consider an approach to immigration worksite enforcement that doesn't rely only on enforcement of hiring sanctions, but also ensures that ICE enforcement efforts do not trump workers' ability to enforce their basic labor rights and are not used as a tool to deny workers' wages or benefits. Without legalizing the existing undocumented workforce, an enforcement-only scheme is set up to fail, and will be counter-productive because it will not address the economic incentive that employers have to hire undocumented workers by any means possible, including moving into the underground economy, misclassifying workers as independent contractors, and using sham subcontracting arrangements.[1]

Overview: Worksite Enforcement Over the Last Five Years

In 1986, Congress enacted the Immigration Reform and Control Act (IRCA), amending the Immigration and Nationality Act (INA) to include employer sanctions for knowingly hiring or continuing to employ unauthorized workers.[2]

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[1] See Jim McTague, "The Underground Economy: Illegal Immigrants and Others Working Off the Books Cost the U.S. Hundreds of Billions of Dollars in Unpaid Taxes," THE WALL STREET JOURNAL CLASS ROOM EDITION, April 2005, available at http://wsjclassroom.com/archive/05apr/econ_underground.htm; Lora Jo Foo, "The Vulnerable and Exploitable Immigrant Workforce and the Need for Strengthening Worker Protective Legislation," YALE LAW JOURNAL, 103 Yale L.J. 2179, May 1994, available at www.wiego.org/papers/FooImmigrantWorkers.pdf.

[2] The Immigration and Nationality Act §274A prohibits employers from hiring, recruiting for a fee, or continuing to employ unauthorized workers. However, the statute contains an affirmative defense for this violation, and presumes good faith compliance with the law if the employer examines workers' documents and completes and an attestation.

In the last five years, worksite enforcement has come in primarily two forms: military-style raids and inspections (audits) of I-9 forms. After the failure to pass comprehensive reform bill in 2007, President Bush introduced a broad enforcement-only strategy aimed at pressuring employers to fire unauthorized workers.[3] The Administration stepped up enforcement efforts and promised to raise fines on employers who hired unauthorized workers.[4]

For fiscal years 2007 and 2008, under the Bush Administration, ICE reported that it detained over 9,000 workers in worksite enforcement actions.[5] In 2008 alone, ICE conducted numerous high-profile worksite raids including those in South Carolina,[6] Mississippi,[7] and Iowa.[8] This form of enforcement—military-style raids conducted at the worksite—destroyed families, communities, and local businesses.[9] The impact of these raids on small towns and rural communities is particularly stark, as they now are "economically devastated" and must survive with "small businesses and restaurants abandoned" and "service jobs gone."[10]

Worksite enforcement often negatively impacts other businesses and workers in the community. As a Lutheran bishop notes: "Businesses are dramatically impacted. Teachers wonder how many jobs will be lost for next year. Landlords have lost renters, bankers have lost clients, (and) grocery store owners their customers. People who have been active and responsible members of their community have been lost."[11] For one small business owner, staffing became a real problem after a raid at a nearby farm, and he felt that "because of the raids, I have lost bus boys, dishwashers, maintenance personnel." He notes that raids not only hurt farmers but

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[3] N.C. Aizenman, Bush *Moves to Step Up Immigration Enforcement*, WASHINGTON POST, August 11, 2007
[4] *Id.*
[5] ICE arrested 4,077 workers on administrative immigration violations in fiscal year 2007 and 5,184 workers in fiscal year 2008. *See ICE 2007 Annual Report* available at http://www.ice.gov/doclib/about/ice07ar_final.pdf and *ICE Fiscal Year 2008 Annual Report* at http://www.ice.gov/doclib/pi/reports/ice_annual_report/pdf/ice08ar_final.pdf
[6] *See* Ames Alexander and Franco Ordonez, *More than 300 arrested in SC raid at poultry plant*, CHARLOTTE OBSERVER, Oct. 8, 2008, available at http://www.charlotteobserver.com/2008/10/08/239299/more-than-300-arrested-in-sc-raid.html
[7] *See Nearly 600 detained in Mississippi immigration raid*, USA TODAY, Aug. 26, 2008, available at http://www.usatoday.com/news/nation/2008-08-26-raid-miss_N.htm
[8] *See* Spencer S. Hsu, *Immigration raid jars small town*, THE WASHINGTON POST, May 18, 2008, available at http://www.washingtonpost.com/wp-dyn/content/article/2008/05/17/AR2008051702474.html
[9] *See* The Urban Institute, *Paying the Price: The Impact of Immigration Raids on America's Children* available at http://www.urban.org/UploadedPDF/411566_immigration_raids.pdf; *Immigration Raids Rip Families Apart*, WASHINGTON POST, March 18, 2007; United Food and Commercial Workers, *Raids on Workers: Destroying our Rights* available at *http://www.ufcw.org/docUploads/UFCW%20ICE%20rpt%20FINAL%20150B_061809_130632.pdf?CFID=10629926&CFTOKEN=75705750; Bill Van Auken, Aftermath of US slaughterhouse raid: Fear and repression grip Iowa town*, available at http://www.wsws.org/articles/2008/may2008/immi-m26.shtml
[10] *Raids on Workers* at 31
[11] ELCA NEWS SERVICE, May 20, 2008, accessed, January 24, 2011, http://www.wfn.org/2008/05/msg00165.html.

also small businesses in his community.[12] For at least one business, a series of ICE raids meant the loss of American ownership of the plant. Paired with other losses, *Swift & Co.* lost $50 million dollars[13] and was sold to a Brazilian company.[14]

Similarly troubling, when worksite enforcement is completed without consideration for labor rights, it can decimate organizing efforts aimed at improving the workplace. For example, in the *Fresh Direct* organizing effort in New York City, an I-9 audit timed directly before a union election meant that "authorized and unauthorized immigrant workers alike saw the audit as a workplace immigration enforcement tool related to the election and, fearing further investigations should they associate themselves with Fresh Direct or the union, left their employment at Fresh Direct..."[15] For those workers who stayed, they "refused to vote for the representation they had openly supported just weeks before."[16]

In April 2009, the Obama administration announced a new worksite enforcement strategy. DHS promised to "focus its resources in the worksite enforcement program on the criminal prosecution of employers who knowingly hire illegal workers"[17] and to look for "mistreatment of workers" while conducting enforcement actions. This new strategy included a shift from large worksite raids to I-9 audits.[18] As part of this endeavor, ICE has increased the number of audits it conducts and has substantially increased the amount of fines assessed against employers. Between 2003 and 2008, under the Bush Administration, ICE collected a total of $879,679 from employers who hired undocumented workers.[19] In just two years (2009 and 2010), ICE collected more than $1.33 million and $6.9 million in employer fines respectively.[20] The number of audits has increased under the Obama administration as well. In fiscal year 2010, DHS conducted audits of 2,196 companies compared with only 503 in fiscal year 2008.

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[12] *See* Businesses Feel the Effects of Raids on Illegal Labor, NATIONAL PUBLIC RADIO, Oct. 15, 2007, available at
http://www.npr.org/templates/story/story.php?storyId=15292417
[13] *See Sale of Swift & Co. raises questions in Worthington*, MINNESOTA PUBLIC RADIO, available *at http://minnesota.publicradio.org/display/web/2007/05/29/swiftsale*
[14] *Id.*
[15] *Raids on Workers* at 41
[16] *Id.*
[17] See *DHS Fact Sheet on Worksite Immigration Enforcement* available at
http://www.nilc.org/immsemplymnt/wkplce_enfrcmnt/WSE-Fact-Sheet.pdf
[18] While ICE recently has focused its worksite enforcement actions on I-9 audits, it continues to carry out numerous smaller raids at workplaces. *See* Anna Gorman, *Immigration Raid at Fullerton Factory leads to 43 arrests*, LOS ANGELES TIMES, July 1, 2010, available at http://articles.latimes.com/2010/jul/01/local/la-me-0701-immig-raid-20100701; Lornet Turnbull, *Immigration Officials Raid Bellingham Plant*, February 24, 2009, available at http://seattletimes.nwsource.com/html/nationworld/2008781541_webraid24m.html
[19] Congressional Research Service, *Immigration-Related Worksite Enforcement: Performance Measures*, June 24, 2010 Report
[20] Manuel Valdes, *Workplace Checks of Employees' Immigration Status Yields Mostly Warnings*, ASSOCIATED PRESS, November 1, 2010

Looking Forward: Principles for Worksite Enforcement

Violations of workplace rights, like nonpayment of minimum wage or overtime, are rampant in this country. The US Department of Labor, the agency tasked with enforcing workplace laws, estimates that nearly *half* of the businesses they investigate have labor law violations.[21] These problems are even worse in low wage jobs. According to one study, 26 percent of workers were paid less than minimum wage for their previous week's work and nearly 76 percent did not receive the legal wage for overtime hours. [22] The reality is that workers are more vulnerable in this bad economy than at other times. If they complain about their boss' illegal activity, they could face retaliation.[23] When faced with the prospect of losing their job or having their hours cut, more often than not workers stay silent about being cheated or abused. In extreme cases, some criminals, like labor traffickers, are employers, leaving workers fearing for their personal safety and the safety of their families.[24]

Through its large enforcement budget,[25] ICE can create incentives for employers to follow immigration law *and* labor law thereby raising workers' wages and working conditions. To accomplish this goal, ICE should target labor lawbreakers and ensure that workers can enforce their labor rights during and after enforcement.

Targeting Enforcement Efforts

Although ICE has a robust budget for enforcement efforts, the agency must still be strategic in whom they choose to audit. In the US, there are more than 7 million businesses employing nearly 120 million workers.[26] Of these 120 million workers, nearly 8.3 million are unauthorized workers.[27] Unauthorized workers are employed in a variety of industries[28] and live throughout the United States.[29] Given the size, scope, and diversity of the American workforce, ICE should create a program of tailored enforcement that penalizes our country's worst employers.

ICE should identify and target labor lawbreakers for I-9 audits based on intelligence

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[21] Interfaith Worker Justice Toolkit, available at http://www.wagetheft.org/resources/resources.html
[22] National Employment Law Project, *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities* at http://nelp.3cdn.net/59719b5a36109ab7d8_5xm6bc9ap.pdf
[23] *Broken Laws* at 3
[24] Health and Human Services, *Human Trafficking Fact Sheet*, available at http://www.acf.hhs.gov/trafficking/about/fact_labor.pdf
[25] Walter Ewing, *Immigration Reform Raises Revenue, While Enforcement-Only Strategies Throw Tax Dollars Away*, available at http://immigrationimpact.com/2010/04/15/immigration-reform-raises-revenue-while-enforcement-only-strategies-throw-tax-dollars-away/
[26] US Census Bureau Data, Year 2007, available at www.census.gov
[27] Jeffrey S. Passel and D'Vera Cohn, *A Portrait of Unauthorized Immigrants in the United States, Pew Hispanic Center*, April, 14, 2009, available at http://pewhispanic.org/reports/report.php?ReportID=107
[28] *Id*
[29] Department of Homeland Security, *Estimates of the Unauthorized Immigrant Population Residing in the United States*, available at http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2007.pdf

from the U.S. Department of Labor (USDOL) and state departments of labor. While this approach requires communication and collaboration at various levels, ICE is a law enforcement agency with experience and expertise in multi-jurisdictional investigation. The agencies also have institutional experience with collaboration as evidence by an existing, albeit out-of-date, Memorandum of Understanding (MOU) regarding issues of worksite enforcement.[30]

Targeting labor lawbreakers for immigration enforcement is a win-win. Almost everyone, including ICE,[31] agrees that mistreatment of undocumented workers provides bad employers with a competitive advantage over good employers. Moreover, when employers cheat workers out of wages and pay them "off the books," localities and the federal government are robbed of tax revenue. On the other hand, a strategic system of auditing bad employers will encourage payment of legal wages, and help eliminate the marketplace advantage they hold. This will raise wages for workers and will create incentives for compliance with labor *and* immigration law.

Despite ICE's stated commitment to look for "mistreatment of workers" while conducting enforcement actions, there is little evidence that ICE has implemented a strategic plan designed to target labor lawbreakers. In fact, numerous high profile I-9 audits have audited union employers and other business owners who pay their workers above average wages for their industry.[32] Even more disturbing, a summary of ICE audits in 2009 yielded no evidence that ICE targeted abusive employers, nor examined records for potential violations of other laws, like nonpayment of the minimum wage or overtime.[33] Given the fact that over two in every three low wage workers (68 percent) experience a wage violation per week[34], ICE should not waste resources auditing high-road employers who pay workers better-than-average legal wages.

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[30] *Memorandum of Understanding between U.S. Department of Labor and INS*, Nov. 23, 1998. Note that the memorandum was signed between the US DOL and INS, the former immigration enforcement arm of the federal government. Today, the MOU widely accepted as applying to ICE.

[31] "Responsible employers who seek to conduct their business lawfully are put at an unfair disadvantage as they try to compete with unscrupulous businesses. Such businesses gain a competitive edge by paying illegal alien workers low wages." *Immigration and Customs Enforcement Worksite Enforcement Factsheet* available at http://www.ice.gov/news/library/factsheets/worksite.htm.

[32] *See* Steve Alexander, *Chipotle Fires Hundreds: Draws Protest,"* STAR TRIBUNE, available at *http://www.startribune.com/business/114310024.html?elr=KArksLckD8EQDUoaEyqyP4O:DW3ckUiD3aPc:_Yyc:aUvDEhiaE3miUsZ;* David Bacon, *Firing Immigrants* available at http://www.truth-out.org/topstories/121509yh5; *Raids on Workers* at 32.

[33] *SEIU Letter to Secretary Napolitano*, December 11, 2009 at http://www.docstoc.com/docs/19414851/SEIU-Letter-to-Secretary-Napolitano-expressing-concern-about-the-I-9-audit-expansion.

[34] *See Broken Laws* at 3

Ensure that Workers Can Enforce Their Labor Rights

ICE's worksite enforcement priorities must ensure that workers can enforce their basic labor rights. Enforcement at the worksite leaves a chilling effect among remaining workers, who become less likely to report or even voice workplace mistreatment.[35] In turn, this results in lower wages and working conditions for the remaining workers. In fact, when ICE relies on tips and rumors instead of a strategic targeting of labor law violators, unscrupulous employers can use the *threat* of immigration enforcement as a tool to ensure worker compliance, no matter the wages paid or working conditions endured.[36]

Moreover, worksite enforcement can result in the deportation of unauthorized workers with valid labor law claims, like violations of the minimum wage or overtime. Deportation makes it virtually impossible for them to file a complaint with the relevant agency or pursue other forms of civil redress[37] and makes it extremely difficult for the USDOL and other agencies to investigate and prosecute egregious labor violators. Investigation of claims requires interviews of victims and witnesses, but after worksite enforcement occurs, workers and witnesses can be deported or scatter into the wind, making the success of labor claims unlikely. Moreover, litigation of these issues requires discovery; it's very difficult for deported plaintiffs to sustain a case and meaningfully participate in discovery. [38]

It is imperative that ICE's worksite enforcement strategy reflects an understanding and appreciation of workers' labor rights. As a first step, ICE should update and follow its own internal policy of non-interference in labor disputes.[39] DHS internal guidance states that "[w]hen information is received concerning the employment of undocumented or unauthorized aliens, consideration should be given to whether the information is being provided to interfere with the rights of employees...."[40] The Operating Instruction 287.3 (OI) provides tangible instruction for field agents regarding immigration enforcement during a labor dispute. While some regional DHS offices follow this guidance, others do not. When the guidance is not followed, immigrants are removed from the country and the employer suffers no penalty for violating labor law, allowing the employer to then hire a new group of undocumented workers it can exploit. The OI must be supplemented with an agency-wide commitment to train ICE agents on labor law and discipline field offices who flagrantly violate the OI. Moreover, as ICE personnel identify violations of

[35] *See* Rebecca Smith, Ana Avendaño, AFL-CIO, and Julie Martínez Ortega, Iced Out: How Immigration Enforcement Has Interfered with Workers' Rights, available at http://www.nelp.org/page/-/Justice/ICED_OUT.pdf?nocdn=1
[36] *Id.*
[37] *Id.*
[38] *See* Centro de Los Derechos del Migrate at http://cdmigrante.org/Issues.html; Global Workers Alliance, Challenges in Transnational Migration: Representing Absentee Migrant Workers in US Court, available at http://globalworkers.org/PDF/GWJA_PubTransManual_4_2010.pdf

[39] *INS Operating Instruction 287.3a*
[40] *Id.*

workplace laws, they should ensure that USDOL and other labor enforcement agencies have the opportunity to interview workers. This basic function, ensuring workers' ability to aggrieve their labor rights, helps make certain that enforcement doesn't undermine labor rights, but rather can be a tool to raise wages and working conditions.

In addition to administrative reforms, Congress should pass the POWER Act (S. 3207). Introduced to the Senate in 2010, the Act would help ensure that immigration enforcement does not override workers' ability to enforce their rights and would mandate that the USDOL have an opportunity to interview victims of workplace abuse. Additionally, under certain conditions, victims of workplace abuse could qualify for a U-visa, enhancing their ability and willingness to help prosecute some egregious violations of labor law.

Enforcement Must Be Part of a Comprehensive Solution

Worksite enforcement must be part of a broader legislative effort to grant legal status to currently unauthorized immigrants. The enforcement-only model does not increase workers' wages and it actually deprives the US of revenue. Real reform will get undocumented workers and their employers onto the tax rolls and will raise wages for workers, while an enforcement-only model is expensive and impractical. Granting legal status to unauthorized workers would provide our economy with a much-needed infusion of revenue. Based on recent evidence, a broad legalization program would boost wages and tax revenue to the tune of $4.5 billion to $5.4 billion.[41] A comprehensive solution will allow workers to come out of the shadows and participate in the above-ground economy while raising labor standards for all workers.[42]

Conclusion

ICE has the unique opportunity to help create higher wages and better conditions for workers. In this economic climate, every branch of the federal government should harness resources to ensure that workers and their families get the highest wages possible. At a bare minimum, ICE should ensure that I-9 audits and other forms of worksite enforcement target the worst employers. Through coordination with the USDOL, ICE should be strategic in who it chooses to inspect, and should be mindful of workers' basic labor rights. Lastly, worksite enforcement is only a successful strategy when paired with a respect for workers' rights and as part of a more comprehensive reform to immigration law.

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[41] *See* Immigration Policy Center at http://www.immigrationpolicy.org/sites/default/files/docs/Hinojosa%20-%20Raising%20the%20Floor%20for%20American%20Workers%20010710.pdf#page=15

[42] The Labor Movement's Framework for Comprehensive Immigration Reform, AFL-CIO and Change to Win, available at http://www.aflcio.org/issues/civilrights/immigration/upload/immigrationreform041409.pdf

Written Statement of Emily Tulli
Worker Rights Policy Attorney, National Immigration Law Center

House Committee on the Judiciary
Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law

Hearing on: ICE Worksite Enforcement - Up to the Job?

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In 1986, Congress enacted the Immigration Reform and Control Act (IRCA), amending the Immigration and Nationality Act (INA) to include employer sanctions for knowingly hiring or continuing to employ unauthorized workers.[2]

[1] See Jim McTague, "The Underground Economy: Illegal Immigrants and Others Working Off the Books Cost the U.S. Hundreds of Billions of Dollars in Unpaid Taxes," THE WALL STREET JOURNAL CLASS ROOM EDITION, April 2005, available at http://wsjclassroom.com/archive/05apr/econ_underground.htm; Lora Jo Foo, "The Vulnerable and Exploitable Immigrant Workforce and the Need for Strengthening Worker Protective Legislation," YALE LAW JOURNAL, 103 Yale L.J. 2179, May 1994, available at www.wiego.org/papers/FooImmigrantWorkers.pdf.

[2] The Immigration and Nationality Act §274A prohibits employers from hiring, recruiting for a fee, or continuing to employ unauthorized workers. However, the statute contains an affirmative defense for this violation, and presumes good faith compliance with the law if the employer examines workers' documents and completes and an attestation.

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www.ajc.org

Statement of
Richard T. Foltin, Esq.
Director of National and Legislative Affairs
Office of Government and International Affairs
American Jewish Committee

Submitted on behalf of the American Jewish Committee to
The House Judiciary Subcommittee
on Immigration Policy and Enforcement

Hearing on
Immigration and Customs Enforcement (ICE) Worksite Enforcement - Up to the Job?

January 26, 2011

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Statement from the Asian American Center for Advancing Justice:

Today, the Immigration Subcommittee in the U.S. House of Representatives began its hard work of overseeing the country's immigration policy. With more than 1.2 million Asian Americans and Pacific Islanders (AAPI) who are undocumented and need to be legalized, more than 1.5 million waiting abroad to join close family members through the family-based immigration system, and the ongoing detention and deportation of community members, AAPIs have a huge stake in having a fair and workable immigration system.

Therefore, the Asian American Center for Advancing Justice urges the Subcommittee to prioritize its work towards fixing the nation's fundamentally broken immigration system with realistic and comprehensive solutions. The Subcommittee's agenda for 2011 must go beyond an exclusive focus on enforcing immigration rules widely acknowledged to be broken. Moreover, current immigration policies waste billions of taxpayer dollars on enforcing these broken, outdated laws.

AAPI immigrants are major contributors to the economy, diversity, and cultural vibrancy of the U.S. Immigrants arrive here seeking a better life for themselves and their families. They share a common investment in values such as democracy, opportunity, fairness, and equality with all Americans. Yet under the existing immigration system, immigrants are separated from their families, exploited by unscrupulous employers, denied meaningful educational and employment opportunities, and prevented from contributing fully to American society.

Some politicians have too often characterized hard-working undocumented immigrants as criminals, when in reality they play a vital role in the growth of our economy and the creation of jobs for American workers. Programs that focus solely on removing these individuals from our country will be devastating to millions of American families and hundreds of communities around the country.

The debate on immigration must be conducted in a civil manner. We sincerely hope that Congress will engage in an honest debate on this issue, and not leave the problem for some future Congress to solve.

The Asian American Center for Advancing Justice (www.advancingjustice.org) is comprised of the Asian American Justice Center in Washington, DC **(www.advancingequality.org)**, *the Asian American Institute in Chicago (www.aaichicago.org), the Asian Law Caucus (www.asianlawcaucus.org) in San Francisco and the Asian Pacific American Legal Center (www.apalc.org) in Los Angeles. THE MISSION of the Asian American Center for Advancing Justice is to promote a fair and equitable society for all by working for civil and human rights and empowering Asian Americans and Pacific Islanders and other underserved communities.*

Bergen County
Sanctuary
Committee

Bergen County Sanctuary Committee, Inc.
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Bergen County

Jewish Council

Ukrainian Society
of Ridgewood

Central Unitarian
Church

St. Mark's Episcopal
Church, Teaneck

Dar Al Hijrah
Mosque, Rancocas

WATC

Red Friends

Today the Immigration Subcommittee in the House of Representatives begins its work to oversee the country's immigration policy. The Bergen County Sanctuary Committee of Bergen County, New Jersey believes that the most urgent business regarding the issue of immigration is to fix the nation's broken system. Our particular interest is in serving people who are seeking political asylum in the US. Treatment of these individual varies from state to state and detention center to detention center. These are individuals who in most instances have not committed any crime and have fled their country of origin due to fear of persecution or their lives. Once on American soil they are treated shamefully and are often detained as prisoners for extended periods of time. To make necessary changes, Congress must go beyond an exclusive focus on enforcing immigration rules that are widely acknowledged to be broken. We are part of a consortium of organizations dedicated to this end and are willing to contribute our knowledge in this regard.

Only Congress can fix the broken system. The American people expect Congress to come up with realistic, comprehensive solutions. They will not be satisfied with more political symbolism. A realistic solution will bring our immigration system up to date. It must also deal realistically with the millions of immigrants who are here without legal status, and who have become so important for our economic well-being.

The debate on immigration can and should be conducted in a civil manner. Some politicians have too often characterized hard-working undocumented immigrants as criminals, when in reality they have played a vital role in the growth of our economy and the creation of jobs for American workers. Programs that focus solely on removing these individuals from the country will be devastating to millions of American families and hundreds of communities around the country.

We sincerely hope that Congress will engage in an honest debate on this issue, and not leave the problem for some future Congress to solve.

Respectfully yours,

Naomi Theisz, Board Member
Bergen County Sanctuary Committee
Teaneck, NJ

Call to Action-Rio Grande Valley

P.O. Box 3443, McAllen, Texas 78502 ctargv@gmail.com

January 22, 2011

The Immigration Subcommittee in the House of Representatives is beginning its work to oversee the country's immigration policy. Call to Action - Rio Grande Valley (CTA-RGV), a faith based justice organization, believes that the most urgent business regarding the issue of immigration is to fix the nation's broken immigration system. To do so, Congress must go beyond an exclusive focus on enforcing immigration rules that are widely acknowledged to be broken.

Only Congress can fix the broken immigration system. The American people expect Congress to come up with realistic, comprehensive solutions. They will not be satisfied with more political symbolism. A realistic solution will bring our immigration system up to date. It must also deal realistically with the millions of immigrants who are here without legal status, and who have become so important for our economic well-being.

The debate on immigration can and should be conducted in a civil manner. Some politicians have too often characterized hard-working undocumented immigrants as criminals, when in reality they have played a vital role in the growth of our economy and the creation of jobs for American workers. Programs that focus solely on removing these individuals from the country will be devastating to millions of American families and hundreds of communities around the country.

We sincerely hope that Congress will engage in an honest debate on this issue, and not leave the problem for some future Congress to solve.

Alfred Dabrowski
President

Statement for the House Judiciary Subcommittee on Immigration Policy and Enforcement

As the Immigration Subcommittee in the House of Representatives of the 112th Congress begins its responsibilities in overseeing the nation's immigration policy, Campus Progress, the youth arm of the Center for American Progress, urges policymakers to recognize that our current system of immigration laws is broken.

Young people across the country are deeply invested in comprehensive solutions that fairly address the millions of undocumented students and workers that are already contributing to our society and economy. Reforming our immigration laws would increase our pool of college graduates and military recruits, and would add 1.5 trillion dollars to our nation's gross domestic product over the course of ten years.

A system that unfairly detains and deports talented youth their hardworking families is simply unacceptable. We demand that our leaders in Washington engage in fair debate and put aside the political rhetoric that criminalizes our partners, friends, coworkers, and neighbors and advance fair and just solutions.

Sincerely,

Eduardo Garcia
Campus Progress

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PHONE: 202.775.8810 - FAX: 202.775.0819

January 26, 2011

United States House of Representatives
Committee on the Judiciary
Subcommittee on Immigration Policy and Enforcement

Re: Hearing: ICE Worksite Enforcement – Up to the Job?

The Economic Policy Institute believes that Congress should enact a comprehensive solution to fix the nation's broken immigration system. Such reforms should create a system that effectively manages migration in order to achieve national purposes, including: a more broadly shared prosperity, the protection of wages and working conditions for all workers, and increased productivity and national wealth. The creation of an independent commission to manage future flows of migrants will facilitate the ability of employers to find the workers they need when experiencing occupational shortages in the American economy. Accordingly, Congress must go beyond an exclusive focus on enforcing flawed immigration rules that are widely acknowledged to be ineffective.

Any successful solution to America's immigration problems must deal realistically and humanely with the millions of immigrants who are here without legal status, but have become an integral part of our economy. Taking responsibility for determining employment eligibility away from employers (who have an obvious conflict of interest) and shifting it to the government via E-Verify or another, more accurate identification system will have to be undertaken eventually, and we will support such a change if it comes *after* Congress has created a path to a regularized status for those members of the undocumented population who can demonstrate strong ties to American society and the U.S. labor market. If such a powerful enforcement change occurs before legalizing the undocumented workers already here, millions will find their situation made far worse than it is already. These workers would be unable to change jobs and could find themselves permanently indentured and without any rights. This would have significant negative impacts on the entire labor market, including reducing the bargaining power of native workers.

The debate on immigration can and should be conducted in a civil manner. Some politicians have too often characterized hard-working undocumented immigrants as criminals, when in reality, the responsibility for their unauthorized employment is shared by thousands of employers and the federal government, which stood idly by as the population of unauthorized workers increased year after year. Programs that focus solely on removing these individuals from the country will be devastating to millions of American families and hundreds of communities around the country.

We sincerely hope that Congress will engage in an honest debate on this issue, and not leave the problem for a future Congress to solve.

Ross Eisenbrey
Vice President
Economic Policy Institute

Daniel Costa
Immigration Policy Analyst
Economic Policy Institute

Statement

Today the Immigration Subcommittee in the House of Representatives begins its work to oversee the country's immigration policy. European Organization of Iranian Refugees (EOIR) believes that the most urgent business regarding the issue of immigration is to fix the nation's broken immigration system. To do so, Congress must go beyond an exclusive focus on enforcing immigration rules that are widely acknowledged to be broken.

Only Congress can fix the broken immigration system. The American people expect Congress to come up with realistic, comprehensive solutions. They will not be satisfied with more political symbolism. A realistic solution will bring our immigration system up to date. It must also deal realistically with the millions of immigrants who are here without legal status, and who have become so important for our economic well-being.

The debate on immigration can and should be conducted in a civil manner.
Some politicians have too often characterized hard-working undocumented immigrants as criminals, when in reality they have played a vital role in the growth of our economy and the creation of jobs for American workers.
Programs that focus solely on removing these individuals from the country will be devastating to millions of American families and hundreds of communities around the country.

We sincerely hope that Congress will engage in an honest debate on this issue, and not leave the problem for some future Congress to solve.

Esmail Yari
General direction of EOIR

For Immediate Release: Wednesday, January 26, 2011
Contact: Mary Moreno, mmoreno@communitychange.org, 202-630-0230

FIRM Urges Immigration Subcommittee to Work on Comprehensive Reform, Reject Failed Strategy of Enforcement Only

Statement by Marissa Graciosa, coordinator of FIRM

WASHINGTON – Today, the House Immigration Subcommittee, charged with overseeing our country's immigration policy, will hold its first hearing. The following is a statement from Marissa Graciosa, coordinator of the Fair Immigration Reform Movement, a project of the Center for Community Change:

"There's been much speculation on what direction the House Immigration Subcommittee will take this session. Today, we begin to find out if they're serious about fixing our outdated, immoral and dysfunctional immigration system or if they simply will play politics and allow this problem to continue to fester.

"So far the signs are not encouraging. Indications are the subcommittee under Republican leadership will focus on enforcement and deportation, essentially the same strategy that for decades has failed to bring us any closer to restoring the rule of law to our immigration chaos. Following this short-sighted failed strategy will give us the same results: communities will continue to suffer and our immigration system will remain a mess.

"We continue to advocate for a true and lasting solution to our immigration dilemma. There is no getting around a complete overhaul of the system that includes a path to earned citizenship for millions of undocumented workers who have become an integral part of our workforce and economy. Piecemeal enforcement at the federal and state levels will only bring us more chaos, will prove to be too costly and will devastate too many families, too many communities.

"We urge the members of the Immigration Subcommittee to set the tone for this Congress by engaging in honest debate and working toward a real solution."

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FIRM (Fair Immigration Reform Movement) is a coalition of more than 200 of the country's largest and most active state and local immigration advocacy groups representing nearly every state. It is convened by the Center for Community Change.

For Immediate Release
January 25, 2011

Contact: Jessica Felix-Romero, Farmworker Justice
202-293-5420, jromero@farmworkerjustice.org

Statement of Farmworker Justice
on the House Immigration Subcommittee's Hearing on ICE Worksite Enforcement

The Immigration Subcommittee in the House of Representatives begins its work to oversee the country's immigration policy on January 26th with a hearing on workplace enforcement. Farmworker Justice strongly believes that we must fix our broken immigration system. The *status quo* for farmworkers and agricultural businesses is untenable and must be reformed. Over 50% of farmworkers are undocumented. The lack of immigration status contributes to the significant problems in agricultural workplaces and communities: low wages, poor working conditions, pesticide poisoning, and substandard housing. While some argue that these problems will be solved by better enforcement of immigration laws, enforcement alone will not solve the challenges farmworkers face nor provide employers with the stable, productive workforce they need. Our nation's broken immigration system needs a lasting solution, which must include a path to immigration status.

Farmworker Justice is a national advocacy organization for migrant and seasonal farmworkers with thirty years of experience on immigration and labor policy.

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FIRST FOCUS CAMPAIGN FOR CHILDREN
STATEMENT FOR THE RECORD
SUBCOMMITTEE ON IMMIGRATION AND ENFORCEMENT HEARING: WORKSITE IMMIGRATION ENFORCEMENT
JANUARY 26, 2011

Chairman Gallegly and members of the House Subcommittee on Immigration, thank you for this opportunity to submit this statement regarding the January 26th hearing on Worksite Immigration Enforcement.

The First Focus Campaign for Children is a bipartisan children's advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. Our organization is also committed to making sure that our nation's immigration policies promote the wellbeing of children and families. We believe that the most pressing immigration issue is the need for a comprehensive fix to the nation's broken immigration system. The American people expect Congress to provide realistic solutions that not only secure our borders but also update a system that no longer meets our country's needs. A comprehensive fix must also reasonably address the millions of immigrants who are here without legal status, and who have become integral to our economic prosperity.

It is also crucial that all enforcement policies, both those in and out of the workplace, are conducted in a responsible manner that safeguards family unity and child wellbeing. Research demonstrates that children that are separated from a parent due to immigration enforcement are subject to emotional trauma as well as short-term and long-term threats to their safety, economic security, and overall wellbeing.[1] In some cases, children may unnecessarily end up in the child welfare system due to a parent's lack of opportunity to make childcare arrangements upon apprehension.[2]

As you are aware, in 2007 Immigration and Customs Enforcement (ICE) developed humanitarian guidelines for enforcement activities involving more than 150 arrestees (later changed to more than 25 arrestees) in response to a series of raids which adversely impacted hundreds of children.[3] However, these guidelines do not apply to worksite operations targeting less than 25 arrestees or non-worksite arrests, which are the types of arrests that have increased significantly over recent years through programs such as the 287(g) program, Fugitive Operation Teams (FOT's) and the Secure Communities program. Given that these humanitarian guidelines have proven very effective in minimizing the trauma experienced by children and families when operationalized properly during larger enforcement operations, we urge Congress to consider the development of similar time-of-apprehension protocols for all enforcement operations.

Moving forward, Congress will have the opportunity to change the way it approaches the immigration debate. Over the past few years, children and families have been the targets of harmful rhetoric, and far too often children have paid the price for enforcement policies that unnecessarily separate them from their parents. The fact remains that immigrant families, and the 1 in 4 children of immigrants that comprise the U.S. child population, will play an important role in the future of our country. Thus, programs that focus solely on removing individuals from the country will undermine our American values as well as compromise our country's future prosperity.

January 26, 2011

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

Hearing on ICE Worksite Enforcement Up To the Job

Statement by Antonio R. Flores, President and CEO, Hispanic Association of Colleges and Universities (HACU)

Today the Immigration Subcommittee of the House of Representatives begins its work to oversee the country's immigration policy with a hearing on immigration and the workforce. The Hispanic Association of Colleges and Universities believes that while enforcement requires some attention, the most urgent business is to fix the nation's broken immigration system. HACU encourages Congress to go beyond an exclusive view on enforcing immigration rules as it begins hearings and discussions on the issues, and focus on dealing realistically with undocumented immigrants already in the U.S. and on creating a realistic system that allows immigrants to enter the U.S. in a more expeditious and just fashion.

The estimated 11 million immigrants in the United States without legal status need a realistic process to regularize their immigration status. There are too many for "round-up and deportation" to be an economically feasible solution, even were it enforceable. Moreover, they have become essential elements of our country's economy and, even were it possible to "send them back where they came from," their loss would be a serious setback to the everyday lives of every American who depends on their labor and economic contribution. The focus of enforcement needs to be concentrated on those immigrants whose criminal activity poses a real threat to American security, rather than on the millions of immigrants who are contributors to American life.

Likewise, the current legal immigration process is arbitrary, tedious, and slow. The economic forces that drive illegal immigration need to be taken into account in designing a more streamlined and fair legal immigration process. Enforcement, even mass deportations, will not prevent people on the other side of our borders from seeking a better way of life. A just immigration system would find ways to incorporate their energy and drive into the American dream.

Finally, the debate on immigration should be conducted in a civil manner. Demonizing immigrants as the "other" or, worse, as "criminals" does a disservice not only to the millions of currently undocumented hard-working immigrants but to all our immigrant ancestors whose labor over the centuries built this country. The U.S., since its founding, has seen itself as a beacon of hope for the world. Not only our immigration policy, but our national discourse about immigration, should reflect the promise of a better, more democratic life that we want to hold out to the world. A nativist rejection of the new immigrants betrays the promise our Founders intended the U.S. to be.

We look forward to taking part in conversations with Congress to help fix the nation's immigration system.

IMMIGRATION EQUALITY

Statement from the Immigration Equality Action Fund

As the House Immigration Subcommittee begins its work to oversee the country's immigration policy, the Immigration Equality Action Fund urges lawmakers to fix our nation's broken immigration system through comprehensive reform legislation which honors our nation's history as a country of immigrants, and works to enact policies which benefit businesses and keep families together.

Only Congress can fix the broken immigration system, and it must prioritize tackling this immensely important issue. We must update our country's immigration laws in a way that recognizes the enormous economic contribution that millions of immigrants – both documented and undocumented – have made to fuel our nation's progress. Those who are undocumented should be provided with a pathway to citizenship. At the same time, we must also ensure that immigration reform prioritizes family unification, which has been the foundation of U.S. immigration policy for decades, ensuring that American citizens and residents are united with immigrant loved ones. These should include lesbian and gay Americans, whose families are too often torn apart because of the inability of those Americans to sponsor their foreign born partners for residency.

It is critically important that American businesses have the policies and laws they need to best compete in the global economy. Our immigration system is an important component of ensuring that competitive edge. We urge lawmakers, as they begin work in this new Congress, to ensure our laws allow businesses to recruit and retain the best and brightest talent and allow families to remain together in, and contributing economically to, the country they call home.

# # #

Immigration Equality Action Fund advocates on Capitol Hill for equality for lesbian, gay, bisexual, transgender and HIV-positive immigrants and their families. To end discrimination in U.S. immigration law, Immigration Equality Action Fund works to pass the Uniting American Families Act and LGBT-inclusive Comprehensive Immigration Reform. The Action Fund lobbies legislators and other policy makers, builds coalitions, and empowers LGBT immigrant families around the country to fight for change.

www.immigrationequality.org

IIBA

January 24, 2011

STATEMENT FOR THE RECORD
CRITICAL NEED FOR IMMIGRATION REFORM

Today the Immigration Subcommittee in the House of Representatives begins its work to oversee the country's immigration policy. The International Institute of the Bay Area, located in one of the country's most diverse and pro-immigrant regions, believes that the most urgent business regarding the issue of immigration is to fix the nation's broken immigration system. Enforcement alone will not provide the solutions we need. Today we spend more than ten times the dollars on enforcement than we did just ten years ago, with minimal impact. In addition, the current system provides virtually no avenues for needed workers to enter and exit the country without paralyzing risk to family ties and long-term solutions. Congress has done all it can to enforce current immigration rules, and must acknowledge that they are broken.

Only Congress can fix the broken immigration system. We expect Congress to come up with realistic, comprehensive solutions. More ineffective political posturing will not fix the problem. A realistic solution will bring our immigration system up to date. It must also deal realistically with the millions of immigrants who are here without legal status, and who have become so important for our economic well-being.

It is possible to conduct the debate on immigration reform in a civil manner. Some politicians have too often characterized hard-working undocumented immigrants as criminals, when in reality they have played a vital role in the growth of our economy and the creation of jobs for American workers. Programs that focus solely on removing unauthorized immigrants from the country would be extraordinarily costly, and would devastate millions of American families and hundreds of communities around the country.

We sincerely hope that Congress will engage in an honest debate on this issue, and not leave the problem for some future Congress to solve.

Sincerely,

Margi Dunlap
Executive Director
International Institute of the Bay Area

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KS/MO DREAM Alliance

January 24, 2011

Today the Immigration Subcommittee in the House of Representatives begins its work to oversee the country's immigration policy. The Kansas/Missouri DREAM Alliance believes that the most urgent business regarding the issue of immigration is to fix the nation's broken immigration system. To do so, Congress must go beyond an exclusive focus on enforcing immigration rules that are widely acknowledged to be broken.

Only Congress can fix the broken immigration system. The American people expect Congress to come up with realistic, comprehensive solutions. They will not be satisfied with more political symbolism. A realistic solution will bring our immigration system up to date. It must also deal realistically with the millions of immigrants who are here without legal status, and who have become so important for our economic well-being.

The debate on immigration can and should be conducted in a civil manner. Some politicians have too often characterized hard-working undocumented immigrants as criminals, when in reality they have played a vital role in the growth of our economy and the creation of jobs for American workers. Programs that focus solely on removing these individuals from the country will be devastating to millions of American families and hundreds of communities around the country.

We sincerely hope that Congress will engage in an honest debate on this issue, and not leave the problem for some future Congress to solve.

With gratitude,

The KS/MO DREAM Alliance

KS/MO DREAM Alliance
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Kansas City, KS 66106

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Phone: 913-660-5308
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Founder

Board of Directors

Board of Advisors

Executive Director

January 26, 2011

Partnership Council Members

The Honorable Lamar Smith
Chairman, House Judiciary Committee
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Smith:

On behalf of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, I am writing to provide our perspectives on the critical immigration issues facing our nation for the first hearing of the Subcommittee on Immigration Policy and Enforcement. The NALEO Educational Fund is the nation's leading non-profit organization that facilitates the full participation of Latinos in the American political process, from citizenship to public service. Our constituency includes more than 6,000 Latino elected and appointed officials nationwide, and our Board is comprised of Republicans, Democrats, and Independents.

The NALEO Educational Fund actively advocates for effective and fair immigration policies throughout the nation. For over 20 years, we have also educated Latino newcomers about the importance of U.S. citizenship and provided assistance with the naturalization application process. Through our civic engagement work, we are at the forefront of efforts to ensure that the naturalization process is accessible and affordable for the nation's legal permanent residents, many of whom are Latino.

The NALEO Educational Fund, together with our constituency of federal, state and local elected officials developed principles to address the current challenges facing our immigration system. These principles were created by elected leaders from both parties that have a personal understanding of immigration and its effects on their local communities. As the Judiciary Committee works on hearings, markups, and other responsibilities within its jurisdiction, we urge you to incorporate the principles outlined by our leadership. Attached is a copy of the NALEO Educational Fund's immigration principles.

The NALEO Educational Fund's principles emphasize the need for immigration policies that ensure our national security and public safety; recognize that immigrants contribute to the growth of our nation; protect the due process rights of all; provide tax paying immigrant workers and their family an opportunity to earn legalization and eventually U.S. citizenship; and promote the civic integration of newcomers.

We urge you to adhere to the attached principles as you proceed with the work of the Judiciary Committee. Our bipartisan constituency works together to promote sound and humane solutions for the challenges and opportunities that immigration presents for our nation; we hope that the committee will work in a bipartisan manner as it addresses our country's immigration policies.

Should you have any questions about the NALEO Educational Fund's work or the attached principles, please contact Mrs. Gloria Montaño Greene, Director of our Washington Office at 202-546-2536 or gmontanogreene@naleo.org.

Sincerely,

Arturo Vargas
Executive Director

Enclosure

cc: Members of House Judiciary Committee

NCJW

National Council of Jewish Women

New York Office

Washington Office

Israel Office

Web www.ncjw.org

Statement of National Council of Jewish Women on Comprehensive Immigration Reform

Submitted to
The Subcommittee on Immigration Policy and Enforcement
of the House Judiciary Committee

January 26, 2011

From its very beginnings 116 years ago, the National Council of Jewish Women (NCJW) has worked to welcome new immigrants and to assist them as they resettled in the United States. As Jews, we recall our exodus from Egypt where we were treated as oppressed strangers in a strange land. Many of our own parents and grandparents were among those women and men who took great risks to seek a better future for them and their children.

Today, more than 12 million immigrants, following that same dream, live and work in the United States without the benefit of legal status. They contribute to the economy in virtually every city in this country.

NCJW supports humane comprehensive immigration reform legislation, including the DREAM Act, which provide opportunities for hard-working undocumented immigrants to earn legal status and eventually citizenship. Legislation should significantly reduce the unreasonable waiting times that keep immigrant families apart and should establish humane border protection policies, emphasizing the need to identify and bar the entry of terrorists and dangerous criminals.

The US government must end workplace raids that tear families apart, hurt small businesses, create more poverty, and do nothing to improve the lives of immigrants or citizens. Mass arrests have not reduced the number of illegal immigrants; instead, they have done untold damage to the social fabric of immigrant communities.

NCJW stands in proud solidarity with the millions of immigrants, faith groups, and others across the US who are working to achieve just immigration policies. We urge Congress to heed our voices and honor our history as a nation of immigrants by immediately passing comprehensive, fair, and humane immigration reform legislation.

National Day Laborer Organizing Network
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Statement of the National Day Laborer Organizing Network to the Congressional Subcommittee on Immigration – January 26, 2011

The 112th Congress will hold the first hearing of its Congressional Subcommittee on Immigration on January 26, 2011.

The National Day Laborer Organizing Network (NDLON) believes this hearing should be watched carefully for both its policy prescriptions and the tone it sets regarding immigrant workers. Our network includes more than 40 organizations of day laborers located throughout the country. It is our understanding that the Immigration Subcommittee will focus its first hearing largely on strategies for targeting immigrant workers for deportation through their worksites.

NDLON believes that this focus demonstrates at best, a lack of understanding about how to protect workers' rights, and at worst, a mean-spirited scapegoating of immigrant workers that can increase bias, dehumanization, and violence

Immigration crackdowns do not protect workers' rights or local communities: Crackdowns and raids at the workplace have never proven effective in protecting the rights of any workers, US-born or immigrants. On the contrary, aggressive targeting of immigrant workers facilitates their exploitation by unscrupulous employers, who are only too willing to use immigration status as a threat against workers who might complain. In workplaces where immigrants are exploited, this brings down the wages of native-born workers as well.

In addition, technology-based screening programs such as "E-Verify" are prone to errors and tend to drive undocumented workers further underground. These programs confuse good employers and provide the most abusive employers with an additional scheme to be used in violating workers rights. Piecemeal worksite verification programs only exacerbate this problem by incentivizing exploitation by predatory employers seeking unfair competitive advantage.

Immigrant workers and their families, whether documented or undocumented, are a crucial part of the United States economy, and they are members of local communities across the country. Raids targeting workplaces have been devastating to these families and have been particularly harmful to their children. As the new congress pushes the re-set button on an immigration debate that has been on the

ONEAMERICA
With Justice for All

With today's "ICE Worksite Enforcement – Up to the Job?" hearing, the Immigration Subcommittee in the House of Representatives takes up its important charge of overseeing the country's immigration policy. However, today's hearing will not address the most urgent issue around immigration—reforming our nation's broken immigration system. Congress must go beyond focusing on enforcing immigration rules that are widely acknowledged on all sides to be broken and take up the real issue of how to fix the immigration system. In doing so, there must be an examination of immigration that includes a wide range of academics, economists, practitioners, and other experts. It is disappointing to see that today's witness list will not move forward real problem solving or an in-depth understanding of the complexities of the broken system.

Realistic comprehensive solutions to fix our broken immigration system are needed more than ever. It is clear that the American people expect these smart solutions from Congress. Partisan tactics will not convince Americans that Congress is doing the hard work needed to fix the broken system. Americans expect a real solution that deals with the millions of immigrants who are here without legal status, and who have become so important for our economic well-being.

At OneAmerica, we firmly believe that the debate on immigration can and should be conducted in a civil manner. Everyday in Washington State we see people from all different backgrounds and interests unite around immigration reform. In our state and around the country, innovative work has been done to explore practical, forward looking, and economically sound policy solutions and we expect those same values to be present in the approach toward immigration policy in Washington, DC.

At OneAmerica, we examined the economic contributions of immigrants to Washington's economy as workers, tax payers, and consumers. We found that immigrants are indispensable to Washington State's economy and that pro-immigrant and immigrant integration policies could be an essential economic growth strategy in a struggling economy. Despite widespread information on the economic contributions of immigrants from a wide variety of sources, some politicians persistently characterize hard-working undocumented immigrants as criminals. In reality immigrants play a vital role in the growth of our economy and the creation of jobs for American workers. They are key to our economic recovery. On the other hand, programs that focus solely on removing these individuals from the country will be devastating to our economy, millions of American families, and hundreds of communities around the country.

We sincerely hope that Congress will engage in an honest debate on this issue, and not leave the problem for some future Congress to solve.

Advancing Immigrant, Civil & Human Rights

Society of the Sacred Heart
U.S. Province

January 21, 2011

Dear Mr. President and Members of Congress,

We write as the leadership team of the Society of the Sacred Heart in the United States, a community of Catholic sisters and one of the 34 Provinces of the Society whose members carry out their mission in 43 countries world-wide.

At a 2009 gathering of our members we adopted the following Action for Justice:

> Because as members of an international congregation we are aware of the suffering and deprivation of our sisters and brothers caught up in the complexity of immigration on both global and national levels, we ... commit ourselves to take action on immigration on global and national levels in collaboration with others.

In the United States, where 350 sisters carry out our ministry in 14 states and the District of Columbia, we experience this reality in the lives of our students, our colleagues and associates, our neighbors, friends and relatives.

In 2005 the U.S. Catholic Bishops issued a pastoral letter in which they offered a comprehensive set of recommendations for changing U.S. laws and policies to reflect the principles contained in Scripture and Catholic Social Teaching and to bring about a more just immigration system.

As the Bishops have stated, we believe and affirm that its restructuring must include the following principles:

- Persons have the right to find opportunities in their homeland.

Economic, social, and political conditions in one's homeland should provide an opportunity for a person to work and support his or her family in dignity and safety. Efforts should be made to address global economic inequities and peacemaking, so persons do not have to flee their homes.

- Persons have the right to migrate to support themselves and their families.

When persons are unable to find work and support themselves and their families, they have a right to migrate to other countries and work. Measures for migrants at all skill levels to work in the United States need to be expanded, meeting our country's continued economic needs without jeopardizing the current labor force. Immigrants' efforts to become part of their new communities need to be supported while allowing them to preserve their own cultures, including educational and social services.

- Nations have a right to control their borders.

The Church recognizes the right of a nation to protect and control its borders in the service of the common good of its citizens. This is not an absolute right. Nations also have an obligation to the universal common good and should seek to accommodate migration to the greatest extent possible. The United States should establish an immigration system that provides legal avenues for persons to enter the nation legally in a safe, orderly, and dignified manner to obtain jobs and reunite with family members.

- Refugees and asylum seekers should be afforded protection.

Persons who flee their home countries because they fear persecution should be afforded safe haven and protection in another country. The United States should employ a refugee and asylum system that protects asylum seekers, refugees, and other forced migrants and offers them a haven from persecution.

- The human rights and human dignity of undocumented migrants should be respected.

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Statement in Support of Just and Humane Immigration Reform
South Asian Americans Leading Together (SAALT)
January 26, 2011

Today, the Immigration Subcommittee in the House of Representatives begins its work to oversee the country's immigration policy. As a predominantly foreign-born community possessing a range of immigration statuses, South Asians in the United States are affected by any change immigration laws. South Asian Americans Leading Together (SAALT), a national immigrant and civil rights organization that elevates the voices of perspectives of South Asians to build a more just and inclusive society in the United States, believes that the most urgent business regarding the issue of immigration is to fix the nation's broken immigration system. To do so, Congress must go beyond an exclusive focus on enforcing immigration rules that are widely acknowledged to be broken.

Only Congress can fix the broken immigration system. The American people expect Congress to come up with realistic, comprehensive solutions. They will not be satisfied with more political symbolism. A realistic solution will bring our immigration system up to date. It must also deal realistically with the millions of immigrants who are here without legal status, and who have become so important for our economic well-being.

The debate on immigration can and should be conducted in a civil manner. Some politicians have too often characterized hard-working undocumented immigrants as threats to this country, when in reality they have played a vital role in the growth of our economy and the creation of jobs for American workers. Contrary to popular belief, there is a significant number of South Asians living in this country as undocumented immigrants – in fact, Indians alone make up the sixth largest undocumented population. Programs that focus solely on removing these individuals from the country will be devastating to millions of American families and hundreds of communities around the country.

We sincerely hope that Congress will engage in an honest debate on this issue, and not leave the problem for some future Congress to solve.

Strengthening South Asian Communities in America

TESTIMONY OF MOST REVEREND JOSE H. GOMEZ

Coadjutor Archbishop of Los Angeles, California

Chair, U.S. Conference of Catholic Bishops' Committee on Migration

On

ICE Worksite Enforcement

Before

The House Judiciary Subcommittee on Immigration Policy and Enforcement

January 26, 2011

I am Jose' Gomez, Coadjutor Archbishop of Los Angeles and Chairman of the U.S. Conference of Catholic Bishops' (USCCB or the Conference) Committee on Migration. I testify before you today on behalf of the USCCB Committee on Migration.

Before I begin, I would like to thank Subcommittee Chairman Elton Gallegly (R-CA) and Ranking Member Zoe Lofgren (D-CA) for permitting me to submit testimony before the Subcommittee on this important matter.

My testimony before the Subcommittee will outline the Conference's position on workplace enforcement of immigration laws, which includes our recommendation that Congress:

1. Prioritize and pursue comprehensive immigration reform in lieu of enforcement-only measures to address the issues of unauthorized immigration in the United States; and

2. De-emphasize the use of workplace raids – in which immigrants are detained and families are separated – as a measure to enforce immigration laws in the U.S. workplace.

The Role of the U.S. Catholic Bishops in the Immigration Policy Debate

Mr. Chairman, the issue of immigration is complex and elicits strong opinions and emotions from all sides of the public debate. It touches upon our national economic, social, and cultural interests and has been analyzed and dissected predominately in those terms. From the perspective of the U.S. Catholic Bishops, immigration is ultimately a humanitarian issue because it impacts the basic human rights and dignity of the human person.

The U.S. Catholic Church has a long history of involvement in immigration; both in the advocacy arena and in welcoming and assimilating waves of immigrants and refugees who have helped build our nation throughout her history. There are 158 Catholic immigration legal services programs throughout the country serving immigrants under the auspices of the U.S. Bishops.

The U.S. Catholic Bishops acknowledge the right of the sovereign to enforce its immigration laws. In the pastoral letter, *Strangers No Longer: Together on the Journey of Hope,* USCCB recognized the right of the sovereign to control and protect its borders, stating: "we accept the legitimate role of the U.S. . . . government in intercepting undocumented migrants who attempt to travel through or cross into [the country]." The U.S. Bishops emphasized, however, that ". . . .[w]e do not accept . . . . some of the policies and tactics that our government has employed to meet this. . .responsibility."[1]

[1] *Strangers No Longer: Together on a Journey of Hope. A Pastoral Letter Concerning Migration from the Catholic Bishops of Mexico and the United States*, January 23, 2003, No. 78.

In *Strangers No Longer*, the U.S. Bishops made clear that despite the sovereign's right to control its borders and engage in enforcement of immigration laws, the "human dignity and human rights of undocumented migrants should be respected." We declared that "[r]egardless of their legal status, migrants, like all persons, possess inherent human dignity that should be respected . . . Government policies that respect the basic human rights of the undocumented are necessary."[2]

The Conference's Call for Comprehensive Immigration Reform in Lieu of an Enforcement-Only Approach

According to the Pew Hispanic Center, there are currently 11.1 million unauthorized persons residing in the United States.[3] Of these, approximately 7.8 million – or 70 percent -- are in the U.S. labor force.[4] Each year, between 300,000 and 500,000 more unauthorized immigrants enter the country.[5] In large part, these immigrants feel compelled to enter because of either the explicit or implicit promise of employment in the U.S. agriculture, construction, and service industries, among others. Most of this unauthorized flow comes from Mexico, a nation struggling with severe poverty, where it is often impossible for many to earn a living wage and meet the basic needs of their families.

Survival has thus become the primary impetus for unauthorized migration flows into the United States. Today's unauthorized migrants are largely low-skilled workers who come to the United States for work to support their families. They work in the agricultural, meatpacking, landscaping, services, and construction industries in the United States. They fill the ranks of U.S. businesses, large and small throughout the country.

Over the past several decades, the demand by U.S. businesses for low-skilled workers has grown exponentially, while the supply of available workers willing to perform these *low-skilled* jobs in the United States has diminished.[6] Yet, there are only 5,000 green cards available annually for low-skilled workers to enter the United States lawfully to reside and work.[7] This number stands in stark contrast to the estimated 300,000-500,000 migrants who enter the United States without authorization each year, most of whom are looking for work.[8] The only alternative to this is a temporary work visa through the H-2A (seasonal agricultural) or H2B (seasonal non-agricultural) visa programs which provide temporary status to low-skilled workers seeking to enter the country lawfully.

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[2] *Id.* at No. 38.
[3] Jeffrey S. Passel and D'Vera Cohn, *US Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade* (Washington, DC: Pew Hispanic Center, 2010), 1, http://pewhispanic.org/files/reports/126.pdf.
[4] Rakesh Kochhar, C. Soledad Espinoza, and Rebecca Hinze-Pifer, *After the Great Recession: Foreign Born Gain Jobs; Native Born Lose Jobs* (Washington, D.C.: Pew Hispanic Center, 2010), 4-5, http://pewhispanic.org/files/reports/129.pdf.
[5] Passel and Cohn, *U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade*, 1.
[6] *See, e.g.*, Gordon H. Hanson, *The Economics and Policy of Illegal Immigration in the United States*, Migration Policy Institute (December 2009).
[7] *Id.* at 6.
[8] Passel and Cohn, *U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade*, iii.

While H-2A visas are not numerically capped, agricultural employers have reported great difficulty in making use of them. H-2B visas are capped at 66,000 annually. Both only provide temporary status to work for a U.S. employer for one year.[9] At their current numbers, these are woefully insufficient to provide legal means for the foreign-born to enter the United States to live and work, and thereby meet our demand for foreign-born labor.

Over the past decade alone, Congress has spent $117 billion[10] of taxpayer dollars on immigration enforcement initiatives, yet the number of undocumented in the country has grown and the demand for foreign-born, low-skilled labor has continued on pace with the ebbs and flows of the U.S. economy. It is clear that another approach is necessary.

Mr. Chairman, the U.S. Catholic Bishops do not believe that "enforcement only" immigration policies will humanely resolve the policy dilemma created by an increasing number of unauthorized immigrants in the United States. Rather, we support comprehensive immigration reform to fix what has become a broken system. Such reform would include: an earned legalization program for foreign nationals of good moral character; the reform of the family-based immigration system; a revamped temporary worker regime that protects both the workers who would come to the United States and U.S. citizen workers; the restoration of immigrants' due process rights; and an effort to meaningfully address the root causes of migration, such as under-development and poverty in sending countries.

Moreover, such reform would include the targeted, proportional, and humane enforcement of immigration laws. The U.S. Catholic Bishops accept the legitimate role of the U.S. government in intercepting unauthorized migrants who attempt to travel to the United States. The U.S. Bishops also believe that by increasing lawful means for migrants to enter, live, and work in the United States, law enforcement will be better able to focus upon those who truly threaten public safety: drug and human traffickers, smugglers, and would-be terrorists. It is our view that comprehensive immigration reform would help restore the rule of law by replacing unauthorized migration flows with meaningful and adequate legal avenues for migration, compatible with both our future labor needs and our ongoing prioritization of family reunification.

The Conference's Position on Worksite Enforcement of Immigration Laws

As you know, Mr. Chairman, section 274A of the Immigration and Nationality Act (INA) prohibits employers from employing individuals who they know are not authorized to work.[11] Specifically, INA §274A makes it unlawful for an employer to knowingly hire, recruit or refer for a fee, or continue to employ an alien who is not authorized to be so employed. It also makes it unlawful for an employer to hire an individual for employment without examining documents to verify the newly-hired individual's identity

[9] Hanson, *The Economics and Policy of Illegal Immigration in the United States* at 6.

[10] Estimate of INS, DHS budgets 2000-2010.

[11] Act of June 27, 1952, ch. 477, as amended.

and work eligibility. An employer who violates these provisions of section 274A of the INA may be subject to civil and/or criminal penalties.[12]

U.S. Immigration and Customs Enforcement (ICE) is responsible for enforcing these prohibitions on the employment of unauthorized immigrants. It has done so, Mr. Chairman, through a combination of audits of employers' I-9 records to determine compliance with verification requirements; workplace raids; and the use of sanctions.

Mr. Chairman, worksite enforcement of immigration laws can achieve important purposes. Foremost among those are ensuring that unscrupulous employers are not violating the rights of immigrant workers in the workplace.

However, the U.S. Catholic Bishops are opposed to the use of workplace raids, in which employees are administratively arrested, to achieve our immigration law enforcement objectives.

Over the course of the past few years, ICE engaged in a series of high-profile workplace raids. For instance, in December 2006, ICE apprehended nearly 1,300 unauthorized migrants in six U.S. cities. In another instance, in March 2007, ICE apprehended over 360 migrants in a raid in New Bedford, Massachusetts. And, in workplace raids in 2008, ICE apprehended nearly 400 migrants in Postville, Iowa; some 600 immigrants in Laurel, Mississippi; and 160 immigrants in Houston, Texas. In 2009, ICE apprehended nearly 30 unauthorized migrants in a workplace raid in Bellingham, Washington.

Although ICE undertook these raids in disparate industries in distinct cities across the United States, a common theme binds them all: the destruction of the family. Mr. Chairman, as a result of each of these very different raids, families and their communities were destroyed. Indeed, as a result of these raids, U.S.-citizen children were separated from their parents for days, if not longer; immigrants arrested were not afforded the rights of due process or access to legal counsel; and local communities, including legal permanent residents and U.S. citizens, were disrupted and dislocated. Indeed, in a number of raids, U.S. citizens and legal permanent residents were swept up and subjected to arrest and detention before determinations were made that they were, in fact, legally present in the United States. The sweeping nature of these raids---which have often involved hundreds of law enforcement personnel with weapons---strike fear in communities, make it difficult for those arrested to secure basic due process protections, including legal counsel, and all-too-often render children parent-less.

USCCB believes that the humanitarian costs of workplace raids are immeasurable and unacceptable in a civilized society. The U.S. Catholic Bishops have witnessed first-hand the suffering of immigrant families and are deeply troubled by the collateral human consequences of immigration enforcement raids on the family unit. Over the years, many of our local parishes have helped respond to human needs generated by these enforcement actions, providing counseling and legal services to individual parents and children and basic needs assistance to immigrant communities as a whole.

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[12] *Id.*

Mr. Chairman, we ask that as Congress confronts the challenges of unauthorized immigration, it not lose sight of one of its core duties: protecting the family unit as the fundamental institution upon which society and government itself depends. USCCB believes that in the course of enforcing U.S. immigration laws in the workplace, ICE should abandon, not augment or extend, worksite enforcement raids.

Conclusion

Mr. Chairman, I would like to thank you for inviting me to testify before the Subcommittee today.

The U.S. Catholic Bishops believe that immigrants should come to the United States lawfully, but we also understand that the current immigration legal framework does not adequately reunify families and is non-responsive to our country's need for labor.

Immigration enforcement raids demonstrate in a highly visible way the ability of the government to enforce the law. They accomplish little, however, in the attempt to solve the broader challenge of unauthorized migration, while they render devastated thousands of families and their communities across the United States.

We urge Congress to resist engaging in a piecemeal and enforcement-only approach to the complex issue of unauthorized migration, and instead pass immigration reform laws which ensure the rule of law in the United States, while simultaneously ensuring that the laws are rooted in the reunification of family, responsive to our economy's demand for labor, and respectful of the humanity of the immigrants in our midst.

Thank you for your consideration of our views.

United Passaic Organization

A Community Action Agency

41 Myrtle Ave., Passaic, New Jersey 07055

Tel: (973) 472-2478 Fax: (973) 472-5474

January 20, 2011

Dear Member of Congress:

Today the Immigration Subcommittee in the House of Representatives begins its work to oversee the country's immigration policy. The United Passaic Organization believes that the most urgent business regarding the issue of immigration is to fix the nation's broken immigration system. To do so, Congress must go beyond an exclusive focus on enforcing immigration rules that are widely acknowledged to be broken.

Only Congress can fix the broken immigration system. The American people expect Congress to come up with realistic, comprehensive solutions. They will not be satisfied with more political symbolism. A realistic solution will bring our immigration system up to date. It must also deal realistically with the millions of immigrants who are here without legal status, and who have become so important for our economic well-being.

The debate on immigration can and should be conducted in a civil manner. Some politicians have too often characterized hard-working undocumented immigrants as criminals, when in reality they have played a vital role in the growth of our economy and the creation of jobs for American workers. Programs that focus solely on removing these individuals from the country will be devastating to millions of American families and hundreds of communities around the country.

We sincerely hope that Congress will engage in an honest debate on this issue, and not leave the problem for some future Congress to solve.

Sincerely,
Mr. Deiby Martinez
Community Service Director

4112 Haywood Road
Mills River, NC 28759
(828) 891-4116
fax (828) 891-8581

Mills River N.C., 26 January 2011

Today the Immigration Subcommittee in the House of Representatives begins its work to oversee the country's immigration policy. Our business, which is part of the greenhouse industry, believes that the most urgent business regarding the issue of immigration is to fix the nation's broken immigration system. To do so, Congress must go beyond an exclusive focus on enforcing immigration rules that are widely acknowledged to be broken.

Only Congress can fix the broken immigration system. The American people expect Congress to come up with realistic, comprehensive solutions. They will not be satisfied with more political symbolism. A realistic solution will bring our immigration system up to date. It must also deal realistically with the millions of immigrants who are here without legal status, and who have become so important for our economic well-being, and in our agriculture sector, actually the survival of many farms and agri-businesses.

The debate on immigration can and should be conducted in a civil manner. Some politicians have too often characterized hard-working undocumented immigrants as criminals, when in reality they have played a vital role in the growth of our economy and the creation of jobs for American workers. Programs that focus solely on removing these individuals from the country will be devastating to millions of American families and hundreds of communities around the country.

We sincerely hope that Congress will engage in an honest debate on this issue, and not leave the problem for some future Congress to solve.

With most sincere respect,

Bert Lemkes

president

Van Wingerden International Inc.

As the Subcommittee on Immigration Policy and Enforcement begins its important work, it is critical that members acknowledge that our immigration system is broken and recognize that current policies cause great collateral damage for children and families.

Every day, children across the country live in fear that they will be separated from their parents because their parents do not have legal status in the U.S. Even more surprisingly, every day, parents are deported without being able to make arrangements for their children. The right of a parent – including an undocumented parent – to make decisions regarding the care, custody and management of his or her child is a fundamental interest protected by due process.[1] Yet, for too many families, the potential for separation without due process is very real because our immigration laws and practices do not sufficiently address family unity. The potential impact of our failed immigration system on families, and particularly on children is significant. As of 2008, there were roughly 11.9 million undocumented immigrants living in the U.S.[2] Of those who are working age, approximately half have one child.[3] Roughly 5.5 million children in the U.S. (about one tenth of the total child population) live with at least one parent who is an undocumented immigrant.[4] Three million of these children are U.S. citizens.[5]

Immigration policy can no longer afford to ignore the reality of mixed status families or to concentrate solely on border enforcement as a means of reforming immigration law. The sanctity of the family unit is a core American value that transcends political, social, economic and cultural lines. Yet presently there is no mechanism through which undocumented parents can legalize their status so that they may live openly in our community and provide for the needs of their children. As a result, entire families are consigned to a life in the shadows and children suffer. Disregard for family unity even extends to our detention and deportation processes. Many children of undocumented individuals will be permanently separated from parents who are ordered deported because the logistics of reuniting parent and child are prohibitive.[6]

Immigration law can be enforced without compromising family unity and the well-being of children; its original intent, in fact, was to provide an orderly mechanism through which families could reunify and remain together. Yet the law has not kept pace with the evolving realities of immigration in this country. It is time for Congress to reform the immigration system in a manner that reflects the centrality of family unity as a founding principle of our immigration laws.

We sincerely hope that debate on immigration reform will be civil, substantive and cognizant of the changing face of American families.

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[1] *Santosky v. Kramer*, 455 U.S. 745, 753, 1982.
[2] *Terrazas, Aaron and Batalova, Jeanne, U.S. in Focus: Frequently Requested Statistics on Immigrants and Immigration in the United States.* October 2009. http://www.migrationinformation.org/USfocus/display.cfm?id=747.
[3] Randy Capps et al., The Urban Institute, "Paying the Price: The Impact of Immigration Raids on America's Children," p. 15. 2007.
[4] Terrazas and Batalova.
[5] Terrazas and Batalova.
[6] For more information see "Torn Apart by Immigration Enforcement; Parental Rights and Immigration Detention," Women's Refugee Commission, 2010.

Women's Refugee Commission 122 East 42nd Street, New York, NY 10168-1289 Tel. 212.551.3115 Fax. 212.551.3180
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Statement for the Record

House Subcommittee on Immigration Policy and Enforcement
"ICE Worksite Enforcement – Up to the Job?"

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

The National Immigration Forum urges the Subcommittee to take up the matter of America's broken immigration system.

It is of course Congress' proper role to oversee the agencies responsible for implementing our laws. However, when the laws are broken, it is Congress's responsibility to change the laws so they make sense. A singular focus on immigration enforcement will not result in workable solutions, and gives an appearance of an attempt to prey upon both our legitimate concerns and prejudices in order to score political points.

In light of record enforcement that is now taking place—at great cost to taxpayers—it will be hard to justify even more enforcement. The deportation of undocumented immigrants is now at record levels, and the number of people crossing the southwest border illegally has dropped considerably—an indication that fewer people are coming.

Criminal prosecutions of employers who are exploiting undocumented workers are also at record levels. The Administration's focus on cracking down on businesses that exploit cheap immigrant labor is the best way to protect the jobs of all American workers while at the same time leveling the playing field for businesses that play by the rules.

The American people want this problem solved, not treated as an issue with which politicians can score political points. When described to them, Americans show solid support for solutions that include, in addition to tough enforcement, creating legal channels for legitimate immigrants and establishing tough but fair rules to allow undocumented immigrants to stay and continue to work in the U.S.

A comprehensive reform of the immigration laws would generate as much as $5 billion in additional tax revenue and support nearly a million jobs—and right now Americans overwhelmingly want Congress to focus on job creation and the economy. By contrast, mass deportation of undocumented immigrant already working here would cost more than $200 billion—draining the treasury further and adding to our debt.

Mr. GALLEGLY. I see that Mr. Conyers isn't here, so what I would like to do, at this point, is introduce our witnesses. Then we are going to have to recess to go over and vote.

I don't know how many—do you know how many votes we have?

So it is about probably 45 minutes to an hour. So, if you folks can stand by.

First of all, we are honored to have a very distinguished group of witnesses today.

Mr. Kumar Kibble is the deputy director of the U.S. Immigration and Customs Enforcement. He serves as the chief operating officer for the principal investigative agency of the Department of Homeland Security. Mr. Kibble began his government career in 1990 as an infantry officer in the U.S. Army, 82nd Airborne. He received his bachelor of science degree from the U.S. Military Academy at West Point.

We are pleased to have you here, sir.

I think most of us know Mark Krikorian. Mr. Krikorian is executive director of the Center for Immigration Studies, a nonprofit, nonpartisan research organization in Washington, D.C., which examines and critiques the impact of immigration on the United States. He is the author of "The New Case Against Immigration, Both Legal and Illegal." Mr. Krikorian holds a master's degree from the Fletcher School of Law in diplomacy and a bachelor's degree from Georgetown University.

Welcome, Mr. Krikorian.

Mr. Michael Cutler is a retired senior special agent with the Immigration and Naturalization Service, New York District Office. He joined the INS in 1971 as an immigration inspector at JFK airport.

In fact, I think that was one of the first places I met you, along the line.

Mr. Cutler has served in many positions, including as senior special agent, and was assigned to the Organized Crime Drug Enforcement Task Force. Mr. Cutler retired from the INS in February 2002 after a career that spanned more than 30 years.

And our last witness, Mr. Daniel Griswold, is the director of the Center for Trade Policy Studies at Cato Institute here in Washington, D.C. He is the author of the Cato book, "Mad About Trade: Why Main Street Should Embrace Globalization." He received his bachelor's degree in journalism from the University of Wisconsin at Madison and a diploma in economics and a master's degree in the politics of the world economy from the London School of Economics.

So you see we have a very distinguished group of witnesses today. And I wish we could start the testimony now, but because we are about 7 minutes away from a vote we will recess and reconvene. And, hopefully, there will be some Members that will be able to get back.

So, with that, we will recess until we finish voting. Thank you.

[Recess.]

Mr. GALLEGLY. I call the Subcommittee back to order.

Thank you for your patience. The storm is moving in, so we are going to move on as quickly as we can. And we have lost several of our Members, but we have the most important one,so.

Mr. Kibble, we will recognize you. For the sake of trying to expedite things, I would ask you to please work with us on the 5-minute thing, and appreciate your patience. Thank you.

TESTIMONY OF KUMAR KIBBLE, DEPUTY DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, DC

Mr. KIBBLE. Chairman Gallegly, distinguished Members of the Subcommittee, to the extent they are here, on behalf of Secretary Janet Napolitano and Assistant Secretary John Morton, I want to thank you for the opportunity to discuss ICE'S worksite enforcement efforts.

DHS is pursuing an aggressive strategy with respect to worksite enforcement. Our strategy focuses on employers that knowingly violate the law, deterring those who are tempted to violate the law, and offering easy tools, like E-Verify, to help employers comply. We do this through the robust use of I-9 inspections, civil fines, and debarment.

The success of our approach to worksite enforcement is clear in the numbers. In fiscal year 2010, ICE opened a record 2,746 worksite enforcement investigations. This more than doubled the number from 2008. We also issued more notices of inspection to employers, quadrupling the number from 2008. We issued a record of final orders directing businesses to pay fines amounting to just under $7 million; saw a record $36.6 million in judicial fines and forfeitures; and debarred a record 97 unscrupulous businesses and 49 individuals, preventing them from doing business with the government.

Our approach also prioritizes the criminal prosecution of the worst employers that knowingly hire illegal workers; abuse and exploit their workers; engage in harboring, smuggling, and trafficking of workers; and also facilitate document or benefit fraud.

The main reason people come to the United States illegally is for the opportunity to work. By focusing on employers who provide jobs to illegal aliens, we are attacking one of the root causes of illegal immigration. By following our tough approach, we are creating a culture of compliance—a culture in which employers seek to get on the right side of the law and hire lawful workers.

As the clearest example that this approach is working, look to Tyson Foods. Just last week, Tyson became one of ICE's IMAGE partners. That program, or the ICE Mutual Agreement Between Government and Employers, is a partnership that helps big and small companies maintain a lawful workforce and protect themselves from fraud.

Tyson is a Fortune 500 company, with 115,000 employees, and is the world's largest meat processor. They are a leader of industry. A decade ago, they were investigated and indicted for their hiring practices. Today, they proudly stand with us as an example of a company that knows that getting right with the law is good for business, good for workers, and good for the country. We at ICE can't wait to find the next Tyson Foods.

In short, our approach is working.

I am aware of the concerns raised about ICE's overall number of administrative arrests at worksites, and I would respond with a few points.

First, our number of administrative arrests at worksites cannot and should not be considered in a vacuum. Our worksite efforts have been part of a broader enforcement strategy that, for the last 2 years, has resulted in the removal of more illegal aliens from the United States than ever before. Moreover, a record number of those were criminal convicts. Whether we are apprehending people at worksites or apprehending them elsewhere, we are apprehending and detaining and removing more people than ever in the Nation's history.

Second, we are more strategic in our approach than ever. It costs approximately $12,500 to arrest, detain, and remove an individual from the United States. So we have focused our limited resources wisely and successfully removed a record number of criminals last year. Our approach has made communities safer.

Finally, we have more resources along the Southwest border than ever. That is more staffing, technology, and infrastructure protecting the border and slowing the flow of illegal immigration.

In short, we are committed to an overall approach to enforcement that is working. We look forward to continuing to build on our current successes and working with you through the remainder of this fiscal year and beyond.

Thank you again for this opportunity, and I welcome any questions you may have.

[The prepared statement of Mr. Kibble follows:]

PREPARED STATEMENT OF KUMAR KIBBLE

U.S. Immigration and Customs Enforcement

STATEMENT

OF

KUMAR KIBBLE
DEPUTY DIRECTOR

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON WORKSITE ENFORCEMENT

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT

Wednesday, January 26, 2010, 1:00 p.m.
2141 Rayburn House Office Building

Chairman Gallegly, Ranking Member Lofgren, and distinguished members of the Subcommittee:

On behalf of Secretary Napolitano and Assistant Secretary John Morton, I want to thank you for the opportunity to discuss U.S. Immigration and Customs Enforcement's worksite enforcement efforts.

Introduction

The Department of Homeland Security (DHS) has fundamentally reformed immigration enforcement, focusing on identifying and removing criminal aliens who pose a threat to public safety and targeting employers who knowingly break the law. As part of this effort, U.S. Immigration and Customs Enforcement (ICE) is focused on criminally investigating and prosecuting employers who exploit or abuse their employees and have a history of knowingly and repeatedly employing an illegal workforce. ICE is pursuing a comprehensive worksite enforcement strategy to deter unlawful employment and drive a culture of compliance with the nation's immigration-related employment laws.

The Administration's Approach to Worksite Enforcement

Arresting and removing illegal workers must be part of a strategy to deter unlawful employment, but alone it is insufficient as a comprehensive worksite enforcement strategy. Enforcement efforts focused on employers effectively target the root causes of illegal immigration. In April 2009, ICE released a worksite enforcement strategy designed to: 1) penalize employers who knowingly hire illegal workers; 2) deter employers who are tempted to

hire illegal workers; and 3) encourage all employers to take advantage of easy to use and well-crafted compliance tools. We carry out this strategy with the robust use of Form I-9 inspections, civil fines and debarment, and by promoting compliance tools like E-Verify through the ICE Mutual Agreement between the Government and Employers (IMAGE) program, discussed below.

The success of our approach to worksite enforcement is evident in the statistics. In fiscal year (FY) 2010, ICE initiated a record 2,746 worksite enforcement investigations, more than doubling the 1,191 cases initiated in FY 2008. ICE criminally arrested 196 employers for worksite-related violations, surpassing the previous high of 135 in FY 2008. ICE also issued a record 2,196 notices of inspection to employers, surpassing the prior year's record of 1,444 and more than quadrupling the 503 inspections in 2008. ICE issued 237 final orders – documents requiring employers to cease violating the law and directing them to pay fines – totaling $6,956,026, compared to the 18 issued for $675,209 in FY 2008. The total of $6,956,026 last year represents the most final orders issued since the creation of ICE in 2003. In addition, worksite investigations resulted in a record $36,611,320 in judicial fines, forfeitures, and restitutions. Finally, ICE brought a new level of integrity to the contracting process by debarring a record 97 businesses and 49 individuals—preventing unscrupulous companies from engaging in future business with the government. Through this aggressive approach to worksite enforcement, ICE is bringing employers into compliance with the law.

ICE is prioritizing the criminal prosecution of employers who knowingly hire undocumented workers, abuse and exploit their workers, engage in the smuggling or trafficking of their alien workforce, or facilitate document or benefit fraud. Our agents are trained to look for evidence of these activities and we work closely with the U.S. Attorneys' offices to obtain

indictments and prosecute offenders. ICE also continues to fulfill its responsibility to arrest and process for removal the undocumented workers encountered during worksite enforcement operations.

In addition to our enforcement efforts, ICE promotes and provides effective, accessible compliance tools to assist employers in determining the eligibility of their employees to work in the United States. ICE auditors have worked with employers to ensure that workers with questionable documentation identified during inspections are vetted for work eligibility, and any subsequent replacement workers are authorized for employment. For example, while auditing one corporation ICE identified 1,226 suspect employees that may have been unauthorized aliens from a workforce of over 8,000.

We are aware of the concerns raised by some members of this Subcommittee regarding the overall number of administrative arrests pursuant to worksite enforcement operations. The number of administrative arrests at worksites cannot, and should not, be considered in a vacuum. For the past two years, our worksite efforts have been part of a broader enforcement strategy that has seen the removal of more individuals from the United States than at any other time in the agency's history. ICE is apprehending, detaining, and removing an unprecedented number of individuals who are unlawfully present in the country – regardless of where they are apprehended.

Additionally, ICE is using our resources more strategically than ever before to enforce our immigration laws effectively. At current budget levels, ICE has the ability to remove approximately 400,000 aliens in a fiscal year. Accordingly, we make every effort to prioritize the identification, apprehension and removal of criminals and others who present the greatest threat to our communities.

Over the past two years, the Department has engaged in record enforcement, removing more aliens in both 2009 and 2010 than in any point in the history of our country, including more than 195,000 criminal aliens last year. While ICE has focused its enforcement priorities on criminal aliens and those who pose a threat to our public safety and national security, it is DHS's policy to enforce the law fully and we will continue to take action against both criminal and non-criminal aliens we encounter.

ICE's Efforts to Address Fraud in the Visa and Labor Certification Process

ICE's efforts also include identifying, investigating, and penalizing employers who engage in visa or labor certification fraud. Perpetrators of document and benefit fraud usually receive documents, whether counterfeit or legitimately issued through fraud, that could be used to open bank accounts, enter public buildings and obtain employment. Unchecked, one benefit fraud facilitator can be responsible for hundreds of aliens obtaining benefits and jobs to which they are not legally entitled, which demonstrates how ICE's investigations in this area have made an impact. Since the start of FY 2009, ICE has initiated 623 cases involving the H and L non-immigrant employment-based visa categories, and obtained 91 criminal arrests, 152 administrative arrests, 103 convictions and a total of $13,845,276 seized.

In one recent case conducted by the ICE-led Document and Benefit Fraud Task Force in Orlando, Fla., ICE targeted several defendants who were facilitating H-2B visa fraud on a large scale. The defendants in the investigation used both shell and actual companies to file for unskilled temporary workers under the H-2B visa category. The company had approximately 160 clients and charged as much as $12,000 to file the fraudulent visa petitions. They then committed fraud by placing the workers in jobs other than where they claimed that the workers

would be employed. By using shell companies, the facilitators were able to nullify the labor certification process, ensuring that legitimate determinations regarding qualified U.S. workers or the effect of wages and job conditions were not made. After guilty pleas, three principal defendants were sentenced in late 2010 to imprisonment ranging from 18 months to 24 months. Additionally, the court entered a $55,000,000 monetary judgment, which represents the amount of proceeds obtained as a result of the conspiracy.

ICE's Efforts at the Border

ICE's worksite enforcement efforts are just one part of this Administration's unprecedented effort to strengthen immigration enforcement and border security. The Department now has more resources – in terms of staffing, technology, and infrastructure — on and along the southwest border than at any point in our nation's history. Over the past two years, we have requested appropriate levels of resources to enhance these efforts. ICE's FY 2011 budget submission sought budget increases in our detention capacity and civil enforcement personnel as compared to 2009. In addition, Congress passed the *2010 Emergency Border Security Supplemental Appropriations Act*, which included $80 million for ICE to hire more than 250 special agents, investigators, and intelligence analysts.

ICE is now taking custody of more aliens encountered at the border and is increasing the consequences for illegal entry and reentry. Aliens who illegally enter in Arizona, for instance, are no longer given the opportunity to return voluntarily and instead are given orders of removal and are repatriated through other states. ICE is presenting more illegal reentry cases for prosecution along the border than ever before. In addition, ICE has assigned our own attorneys

to fortify the prosecution efforts of the Department of Justice and serve as Special Assistant United States Attorneys to prosecute border-related crime.

ICE's Strategic Partnerships

In addition to penalizing employers who violate the law, ICE is promoting easy-to-use compliance tools such as E-Verify, an Internet-based system developed and operated by U.S. Citizenship and Immigration Services (USCIS) that allows businesses to determine the eligibility of their newly hired employees to work in the United States. We also support E-Verify, training, and best practices through the ICE Mutual Agreement between Government and Employers (IMAGE), an outreach program geared at educating and training employers to comply with the nation's immigration laws. The IMAGE program, created in 2006, is a joint government and private sector initiative to build cooperative relationships that strengthen hiring practices, encourage compliance, and restore integrity to the immigration system. In FY 2010, ICE gave over 1,700 educational presentations on immigration compliance to over 13,000 employers as part of the IMAGE program.

Conclusion

In short, ICE is committed to a comprehensive approach to immigration enforcement that focuses on identifying and removing criminal aliens who pose a threat to public safety and that targets employers who knowingly break the law and drive demand for illegal immigration. Moreover, we continue to support a comprehensive reform of the Nation's immigration laws grounded in the principles of responsibility and accountability, and will work with our partners

in the Congress to that end. We look forward to continuing to build on our success through the remainder of FY 2011 and beyond.

Thank you again for the opportunity to appear before you today. I now welcome any questions that you may have.

Mr. GALLEGLY. Thank you very much, Mr. Kibble. And thank you for being so succinct with your testimony.

Mr. Krikorian?

TESTIMONY OF MARK KRIKORIAN, EXECUTIVE DIRECTOR, CENTER FOR IMMIGRATION STUDIES, WASHINGTON, DC

Mr. KRIKORIAN. Thank you, Mr. Chairman.

There are 14.5 million Americans looking for work and 26 million who are unemployed or underemployed. Yet, immigration policy takes no note of these facts.

According to a report just last week from Northeastern University, over the past 2 years, employment declined in the United States by more than 6 million jobs, and yet, more than 1 million new immigrants got jobs during that time.

Only about a third of those new immigrant job holders were illegal immigrants. Now, what that means is that legal immigration is a big part of this disconnect between employment and immigration enforcement. But that is not something that this Administration or any other can deal with on its own.

But the one-third of those new job holders who are illegal immigrants is a different matter altogether. And the problem there is not a badly designed immigration system but, rather, a lack of enforcement of existing laws by the executive branch.

As part of the current Administration's April 2009 worksite enforcement strategy, real worksite enforcement has declined significantly, as Chairman Smith spelled out in his opening statement. What has increased in this area is audits of employee I-9 forms and the number and total dollar amount of fines against employers.

Now, such audits and fines are by no means a bad thing, and increasing them has been a positive step. The problem is, they are only good as far as they go, and they don't go that far.

By limiting worksite enforcement to the personnel office, the current strategy foregoes the benefits of a full-spectrum enforcement approach that includes both audits and raids, both fines and arrests, focusing on both employers and employees. One colleague observed to me just yesterday that the current ICE focus on audits is as effective as the FBI doing gang suppression by just giving talks at high schools, without actually arresting any gang members.

The benefits of full-spectrum enforcement are clear from recent experience. First of all, it opens up jobs for Americans. As an example there—and I spell it out more in my written testimony—is the Smithfield pork plant in Tar Heel, North Carolina, which was raided in 2007. As a result of that and the removal of illegal workers there, Americans were able to be hired.

Initially, when the plant opened, American workers were most of the staff. But, over time, slowly but steadily, Americans were removed, replaced by illegal workers. And what happened was, as a result of the raids, just the Black American share of the workforce went from 20 percent before the raids to 60 percent after the raids.

A second benefit of comprehensive worksite enforcement, instead of today's more selective and limited approach, is that it raises the wages of blue-collar American workers. And we have seen this very clearly as a result of the raids on the six Swift meatpacking plants in 2006. And what happened after those raids was that the level of wages and bonuses at those plants increased by 8 percent as a result of that raid. It was an 8 percent raise for legal workers because of that immigration raid.

A third benefit of full-spectrum enforcement is that it is necessary to gather evidence on crooked employers. In other words, it is tough to go after employers if you are not arresting and not doing raids and arresting the illegal workers, who are then able to provide information.

We saw that most clearly in the Agriprocessors meatpacking plant raid in Iowa. Before the raid, State officials had been trying to gather information on the various abuses in that plant and had really gotten nowhere. As a result of the raid, it tore away the curtain and exposed the plant's squalor and mass illegality, leading to arrests of management for criminal child labor and other violations. Merely auditing that plant's personnel records, while scrupulously avoiding any arrests of illegal immigrants, might well have meant that, today, that Agriprocessors plant would still be abusing children on its factory floor.

And, finally, a full-spectrum worksite enforcement approach is necessary to turn off the magnet of jobs that attract illegal immigrants in the first place. The point of enforcement is not to arrest and deport every illegal worker and punish every illegal employer. The point is to make it clear to them that there is a significant chance that could happen, so you end up with voluntary compliance with the law. This is the way it works in any other kind of enforcement area—taxes or traffic laws or what have you.

But if illegal immigrants are not being arrested because we are not having raids, we don't have a full-spectrum worksite enforcement, there just isn't that much for workers or illegal workers or illegal employers to fear. And, in a sense, what we are doing is we are sending the signal that it is not really that big a deal to be an illegal alien working or to be hiring illegal immigrants. And when we send that kind of signal, illegal workers and illegal employers understand what we are telling them, and they continue doing what they are doing.

Thank you.

[The prepared statement of Mr. Krikorian follows:]

PREPARED STATEMENT OF MARK KRIKORIAN

Worksite Enforcement: Audits Are Not Enough

Statement of Mark Krikorian
Executive Director
Center for Immigration Studies

Before the Committee on the Judiciary
Subcommittee on Immigration Policy and Enforcement
January 26, 2011

The unemployment rate last month was 9.4 percent, meaning that 14.5 million Americans were looking for work.[1] The U6 unemployment rate, which includes underemployed and discouraged workers, stood at a whopping 16.7 percent (representing nearly 26 million Americans), with even higher rates for young workers and minorities.[2]

And yet immigration policymaking takes no note of these facts. Over the past decade, 13.1 million immigrants (legal and illegal) arrived in the United States, but there was a net *decline* of one million jobs over the same period.[3] The disconnect between immigration and employment was even more stark over the past two years; according to a report last week from Northeastern University's Center for Labor Market Studies, U.S. household employment declined by 6.26 million, but 1.1 million new immigrants nonetheless got jobs.[4]

The author of that Northeastern University report estimated that about one-third of the new immigrant job-holders were illegal aliens. That means, of course, that most of the immigration/employment disconnect is caused by *legal* immigration. But changing the levels and selection criteria for legal immigration is a long and complicated matter, one which I'd be happy to talk about at length, for sure, but outside the scope of this hearing and not a matter this or any administration can address on its own.

But the one-third of new immigrant workers who are *illegal* immigrants are a different matter altogether. Here the problem is not a badly designed immigration program but rather lack of enforcement of existing laws by the executive branch. As part of the current administration's April 2009 Worksite Enforcement Strategy[5], real worksite enforcement has declined significantly, with administrative arrests down by more than half compared with 2008, criminal arrests down by more than half, likewise with indictments and convictions. What *has* increased in this area is audits of employee I-9 forms and the number and total dollar amount of fines against employers. Such audits and fines are by no means a bad thing, as far as they go. But they don't go very far.

By limiting worksite enforcement to the personnel office, the current strategy foregoes the benefits of full-spectrum enforcement that includes both audits and raids, both fines and arrests, focused on both

the employers and the employees. A colleague observed to me yesterday that the current ICE focus on audits is as effective as the FBI doing gang suppression by just giving talks at high schools, without actually arresting any gang members.

The benefits of full-spectrum enforcement are clear from recent experience. To begin with, it opens up jobs for Americans. The Smithfield pork plant in Tar Heel, N.C., was raided in January 2007, and later in the year more arrests were made at the homes of illegal workers.[6] As a result of the departure of more than 1,500 illegal workers, mostly Hispanics, local black Americans were able to find jobs at the plant again, as they had when it opened in 1992 before they were slowly but steadily replaced with illegal workers from Latin America. The black American share of workforce climbed from just 20 percent before the raids to 60 percent afterwards.[7]

Pulitzer Prize winning journalist Jerry Kammer observed the following in the wake of the raids:

> A visit to the Smithfield plant showed that the raids also made a big difference in the job prospects for the African Americans who, along with a few whites, filled the company's employment office. Carolyn Elliot, who had lost her job due to a business slowdown at a Fayetteville cafeteria, was finishing her paperwork before beginning work at the plant. David Thompson, a 20-year-old who had been laid off from an $8.50-an-hour job at the Red Lobster in Fayetteville, said he was looking forward to making $4 an hour more at Smithfield. "That's pretty good money around here," he said.[8]

Another benefit of comprehensive worksite enforcement, instead of today's selective, almost tentative approach, is that is raises wages for blue-collar American workers. At the Smithfield plant in Tar Heel, only after the raid took place were attempts to unionize in order to bargain for better wages successful; the Charlotte *Observer* reported that the raids "may have finally sealed the union's victory," while the Fayetteville *Observer* reported observations that "the new black majority proved to be the difference."

And we have direct evidence of increased compensation that resulted from a series of other raids. In December 2006, 1,300 illegal workers were arrested at six meatpacking plants owned by Swift & Co. in the largest-ever worksite enforcement action (and more arrests of illegal workers in one day than the current administration arrested in all of FY 2010).[9] All the plants resumed production the same day, and all were back to full production within five months, despite the fact that nearly one-quarter of the total workforce had been illegal aliens. Most importantly, at the four facilities where information was available, wages and bonuses rose on average *8 percent* after the departure of the illegal workers – that's an 8 percent raise virtually overnight due to vigorous worksite enforcement.

A third benefit of full-spectrum enforcement, including arrests of illegal employees, is that it's necessary to gather evidence against crooked *employers*. Despite the current Worksite Enforcement Strategy's claimed focus[10] on targeting bad-actor employers, the number of criminal arrests of employers actually *dropped* from FY 2008 to 2009, and last year's number was only slightly higher than two years before. One reason for this is that if agents can't arrest or even speak to illegal workers, it's very difficult to

gather evidence on their employers' illegal activities. The AgriProcessors kosher meatpacking plant in Postville, Iowa, for instance, had been the target of investigations by state officials for health and safety violations even before the May 2008 raid which resulted in the arrest of nearly 400 illegal aliens for identity theft and related charges. But only after the arrests was the curtain torn away and the squalor and mass illegality exposed and management personnel arrested for criminal child labor and immigration violations. What's more, the raid also exposed financial crimes committed by the plant's chief executive. Merely auditing the plant's personnel records, while scrupulously avoiding any arrests of illegal workers, could well have meant that AgriProcessors would still be abusing underage workers today.

Finally, full-spectrum worksite enforcement is necessary to successfully turn off the magnet of jobs that attracts illegal immigrants to the United States in the first place and enables those already here to remain. While the goal of worksite enforcement is not to try to actually arrest and deport every illegal worker, every illegal worker *does* need to know that he could be arrested at any time. Likewise, the goal is not to fine or arrest every employer of illegal aliens, but rather to ensure that employers are aware that there's a realistic chance of that happening to them. Only in this way can you create the environment within which illegal aliens are unable to find work and self-deport – a policy called attrition through enforcement. In the absence of across-the-board enforcement, neither illegal workers nor their employers have much to fear from law enforcement; on the contrary, they get the hint that what they're doing isn't *really* all that illegal after all. Under such conditions, the decline we saw in the illegal population as a result of enhanced enforcement (*before* the recession began[11]) will not take place. In fact, if and when the job market significantly improves, today's constrained and limited approach to worksite enforcement virtually ensures that the illegal population will start growing again.

Let me end with another example from Jerry Kammer's reporting on the Smithfield pork plant:

> Meanwhile, two Mexican maintenance workers for a company that contracted to tend the grounds outside the plant, said they would prefer to leave that $6.50 hourly wage for a job at Smithfield. But they couldn't, they said, because the company was insisting on proper documentation. One was from Chiapas and the other from Veracruz, two states in Southern Mexico where emigration boomed in the 1990s. The two men said they expected to be moving on soon, looking for better pay elsewhere.[12]

Illegal immigrants are people like any others, and they respond to the signals they are sent. When we signal through real worksite enforcement that illegal employment is not tolerated, they move on. When, as today, we send the opposite signal, they make different choices.

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[1] See http://www.bls.gov/bls/unemployment.htm.
[2] See " From Bad to Worse: Unemployment and Underemployment Among Less-Educated U.S.-Born Workers, 2007 to 2010," Steven Camarota, Center for Immigration Studies, August 2010, http://cis.org/bad-to-worse.
[3] "Immigration and Economic Stagnation: An Examination of Trends 2000 to 2010," Steven Camarota, Center for Immigration Studies, November 2010, http://cis.org/highest-decade.

[4] "Exclusive: Over a million immigrants land U.S. jobs in 2008-10," Ed Stoddard, Reuters, January 20, 2011, http://www.reuters.com/article/idUSTRE70J37P20110120.
[5] See http://www.ice.gov/doclib/news/library/factsheets/pdf/worksite-strategy.pdf.
[6] "Immigration Raids at Smithfield: How an ICE Enforcement Action Boosted Union Organizing and the Employment of American Workers," Jerry Kammer, Center for Immigration Studies, July 2009, http://cis.org/SmithfieldImmigrationRaid-Unionization.
[7] "After 15 Years, North Carolina Plant Unionizes," Steven Greenhouse, *The New York Times*, December 12, 2008, http://www.nytimes.com/2008/12/13/us/13smithfield.html.
[8] "Immigration Raids at Smithfield", http://cis.org/SmithfieldImmigrationRaid-Unionization.
[9] "The 2006 Swift Raids: Assessing the Impact of Immigration Enforcement Actions at Six Facilities", Jerry Kammer, Center for Immigration Studies, March 2009, http://cis.org/2006SwiftRaids.
[10] A forthcoming CIS review of ICE audit records reveals that in fact two-thirds of the audits completed had turned up no suspected illegal workers at all.
[11] See "A Shifting Tide: Recent Trends in the Illegal Immigrant Population, Steven A. Camarota and Karen Jensenius, Center for Immigration Studies, July 2009, http://cis.org/IllegalImmigration-ShiftingTide.
[12] "Immigration Raids at Smithfield", http://cis.org/SmithfieldImmigrationRaid-Unionization.

Mr. GALLEGLY. Thank you, Mr. Krikorian.
Mr. Cutler?

TESTIMONY OF MICHAEL W. CUTLER, SENIOR SPECIAL AGENT (RET.), IMMIGRATION AND NATURALIZATION SERVICE, NEW YORK DISTRICT OFFICE

Mr. CUTLER. Thank you, Mr. Chairman. I would like to thank both you and your colleagues for your leadership in immigration enforcement and for this invitation to be here today.

The effective enforcement of our Nation's immigration laws and the creation of an immigration benefits program that has real integrity are vital components of the war on terror and in efforts to protect our Nation and our citizens from various transnational criminal organizations such as the Mexican drug cartels. Simply stated, we cannot protect our Nation or our citizens from these and other threats while our borders remain porous and millions of illegal aliens, whose true identities are unknown and unknowable, live and work in communities throughout the United States.

Our Nation's immigration laws can only be effectively enforced if all elements of the enforcement program and the immigration benefits program operate cooperatively in a unified system.

The majority of illegal aliens enter our country seeking unlawful employment. Aliens who run our borders often pay pernicious smugglers, who may force them to facilitate the smuggling of narcotics into our country. The revenue that the smuggling trade provides finances criminal organizations throughout the world.

Illegal aliens are likely to pay other criminals, such as fraud document vendors and identity thieves as well, in order to secure identity documents.

Many illegal aliens are young men who, at least initially, leave behind their wives and girlfriends. This large population of illegal aliens provides potential clientele for houses of prostitution that leads to more crime, more human trafficking, and more unspeakable exploitation.

Effective law enforcement requires deterrence to be an integral part of the strategy. Effective worksite enforcement must seek to deter unscrupulous employers from intentionally hiring illegal aliens, but it must also seek to deter illegal aliens from entering our country in the first place looking for jobs.

The passage of the Immigration Reform and Control Act, or IRCA, of 1986 included provisions that, for the first time, deemed the intentional hiring of illegal aliens to be a violation of law. It represented a balanced approach to deterring the employment of illegal aliens by penalizing the employers. Today, however, what we are seeing is an effort to simply go after the employer and not the illegal alien. So this doesn't have the balanced approach that the law should provide—that field operations should provide.

Effective worksite enforcement investigations would take significant pressure off our Nation's porous borders and would also staunch the flow each year of tens of billions of dollars of money that are wired or otherwise transmitted by illegal aliens from the United States to their home countries, thereby adding to our burgeoning national debt. This is money that is not spent in the United States, money that is not invested in the United States, money that is not earned by United States citizens or resident aliens.

And at the present time, as we have heard today, so many Americans are having an increasingly difficult time of trying to support themselves and their families. Everyone talks about the need to create new jobs, but if the jobs are created but then don't go to American citizens, our citizens and our Nation don't benefit from these new jobs.

While I am not an economist, I am convinced that increasing resources to the worksite enforcement program would save our Nation's economy more money than would be invested in such an increase in resources. An effective worksite program would also provide important national security and community safety benefits.

Terrorists and criminal aliens often seek employment as a means of embedding themselves in a community. Terrorists and criminals are often described by the jobs that they held at the time that they were arrested, jobs that provided them with money, camouflage, and mobility. Aliens engaged in terrorism or criminal activities often seek to acquire lawful immigration status by committing immigration benefit fraud. And this is an issue that I hope that you will delve into in detail in future hearings.

But it is important to note that, as an INS special agent, I often apprehended criminal aliens on the jobs where they worked. These aliens had lengthy conviction records and may well have been previously deported, but they were working illegally in jobs that enabled them to hide in plain sight.

Leaders at the DHS often note their concerns about illegal aliens working at critical infrastructure, and they talk about airports and military bases and so forth. Well, recently, officials at the DHS raised concerns about Mumbai-style attacks being carried out in the United States that would target hotels or places where large numbers of people congregate. And there was also stated concerns about an al Qaeda operation that would seek to poison people. Given that, it would logically follow that critical infrastructure should also include food-processing plants.

In my nearly 40 years of involvement with the immigration issue, I have not seen any Administration distinguish itself by effectively securing our borders or enforcing our immigration laws. However, I believe the current Administration has all but rolled out the welcome mat to illegal aliens, frankly. High-level members of the Administration have stated that illegal aliens would not face the threat of arrest in most of these worksite investigations.

Last week, the Wall Street Journal talked about the Employment Compliance Inspection Center that is supposed to facilitate the auditing of I-9's and supporting documents. Again, going after that is worthwhile, but if you are missing the idea of arresting the illegal aliens, then you are missing the boat.

Furthermore, the President and Members of both houses of Congress have spoken frequently about the need to place illegal aliens on a pathway to U.S. citizenship, thereby all but declaring that illegally entering our country should be a prerequisite for United States citizenship.

I also want to touch briefly on the lawsuit filed by the Justice Department against the State of Arizona to try to block Arizona from enforcing its own laws. Again, the message is a dangerous one, because it offers more encouragement to illegal aliens and

those foreign nationals who aspire to become illegal aliens in our country.

If morale was low when I was an INS special agent because of the reasons that we discussed earlier, the lack of resources and so forth, then I would imagine morale must be incredibly low at this point in time.

Final point: Prior to the Second World War, the Department of Labor was responsible for enforcing our immigration laws. The concern was that an influx of large numbers of foreign workers would drive down wages and worsen the working conditions of the American worker. And, indeed, our laws still reflect that it is illegal to hire foreign workers if, in so doing, harm is done to the American workforce.

Effective worksite enforcement efforts can protect our Nation and our workers and turn off the power to the magnet that draws so many illegal aliens to our country. The time has long since come for our government to actually provide resources and leadership to properly enforce these important provisions of our laws. And I am gratified that you are holding this hearing.

I thank you for the opportunity.

[The prepared statement of Mr. Cutler follows:]

PREPARED STATEMENT OF MICHAEL W. CUTLER

TESTIMONY OF MICHAEL W. CUTLER, SENIOR SPECIAL AGENT, INS (RET.)
FOR THE HEARING TO BE HELD ON JANUARY 26, 2011 ON THE TOPIC:
"ICE WORKSITE ENFORCEMENT – UP TO THE JOB?"
BEFORE THE COMMITTEE ON THE JUDICIARY OF THE HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT

Chairman Gallegly, Vice Chairman King, Ranking Member Lofgren, members of the Congress, distinguished members of the panel, ladies and gentlemen:

I would like to start out by thanking House Judiciary Committee Chairman Lamar Smith, Subcommittee Chairman Elton Gallegly and Vice Chairman Steve King for their steadfast leadership in the critical issue of immigration law enforcement as well as thanking them for the invitation to appear before you today; it is an honor and a privilege to be provided with this opportunity.

The effective enforcement of our nation's immigration laws and the creation of an immigration benefits program that has real integrity must be seen as vital components in the "War on Terror" and in efforts to protect our nation and our citizens from various pernicious transnational criminal organization such as the Mexican drug cartels. Simply stated, we cannot protect our nation and our citizens from these and other threats as long as our borders remain porous and millions of illegal aliens whose true identities are unknown and unknowable, live and work in communities throughout our nation.

Our nation's immigration laws can only be effectively enforced if all elements of the enforcement program and the immigration benefits program are made to operate as components of a unified system.

The prospect of securing illegal employment provides the motivation that draws the majority of the illegal aliens across our nation's borders, whether they enter our country by running our nation's borders or by entering via the inspections process and then, subsequently, violating the terms of their admission. The incentive that such employment provides is so strong that it often causes aliens to go to such extremes that their efforts to circumvent the inspections process imperils their safety, if not their very lives.

Additionally, in order to achieve the goal of entering the United States, illegal aliens often pay large sums of money to smugglers who may well use these aliens to facilitate the smuggling of narcotics into the United States. The revenue that the smuggling trade provides often fills the coffers of criminal organizations from all over the world. Once an alien succeeds in violating our nation's borders and making his (her) way to a city in the United States, he is likely to pay other criminals such as document vendors and identity thieves in order to secure identity documents.

Many of the illegal aliens who enter our country are single young men who, at least initially, leave behind their wives and girlfriends. This large population of illegal aliens provides potential clientele for houses of prostitution that leads to more crime and more human trafficking and more unspeakable exploitation.

Until the Immigration Reform and Control Act (IRCA) was enacted in 1986, unscrupulous employers who intentionally hired illegal aliens had little to fear from immigration law enforcement officers. Unless they harbored, shielded or transported illegal aliens there was no statutory authority, under the Immigration and Nationality Act, to punish exploitive employers. Because of this, employers were able intimidate their illegal alien workforce by threatening to call the former INS to have illegal alien employees arrested if they complained about working conditions that often involved not only wages that were well below prevailing wage levels or even minimum wage standards, but also often involved

employment situations where a wide variety of health and safety issues were utterly ignored.

As an INS special agent I often saw horrific examples of such outrageous situations when I was involved in investigating illegal aliens who were working in a wide variety of industries in the United States.

On paper, at least, IRCA was to change the dynamics of this situation. Finally unscrupulous employers could be fined and ultimately prosecuted for intentionally hiring illegal aliens. This legal weapon in the legal arsenal provided my colleagues and me with encouragement that an era with a far more balanced approach to immigration law enforcement was dawning. Of course there were never nearly enough agents conducting these investigations to truly act as a deterrent and there were other issues I hope we will be able to discuss later on today, but at least the enactment of employer sanctions provisions did provide us with encouragement that was, unfortunately, short-lived. We understood that when employers intentionally hired illegal aliens there was a tacit understanding between the employers and the employed with both sides now vulnerable to punishment under the law.

Aliens motivated to violate our borders to seek unlawful employment would be deterred from violating our nation's borders and other laws, if they became convinced that our government had the resources and political will to secure our nation's borders and effectively enforce the immigration laws from within the interior of the United States, seeking to locate, apprehend and remove illegal aliens from our nation.

This would certainly take significant pressure off of our nation's porous borders and make the work of our beleaguered, valiant Border Patrol Agents a bit easier. Denying employment to illegal aliens would also stanch the flow of tens of billions of dollars of money wired or otherwise transmitted by illegal aliens from the United States to their home countries. This is money that is not spent in the United States, money that is not invested in the United States and money that is not earned by United States citizens and lawful immigrants who are finding it increasingly difficult to support themselves and their families given the economic hardship that ever so many Americans are now facing today.

Just about every politician talks about the need to create new jobs. However, if new jobs are created but are then taken by illegal aliens and not United States citizens or resident aliens, neither our citizens nor our nation would benefit from those newly created jobs.

While I am not an economist, I am convinced that increasing resources to the interior enforcement mission would save our nation's economy more money than would be invested in such an increase in resources.

An effectively managed employers sanctions program would provide important national security/community safety benefits that would accrue through the implementation of such a program. I ask that you consider that terrorists and criminal aliens often seek employment as a means of embedding themselves in a community. Terrorists and criminals are often described by the jobs they held at the time that they were arrested, jobs that provide them with money, camouflage and mobility.

Some terrorists also avail themselves of opportunities to acquire lawful immigration status by committing immigration benefit fraud- an issue I hope you will delve into in detail in future hearings, but it is also important to note that as an INS Special Agent I often apprehended criminal aliens on the jobs where they worked. These aliens had lengthy conviction records and may well have been previously deported and were working at nondescript jobs that enabled them to hide in plain sight.

Leaders at ICE often note their concerns about illegal aliens working at what are described as being components of "critical infrastructure." Among such stated venues are airports, nuclear power plants, chemical plants and military bases to name the most commonly noted facilities.

Recently officials of the DHS voiced concerns about Mumbai-style attacks being carried out in Europe or the United States that would target hotels or places where large numbers of people congregate as well as recently stated concerns about efforts by al-Qaeda to poison patrons of restaurants or hotels.

It would then logically follow that critical infrastructure should also include food processing plants.

How secure is our nation and how safe are our citizens, when you consider that there are many thousands of illegal aliens working in our country in a variety of venues, including food processing plants as well as restaurants and hotels, where they may come into direct contact with the food we eat and there is no way of knowing their true identities, or backgrounds, or intentions?

In my nearly 40 years of involvement with the immigration issue, I have not seen any administration distinguish itself by effectively securing our nation's borders or enforcing the immigration laws of our nation. However in my view, the current administration has all but rolled out the welcome mat to illegal aliens. Consider that the President and high level members of the administration have made it clear that during the course of employer sanctions investigations, employers would be punished but that no meaningful effort to arrest, detain and seek the removal of illegal aliens relating to the worksite investigation would be undertaken. This sends a clear and very wrong message to illegal aliens and to people around the world who might be contemplating running our nation's borders or otherwise entering our country to seek illegal employment- such aliens have virtually nothing to fear from the special agents of ICE.

To expand a bit on this point, when I was an INS special agent I was convinced that when my colleagues and I encountered illegal aliens and then failed to take them into custody and seek to have them immediately brought before an Immigration Judge that we actually did more harm than if we had not encountered those illegal aliens in the first place. Many of these illegal aliens used multiple false names and all too often provided false addresses. Through "Catch and Release" we emboldened these aliens because it became readily apparent to them that the former INS lacked the resources to take action against those foreign nationals who violated our nation's borders and a variety of law including, but limited to, our immigration laws. Most of these illegal aliens never showed up for hearings even if they were served with an Order To Show Cause. My perspective was shared by most of of my colleagues who were also demoralized by this deplorable situation.

Today illegal aliens who are encountered during the course of Employer Sanctions investigations may not even be served with a Notice To Appear- the equivalent document. This makes it abundantly clear that the government of the United States is unconcerned about aliens who violate our borders and violate a slew of laws as well. Imagine the astonishment of the illegal aliens who are encountered by the special agents of ICE and quickly discover that no meaningful action is taken against them for their violations of our borders and our laws. Imagine the phone calls that they will undoubtedly make to their friends back in their home countries telling them that federal immigration law enforcement officers couldn't care less about them or the laws they violated. Think how many more foreign nationals become persuaded to run our nation's borders to seek unlawful employment and ignore the very same immigration laws that the government of the United States is apparently happy to ignore.

Additionally, from what I have heard, all too frequently worksite investigations are carried out purely by ICE personnel auditing I-9 forms and do not even involve interviewing the employees of the companies at all. This all but guarantees that illegal aliens will not come into contact with special agents of ICE and hence will not be taken into custody.

Last week, the Wall Street Journal reported on ICE's creation of the "Employment Compliance Inspection Center" that is supposed to facilitate the auditing of I-9's and supporting documents for companies that hire large numbers of employees. Such auditing operations have been aptly given the nickname "silent raids." These "raids" do not involve the arrest of illegal aliens and therefore I suspect

most illegal aliens hear nothing about these efforts to punish employers accused of intentionally hiring illegal aliens. Certainly "silent raids" do not deter illegal aliens from entering the United States which should be an important goal of worksite investigations.

Furthermore, the President and members of Congress of both houses and both major parties have spoken frequently about the need to place illegal aliens on a "pathway to United States citizenship" thereby all but declaring that running our nation's borders is a prerequisite for becoming a United States citizen.

Also worth noting is the lawsuit filed by the United States Department of Justice in an effort to block the State of Arizona from enforcing its own immigration laws that parallel the federal statutes- not only won't the federal government enforce the federal immigration laws effectively, it is clear it will seek to block any state that attempts to fill the enforcement vacuum created by the administration's stance on immigration law enforcement. This offers further encouragement to illegal aliens and those foreign nationals who aspire to become illegal aliens in our country.

If morale was low when I was employed by the former INS because of the the reasons I noted previously, morale at ICE today has to be all but nonexistent given the current state of affairs concerning the current administration's posture on the enforcement of our nation's immigration laws.

I would like to end my prepared testimony by recalling that prior to World War II, the enforcement of the immigration laws had been the responsibility of the Department of Labor out of a concern that if large numbers of foreign workers were able to enter our country to seek employment that such an influx of workers would serve to drive down wages and worsen the working conditions of the American worker. Indeed, our laws still reflect that it is illegal to hire foreign workers if, in so doing harm is done to the American workforce.

Effective worksite investigations are supposed to protect our nation and our workers and turn off the power to the "magnet" that draws so many illegal aliens to our country. The time has long since come for our government to actually provide the resources and the leadership to enforce these important provisions of our nation's immigration laws.

I am gratified that you are holding this hearing on an issue that is of such profound importance to all Americans, especially today.

I look forward to your questions.

Mr. GALLEGLY. Thank you, Mr. Cutler.
Mr. Griswold?

TESTIMONY OF DANIEL GRISWOLD, DIRECTOR, CENTER FOR TRADE POLICY STUDIES, CATO INSTITUTE, WASHINGTON, DC

Mr. GRISWOLD. Chairman Gallegly, Chairman Smith, Ranking Member Lofgren, Members of the Committee, thank you very much.

I am confident we all share the goals of reducing illegal immigration, securing our borders against those who would do us harm, and promoting economic growth and job creation. With those objectives in mind, I believe that focusing primarily on worksite enforcement will continue to be an expensive distraction until we reform our immigration laws to reflect the realities of America's 21st-century labor market.

Our policy of relying solely on enforcement of current immigration law has failed. This is true for both border and interior enforcement. Since 1992, our spending on border enforcement has gone up more than 700 percent. The number of agents at the border has gone up fivefold. Since the Immigration Reform and Control Act of 1986, U.S. employers have been subject to fines for knowingly hiring undocumented workers. Yet, during two decades of increased enforcement, the number of illegal immigrants in this country has roughly tripled.

Our enforcement-only approach is at odds with the economic and demographic realities of our dynamic American economy. Our economy routinely creates hundreds of thousands of net new jobs each year that require only short-term, on-the-job training. I am talking about home health aides, food preparation and serving workers, retail salespersons, landscaping and groundskeeping workers, waiters and waitresses.

At the same time, the number of Americans who have traditionally filled such jobs continues to shrink. Over the last decade, the number of adult Americans in the workforce without a high school diploma has dropped by 3 million, and that number is going to continue to drop. It is good news, but it adds to this problem.

Immigrants fill the growing gap between expanding low-skilled jobs and the shrinking pool of native-born Americans who want to fill them. Immigrant workers enable important sectors of the U.S. economy, such as retail, agriculture, landscaping, restaurants and hotels, to expand, to attract investment, and to create middle-class jobs in management, bookkeeping, marketing, and other areas that employ native-born Americans.

It is misleading to assert that every low-skilled immigrant we can round up and deport will mean jobs for an unemployed American. The real economy doesn't work that way. Low-skilled immigrants, whether legal or illegal, do not compete directly against the large majority of American workers.

American companies hire immigrant workers to fill millions of low-skilled jobs because there are simply not enough American workers willing to fill those same jobs. The pay and working conditions in many of these jobs do not match the qualifications and aspirations of the large majority of Americans currently looking for employment in our recovering economy.

We cannot enforce our way out of unemployment. There is no causal relationship between the inflows of immigration and higher overall unemployment in the U.S. economy. If anything, more aggressive enforcement against low-skilled immigration will arguably have a negative effect on our economy and the jobs and incomes of American households.

Removing millions of low-skilled workers from our labor force through enforcement would reduce the incentives for investment in

the affected industries. It would reduce the relative job openings in more skilled positions, disrupting employment for native-born Americans.

In agriculture, for example, the USDA estimates there are 3.1 related jobs off the farm for every job on the farm. Eliminating the on-farm jobs would put at risk many more jobs paying middle-class wages and employing native-born Americans.

A 2009 Cato study found that a 30 percent reduction in low-skilled immigration to the United States through more vigorous interior enforcement would cause a drop in the incomes of American households by $64 billion a year. In contrast, the same study estimated that immigration reform that allowed more low-skilled immigrants to enter the United States legally could boost the incomes of American households by $180 billion a year.

The best approach to reducing illegal immigration would be to expand opportunities for legal immigration while targeting enforcement against terrorists, criminals, and others who continue to operate outside the system.

We know from experience that legal immigration, if allowed, will crowd out illegal immigration. Here we can learn two valuable lessons from the Bracero program, which allowed Mexican workers to enter the United States temporarily from 1942 to 1964.

One lesson is that temporary workers should be given maximum mobility to change employers. The fatal flaw of the Bracero program was that it tied workers to specific employers as a condition of the visa. This gave too much leverage to employers, resulting in abuses that led Congress to shut down the program.

The more positive lesson from the Bracero program is that, for all its shortcomings, it did provide a legal alternative to illegal immigration.

Early in the 1950's, we were apprehending a million people a year at the border because the program offered an insufficient number of visas to meet the labor demands of a growing U.S. economy. Instead of merely redoubling our enforcement efforts, Congress dramatically increased the number of visas to accommodate demand. The result: Apprehensions at the border dropped more than 90 percent.

Back then, as we could expect now, foreign-born workers rationally chose the legal path to entry when it was available. When the Bracero program was abolished in 1964, legal immigration began to rise inexorably, and that has continued to the present time.

To sum up, Mr. Chairman, a program of legalization would transform the enforcement debate. Instead of wasting resources on a futile effort to root out millions of low-skilled immigrant workers who are productively contributing to our Nation's economy, we could focus our enforcement efforts on apprehending those who want to do us harm.

Large-scale illegal immigration will end only when America's immigration system offers a legal alternative, consistent with the underlying realities of our labor market.

Thank you.

[The prepared statement of Mr. Griswold follows:]

PREPARED STATEMENT OF DANIEL GRISWOLD

TESTIMONY OF

DANIEL GRISWOLD

DIRECTOR, CATO INSTITUTE, CENTER FOR TRADE POLICY STUDIES

at the hearing on

"ICE Worksite Enforcement – Up to the Job?"

before the

HOUSE COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT

January 26, 2011

Testimony on
"ICE Worksite Enforcement – Up to the Job?"
Before the House Committee on the Judiciary
Subcommittee on Immigration Policy and Enforcement
Submitted by Daniel Griswold, Cato Institute
January 26, 2011

Chairman Gallegly, Ranking Member Lofgren, and members of the Subcommittee, thank you for inviting the Cato Institute to testify today on the subject of worksite enforcement of U.S. immigration law. The Cato Institute is a non-profit, non-partisan educational institution dedicated to promoting understanding of public policies based on the principles of individual liberty, free markets, and limited, Constitutional government. As the director the Institute's Center for Trade Policy Studies, I've been researching and writing about trade and immigration policy since joining Cato in 1997.

All of us in this room share the policy goals of reducing illegal immigration, securing our borders against those who would do us harm, and creating jobs for U.S. workers through a growing economy. With those goals firmly in mind, I believe that focusing primarily on worksite enforcement will continue to be an expensive and damaging distraction until we reform our immigration laws to reflect the underlying realities of America's 21st-century labor market.

Our policy of relying solely on enforcement of existing law to reduce illegal immigration has failed. This is true for both border and interior enforcement. Since 1992, the U.S. Border Patrol's annual budget has shot up by 714 percent, from $326 million to $2.7 billion, while the number of Border Patrol agents stationed along the southwest border has grown five-fold, from 3,555 to 17,415.[1] Meanwhile, since the 1986 Immigration Reform and Control Act, U.S. employers have been subject to fines for knowingly hiring undocumented workers. Interior enforcement of those laws has waxed and waned and waxed again over the years. In the late 1990s, the Clinton administration raided hundreds of workplaces and detained thousands of illegal workers. More recently the Bush administration ramped up deportations in 2007 and now the Obama administration has rounded up and deported record numbers of illegal immigrants.[2]

Yet during two decades of more vigorous enforcement at the border and at the worksite, the number of illegal immigrants in the country has roughly tripled, from 4 million to 11 million.[3] Imagine the complaints we would rightfully hear about a federal education program in which spending and personnel had grown dramatically, and yet the problem it was supposed to solve had gotten far worse. The right response would be to change our

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[1] Hinijosa-Ojeda Raúl Hinojosa-Ojeda, "Raising the Floor for American Workers: The Economic Benefits of Comprehensive Immigration Reform," The Center for American Progress, January 2010, p. 3-4.
[2] "Current ICE Removals of Noncitizens Exceed Numbers Under Bush Administration," TRAC Immigration Project, Syracuse University, http://trac.syr.edu/immigration/reports/234/
[3] Jeffrey Passel and D'Vera Cohn, "U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade," The Pew Hispanic Center, September 1, 2010.

approach, not to keep throwing more money and personnel into a broken system hoping for a better result.

Economic and Demographic Realities Drive Immigration

Our enforcement-only approach is at odds with the underlying economic and demographic realities of our dynamic American economy. Low-skilled immigration to the United States, both legal and illegal, is driven by basic forces of demand and supply.

On the demand side, our economy continues to create hundreds of thousands of net new jobs each year that require only short-term, on-the-job training. Of course, the Great Recession of 2007-09 put a temporary halt to net job creation, but as our economic recovery and expansion continue, the long-term demand for low-skilled workers will continue to rise. According to recent projections by the U.S. Department of Labor, hundreds of thousands of net new jobs will be created during the next decade for home health aides, food preparation and serving workers, retail salespersons, landscaping and groundskeeping workers, and waiters and waitresses.[4]

At the same time, the number of Americans who have traditionally filled such jobs continues to shrink. American workers, on average, are becoming older and better educated and thus less willing to fill those jobs. The number of adult Americans in the work force without a high school diploma has dropped by 3 million in the past decade, and that trend will likely continue.[5] According to projections by the U.S. Department of Labor, the number of workers age 16-24, another group that has traditionally filled less-skilled jobs, will shrink by 900,000 by 2018.[6]

Immigrants fill the growing gap between expanding low-skilled jobs and the shrinking pool of native-born Americans who would want such jobs. Immigrant workers enable important sectors of the U.S. economy to continue to grow and meet the needs of their customers. By facilitating the growth of such sectors as retail, agriculture, landscaping, restaurants, and hotels, low-skilled immigrants have enabled those sectors to expand, attract investment, and create middle-class jobs in management, design and engineering, bookkeeping, marketing and other areas that employ native-born Americans.

More broadly, our nation is undergoing a demographic downshift with enormous implications. The 2010 Census figures that were just released show the slowest population growth in the past decade since the 1930s. Without immigration, our workforce would soon begin to shrink, reducing our potential economic growth and our weight and influence in the global economy. Without a steady, continuing growth in our

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[4] T. Alan Lacey and Benjamin Wright, "Occupational employment projections to 2018," U.S. Department of Labor, *Monthly Labor Review*, November 2009, Table 5, pp.93-94.
[5] U.S. Census Bureau, "Table A-1. Years of School Completed by People 25 Years and Over, by Age and Sex: Selected Years 1940 to 2009," www.census.gov/cps/.
[6] Mitra Toossi, "Labor force projections to 2018: older workers staying more active," U.S. Department of Labor, *Monthly Labor Review*, November 2009, Table 1, p. 32.

workforce, it will be even more difficult to fund Social Security and Medicare payments to the army of Baby Boomers who are already beginning to retire. Immigration has played an important role in allowing our workforce to continue a healthy if slowing rate of growth.

It may produce a good sound bite but it is misleading to assert that every low-skilled immigrant we can round up and deport will mean a job for an unemployed American. The real world economy doesn't work that way. Low-skilled immigrants, whether legal or illegal, do not compete directly with the large majority of American workers. American companies hire immigrant workers to fill millions of low-skilled jobs because there are simply not enough American workers willing to fill those same jobs. The pay and working conditions for many of these jobs do not match the qualifications and aspirations of the large majority of Americans currently looking for employment in our recovering economy.

Consider the agricultural sector, in which an estimated 800,000 to 1 million undocumented immigrants work each year to harvest American crops. Does anybody seriously believe that if we could deport every one of those workers tomorrow, that a sufficient number of American workers would line up to take their place? It's safe to say most of those jobs would go unfilled. If wages were hiked significantly, many of those jobs would simply disappear, most likely to be replaced by imported farm goods grown and harvested in other countries.

Without immigrant workers, the most likely scenario is that we would simply produce less agricultural output as a nation. This would mean not only a direct loss of manual, on-the-farm jobs but a ripple effect of job losses in upstream and downstream sectors such as management, processing, packaging, distribution, and marketing. According to estimates from the U.S. Department of Agriculture, there are 3.1 related jobs off the farm for every job on the farm. Eliminating the on-farm jobs would put at risk many more jobs paying middle-class wages and employing native-born American workers.

Immigration and Employment

We cannot enforce our way out of unemployment. There is no causal relationship between inflows of immigration and higher overall unemployment in the U.S. economy. In fact, the causation usually runs the other way: immigrants tend to come in greater numbers during periods of low unemployment when jobs are plentiful, and the numbers tend to decline when unemployment rises. That is the main reason why the number of illegal immigrants in the United States has actually fallen by an estimated 1 million since 2007, according to the Pew Hispanic Center.[7] Incremental changes in enforcement cannot account for such a sharp drop in the number of undocumented workers in the United States. The most plausible major explanation is the economic downturn in the U.S. labor market that began at the end of 2007 and persisted into 2010.

[7] Jeffrey Passel and D'Vera Cohn, "U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade," The Pew Hispanic Center, September 1, 2010.

When it comes to employment, immigrants complement the large majority of American workers rather than compete against them. Immigrants help to create job opportunities for native-born workers by starting businesses, attracting investment, and allowing important sectors of the economy to expand, creating opportunities higher up the skills ladder.

It is an especially pernicious myth that low-skilled immigrants harm the employment prospects of African Americans. As with most other Americans, few African Americans compete directly with immigrant workers. In what was probably the most thorough economic study of U.S. immigration ever, the 1997 report of the National Research Council, titled *The New Americans*, came to the conclusion that:

> None of the available evidence on spatial correlations suggests that in the aggregate the economic opportunities of black Americans are substantially reduced by immigration. … Some black workers have lost their jobs to immigrants, especially when they live in a place with a large concentration of immigrants. But the vast majority do not live in such places, and their economic opportunities are determined by other things.[8]

Those "other things" include the quality of education, local crime rates, and the overall business climate. I would humbly suggest to the Committee members that improving any or all of those other things would do far more to enhance the economic opportunities of American workers than beefed up worksite enforcement against the hiring of low-skilled immigrants.

My own research at the Cato Institute shows that the growth of Hispanic immigration has not had a negative effect on lower-income African Americans. In fact, the evidence from the past 20 years shows that as immigrants have moved in, native-born Americans, including African Americans, have generally moved up. From 1994 through 2007, the number of illegal immigrants in the United States more than doubled, from an estimated 4.5 million to 11 million. During that same period, the number of African Americans living below the poverty line dropped by 1.6 million.

During that same period of rising low-skilled immigration, we also witnessed an encouraging decline in the number of adult Americans toiling without a high-school diploma. From 1993 through 2006, the number of adults 25 and older without a high school diploma declined from 32.1 million to 27.9 million, a fall of 4.2 million. That includes a drop of 1 million in the number of adult African Americans without a diploma.[9] Clearly, rising numbers of low-skilled immigrants have not prevented African Americans from improving their skills and lifting themselves out of poverty.

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[8] James P. Smith and Barry Edmonston, eds., *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration* (Washington: National Research Council, 1997), p. 223-224.
[9] U.S. Census Bureau, Current Population Survey, Educational Attainment, Table 4, http://www.census.gov/cps/.

Immigration itself may have helped to spur the advancement of millions of Americans to improve their employment prospects and earnings potential in the past two decades. The arrival of low-skilled foreign-born workers in the labor force increases the incentives for younger native-born Americans to stay in school and for older workers to upgrade their skills.

Immigrants do compete directly with a small subset of American workers, typically those without a high school diploma. But the addition of low-skilled immigrants also expands the size of the overall economy, creating openings in higher-paid occupations such as managers, skilled craftsmen, and accountants. The result is a greater financial reward for finishing high school and for acquiring additional job skills. Low-skilled immigration motivates Americans who might otherwise languish in the underclass to acquire the education and skills necessary so they are not competing directly with foreign-born workers.

The large majority of economists across the political spectrum agree that immigration is good for our economy. It increases the incomes of the large majority of Americans while boosting overall economic growth. Evidence is growing that immigration has a modestly positive impact on the wages of the large majority of American workers, and a modestly negative impact on the small and shrinking minority of adult American workers without a high-school diploma.

The 1997 National Research Council study concluded that immigration boosts the income of American workers overall by as much as $10 billion, but that it does slightly reduce the wages of the lowest skilled Americans. As the NRC concluded, "The weight of empirical evidence suggest that the impact of immigration on the wages of competing native born workers is small—possibly reducing them by only 1 or 2 percent."[10] More recent studies have confirmed this effect. For example, in a 2006 study for the National Bureau of Economic Research, Ottaviano and Peri estimated that immigration from 1990 to 2004 had reduced the wages of Americans without a high school diploma by 1 to 2 percent, while boosting the wages of the more than 90 percent of American adults with a high-school education by 0.7 percent in the short run and 1.8 percent in the long run.

Immigrants have a relatively small impact on the wages of native born workers for at least three major reasons: One, immigrants tend to bring a different set of skills and differing preferences for the kind of work they perform compared to native-born workers, which means immigrants are less easily substituted for their native-born counterparts. Two, by increasing the size the labor force, immigrants tend to boost the returns to capital, stimulating more investment in the economy and thus raising the productivity and wages of all workers, including the native-born. Three, for all the political hype over immigration, the number of immigrants and their output continue to be modest compared to the overall size of a U.S. economy that employs close to 150 million workers and produces more than $14 trillion in output a year.

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[10] National Research Council, p. 220.

The Economic Benefits of Legalization

Allowing more low-skilled immigrants to legalize would have a positive effect not only on the immigrants themselves but on native-born workers on the lower end of the skill ladder. We know from experience after the 1986 Immigration Reform and Control Act that newly legalized workers are more likely to upgrade their job and language skills, raising their productivity and wages. Legalized workers also enjoy more bargaining power in the marketplace, and are far more likely to be employed "on the books," resulting in better pay. A 1996 Labor Department study found that real wages paid to undocumented workers were flat for most of the decade until 1987–88, but then rose 15 percent in the five years following legalization.[11] Legalization means that native-born and legal immigrants are no longer required to compete with an underground labor supply.

If anything, more aggressive enforcement against low-skilled immigration will arguably have a negative impact on our economy and the incomes of American households. Removing millions of low-skilled workers from our labor force through enforcement would impact our economy in a number of negative ways: It would reduce incentives for investment in the affected industries. It would reduce the relative job openings in more skilled positions in those industries, reducing employment for native-born Americans. Less investment and employment in the affected sectors would in turn reduce government revenue.

A 2009 Cato study by Dixon and Rimmer estimated the economy-wide effects of enhanced border enforcement and interior enforcement, as well as different versions of legalization through immigration reform. The authors used a general-equilibrium model that they have developed for the U.S. Homeland Security Department, the U.S. Agriculture Department, and the U.S. International Trade Commission. In a study titled, "Restriction or Legalization," Dixon and Rimmer estimated that more aggressive interior enforcement that resulted in a 30 percent reduction in low-skilled immigration to the United States would cause a drop in the incomes of American households of 0.45 percent—or $64 billion a year. In contrast, the same study estimated that immigration reform that allowed more low-skilled immigrants to enter the United States legally could boost the incomes of American families by $180 billion a year.[12] A 2010 study by the Center for American Progress confirmed the magnitude of the potential gains, concluding that legalization would boost incomes by $189 billion a year once fully implemented.[13]

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[11] Shirley Smith, Roger G. Kramer, and Audrey Singer, *Effects of the Immigration Reform and Control Act: Characteristics and Labor Market Behavior of the Legalized Population Five Years Following Legalization* (Washington, DC: U.S. Department of Labor, 1996), p. 43.

[12] Peter B. Dixon and Maureen T. Rimmer, "Restriction or Legalization? Measuring the Economic Benefits of Immigration Reform," Cato Trade Policy Analysis no. 40, August 13, 2009.

[13] Raul Hinojosa-Ojeda, "Raising the Floor for American Workers: The Economic Benefits of Comprehensive Immigration Reform," Center for American Progress and the Immigration Policy Center, January 7, 2010.

The best approach to reducing illegal immigration would be to expand opportunities for legal immigration while targeting enforcement against terrorists, criminals and others who continue to operate outside the system.

If foreign-born workers were allowed to enter the country through a safe, orderly and legal path, the number choosing to enter illegally would drop sharply. When given the choice of paying a smuggler $2,000, risking robbery and death in the desert, and living a shadowy existence in the underground U.S. economy, unable to leave and return freely to visit home, or entering the United States across a legal port of entry with legal documents, enjoying the full responsibility and protection of the law, and the freedom to visit home without fear of being denied re-entry, the large majority of potential entrants will choose the legal path.

We know from experience that legal immigration, if allowed, will crowd out illegal immigration. Here we can learn two valuable lessons from the *Bracero* program, which allowed Mexican workers to enter the United States temporarily from 1942 to 1964, typically to work on farms in the Southwest. One lesson is that temporary workers should be given maximum mobility to change employers. The fatal flaw of the *Bracero* program is that it tied workers to specific employers as a condition of the visa. This gave too much leverage to employers, resulting in abuses which lead Congress to shut down the program.

The more positive lesson from the *Bracero* program is that, for all its shortcomings, it did provide a legal alternative to illegal immigration. Early in the 1950s, illegal immigration was widespread because the program offered an insufficient number of visas to meet the labor demands of a growing U.S. economy. Instead of merely redoubling efforts to enforce a flawed law, Congress dramatically increased the number of visas to accommodate demand. The result: Apprehensions of illegal entrants at the border soon dropped by more than 90 percent.[14] Back then, as we could expect now, foreign-born workers rationally chose the legal path to entry when it was available. When the *Bracero* program was abolished in 1964, illegal immigration began an inexorable rise that has continued to the present time.

Legalization would not necessarily mean a significant increase in the number of low-skilled immigrant workers in the U.S. economy, but instead the replacement of an undocumented workforce with a documented workforce. Legalization would allow the U.S. government to more effectively monitor and manage who was entering the United States for employment. Although the number of immigrant workers is ultimately determined by demand in the labor market, the federal government could regulate the number of visas depending on the unemployment rate and the business cycle. One tool of regulation could be changing visa fees to better match the supply of temporary foreign-born workers with domestic demand.

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[14] Stuart Anderson, "The Impact of Agricultural Guest Worker Programs on Illegal Immigration," National Foundation for American Policy, November 2003.

A program of legalization would transform the enforcement debate. Instead of wasting resources in a futile effort to root out millions of low-skilled immigrant workers who are productively contributing to our nation's economy, we could focus our enforcement efforts on apprehending terrorists and other real criminals. Large-scale illegal immigration will end only when America's immigration system offers a legal alternative consistent with the underlying realities of our labor market.

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

Mr. Kibble, I was interested in your comments relative to the significant increase in removals or deportation. Are these formal deports, or are they voluntary deports, or are they a letter telling a person that they have to leave, or is it a green van trip to the border and released? Could you give me a definition of a removal or a deport?

Mr. KIBBLE. Sir, when we reference removals, we are talking to the formal orders of removal as well as voluntary returns. And when you look at our results over the last 2 years, we have removed—and this means people leaving the country—we have removed more than we ever have in our history.

Mr. GALLEGLY. Well, what is the percentage of voluntary removals versus formal deports?

Mr. KIBBLE. I don't have that number readily available.

Mr. GALLEGLY. I remember listening to Janet Reno not too many years ago, when she said, in the southern California area, the U.S. Attorney's district there, that their policy was that they didn't initiate any formal deports until after there had been a second felony conviction.

Have you ever heard that before, from a policy standpoint, of a United States attorney?

Mr. KIBBLE. I am not familiar with that, sir. But——

Mr. GALLEGLY. What is the criteria for formal deportation?

Mr. KIBBLE. If someone is unlawfully in the country, they enter into proceedings, and they receive their due process. And, ultimately, they, you know, they may have a——

Mr. GALLEGLY. So anyone that doesn't agree to voluntary deportation, you would immediately start the process, keep them in custody until they were formally deported?

Mr. KIBBLE. Sir, we would place them in removal proceedings. However, we have a limited detention space, so we have to make smart——

Mr. GALLEGLY. How many show up for their dates, what percentage?

Mr. KIBBLE. I don't have that number handy——

Mr. GALLEGLY. Well, I could just tell you, I had a visit to Kennedy a few years ago and also to Miami. And when they had individuals come into the country and they would appeal the denial of entrance, of those that were considered low flight risk and were given a date and a paper to appear, the ones that were considered low flight risk, 94 percent never returned. That is pretty well-documented, and I did a white paper many years ago on that. But——

Mr. KIBBLE. May I respond, sir?

Mr. GALLEGLY. Sure.

Mr. KIBBLE. We are essentially resourced to remove roughly 400,000 people a year. So we have tried to take that resourcing and use it wisely, prioritizing threats to public safety and national security; border violators, recent border violators; as well as immigration fugitives and others that try to game the system in terms of our border controls.

I think every one of those removals——

Mr. GALLEGLY. I don't doubt that. But "every one" and "6 percent" is a different situation.

My concern is, what is the real definition of removal? Are they really removed? Are they given notice? Are they put into a——

Mr. KIBBLE. They are removed from the country, sir.

Mr. GALLEGLY. Okay. What is your recidivism rate? How many do you—now you have great IDENT system, right? And the IDENT is pretty conclusive, when you re-arrest someone, it is pretty easy

to tell. Could you tell me if you have ever had anyone that re-entered the country that had been deported?

Mr. KIBBLE. Oh, of course we have folks that have re-entered the country that had been deported, sir.

Mr. GALLEGLY. More than 10 times, the same person? Ever heard of that?

Mr. KIBBLE. I know there have been instances of that.

But, I mean, to the larger point, sir, I mean, we are doing everything we can with the resources that are available. And we are breaking records, removing——

Mr. GALLEGLY. But the question is, a formal deport versus a voluntary deport, the difference, as I understand it—and correct me if I am wrong—if you give them the option of voluntary deportation and then they re-enter the U.S., it is basically, "Well, hey, you have to go home again." However, if you have been formally deported and you re-enter the country, it is a felony; is that not correct?

Mr. KIBBLE. Yes, sir. I mean, a re-entry after deportation is a violation——

Mr. GALLEGLY. Okay, right.

One other quick question before my time runs out. The GAO has expressed criticism on I-9 audits, saying that businesses simply view these civil fines as kind of a part of doing business, just like you would to pay for any other type of overhead costs.

Would you say that is a fair assessment?

Mr. KIBBLE. No, sir, I would not. If you look at the fines as they were a couple years ago, we issued 18 final orders for about $675,000. That has dramatically increased to——

Mr. GALLEGLY. But are they——

Mr. KIBBLE [continuing]. Almost $7 million.

And, sir, the way they are contesting these in court and entering into settlements and aggressively trying to negotiate, it is clear to me that they are taking these fines very seriously.

We have also reformed the system so that there is less room for mitigation, as we have seen in years past. So these are meaningful.

Mr. GALLEGLY. Do you find that courts are usually going the maximum, or are they a little more lenient with—whether it is a, let's say, a $500 fine per head or maybe even a $100 fine?

Mr. KIBBLE. Sir, in the context of civil fines, we are generally setting those based on the violations that we identify during our audits. In the context of judicial fines and forfeitures, there, again, we are breaking records—$36.6 million in judicial fines and forfeitures.

Mr. GALLEGLY. Has it been effective?

Mr. KIBBLE. Sir, I believe the strategy is working. There is always room to continue to mature it. But, to the extent that we can touch more businesses with both criminal and civil sanctions and also outreach and training for the employers that want to be on the right side of the law, we will establish that culture of compliance that we are looking for.

If I could just address one other point you mentioned, sir, having to do with the recidivism. Because, again, worksite has to be looked at in the context of the broader immigration enforcement strategy. We have unprecedented numbers of prosecutions for illegal reentry. In fact, we are using our own attorneys, almost 55 of them,

to help the U.S. Attorney's Office in prosecuting these violations of re-entry.

Mr. GALLEGLY. Thank you very much.

You know, I am going to try to lead by example around here, and I overstayed my red mark, and I apologize for that.

The gentlelady from California, Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman. I just have a few questions of my own.

First, Mr. Krikorian, just briefly, you, in your testimony today, discussed a recent study by the Center for Labor Market Studies at Northeastern University that purported to demonstrate that recent immigrants were gaining employment while Americans were losing their jobs. And then you cited a story by Reuters in your written testimony, not the report itself.

Have you seen the report itself and analyzed it?

Mr. KRIKORIAN. No. I have looked for it. No, I am not sure it is—I think they did it for Reuters, so I am not——

Ms. LOFGREN. Well, I asked my staff to call the Center and ask for the report, and they refused to give it to us. And they said it isn't being made public. I just wondered if you had a copy——

Mr. KRIKORIAN. No, I do not.

Ms. LOFGREN [continuing]. If we could get it from you.

Mr. KRIKORIAN. It looked like—it said "exclusive for Reuters," so I assume they paid for it or something like that.

Ms. LOFGREN. Yeah. I will just advance my view that if something can't ever be examined by people, I am not going to rely on it.

Mr. Griswold, we appreciate your testimony. And I am wondering, the Center for American Progress reported that, in their analysis, the direct cost on government to deport all undocumented workers would be $285 billion in 5 years. Now, that, as I understand it, considered apprehension, detention, processing, transportation, enforcement costs, but it didn't take a look at the broader impact, what would the impact be on the economy, of pulling out 11 million people.

Have you looked at it? Do you have insights that you could share on what those costs would be to the American public?

Mr. GRISWOLD. Yeah. In a word, the costs would be huge.

It is interesting: The Cato study that I mentioned found a significant benefit for American households if we had increased legal immigration. It found a cost of $64 billion a year, just from reducing low-skilled immigration by 30 percent. Those costs would increase significantly if we were able to reduce it even more.

An interesting thing, Ms. Lofgren, is that, 6 months after the Cato study came out, the Center for American Progress came out with another study that showed very similar economic gains from a legalization program. And so, here you have the Cato Institute—libertarian, free market—and the Center for American Progress—center-left—coming to the same conclusion, that low-skilled immigration is good for the U.S. economy. And suppressing it through, I think, futile efforts, but even if they could work and remove millions of low-skilled workers, we would pay a very high price as an economy. And, as you have pointed out and others have pointed

out, it would cost jobs in upstream and downstream industries, as well.

Ms. LOFGREN. Let me ask you this, if I can. You know, I am of the opinion—and I am glad that Mr. Kibble is here.

I am sorry I missed your testimony. I was detained coming back from the floor, but I did have a chance to read it and review it. And I appreciate that you have been given a job to do, you know, which is to enforce the laws we have. You have not been asked or tasked to reform the laws that we have. That is our job. And so, I am not going to criticize you for doing your job as outlined. But it just seems to me that it is a losing effort.

I remember the first hearing that we had when I assumed the Chair of the Immigration Subcommittee and we had the career head of the border patrol as a witness, who was a very crusty, interesting guy. And it was his testimony to us that, if we could get the busboys and nannies out of the line, crossing illegally in the desert, he would appreciate it, so he could focus in on the drug dealers and the traffickers and the like.

But he also suggested that we can't repeal the law of supply and demand. You know, we have failed to reform our laws so that this immigration system meets our needs, that it serves America's needs. And, consequently, we have a situation that is chaotic when we should instead have order.

So I guess this isn't a question, more a statement of appreciation for you, Mr. Kibble. All of the stats—the number of people incarcerated—it is unprecedented numbers of people who have been deported. We are spending more money on the border today than in the history of the United States. We have more Border Patrol agents on the border than in the history of the United States. And yet we have this problem because we have failed—we, the Congress, have failed—to come to grips with our need to reform the system so it actually works for Americans.

And, with that, the light is on. I would yield back, with thanks for Mr. Kibble and all the other witnesses. We don't see everything eye to eye, but we do appreciate your volunteering to testify here before us today.

Mr. GOWDY. [Presiding.] Thank you.

At this point, I will recognize myself.

Special Agent Kibble, help me understand the dichotomy between misdemeanors and felonies, if they exist, with respect to immigration violations. Are there felonies and misdemeanors that employers could be charged with?

Mr. KIBBLE. Yes, sir. In fact, the strategy factors in—one of the challenges in terms of criminal investigations of employer is that, in and of itself, knowingly hiring can be a misdemeanor offense. When we consider other aggravating factors, such as other egregious employment schemes that include harboring, smuggling, trafficking, then it rises to a felony violation. And, quite frequently, I mean, with limited resources, working with the U.S. Attorney's offices——

Mr. GOWDY. Well, that is what I want to go to right now. How many felony criminal matters were opened in 2010 with respect to employers?

Mr. KIBBLE. Well, we charged 196.

Mr. GOWDY. A hundred and ninety-six.

Mr. KIBBLE. I am sorry. What year did you ask, sir?

Mr. GOWDY. Employers.

Mr. KIBBLE. Last fiscal year, though?

Mr. GOWDY. Yes, sir, 2010. And those were criminal matters that were opened or those were indictments?

Mr. KIBBLE. Those were criminal arrests and indictments. If criminally charged——

Mr. GOWDY. How many matters were opened and declined by the United States Attorney's Office?

Mr. KIBBLE. I don't have those numbers, sir, but I can go back and look into it.

Mr. GOWDY. Well, I guess what I am getting at is I am trying to understand whether this is a DOJ, a prosecutorial issue, where they are declining matters that you have investigated and put time and effort into, or if this is an administrative decision that has been made, not to go after employers?

Mr. KIBBLE. Oh, no, sir. We are pursuing—I have been doing this for a little while now. As far as criminal charges against employers, we are pursuing them as aggressively as I have seen it in my personal experience. And, again, we have record-breaking numbers to show for that.

Mr. GOWDY. More criminal or civil pursuits?

Mr. KIBBLE. Well, criminal charges against the employer, but then also record-breaking achievements in terms of our civil efforts to removal people from the country.

Mr. GOWDY. Correct me if I am wrong. Employers sometimes have the option of paying a civil fine and avoiding criminal responsibility?

Mr. KIBBLE. Well, sir, it is a multipronged strategy. And, oftentimes, the employers are in a tough spot in terms of having to triage and figure out whether documents that have been provided by the employee—by the illegal worker are, in fact, correct. So, as in any other white-collar crime investigation, it takes time to sort through that. And, in many instances, we may not be able to establish to meet that burden, in terms of knowledge on the part of the employer.

Mr. GOWDY. Is there a different standard of proof required for the Administration of a civil fine than a criminal conviction?

Mr. KIBBLE. Well, the civil fine, sir, is tied to the inspection of the Form I-9's. And there are technical and substantive violations. And after we do an audit, we will work with the businesses for a period of 10 days to resolve any technical violations.

But then, if we have substantive violations that relate to—that make it difficult for us to verify a workforce, then we can fine for that violation, up to $1,100 a violation.

Mr. GOWDY. How many employers went to the Bureau of Prisons last year for hiring illegal immigrants?

Mr. KIBBLE. I don't know—I don't have the conviction of sentencing stats readily available, sir.

Mr. GOWDY. Guess. Twenty? Ten? Five?

Mr. KIBBLE. Sir, I mean, we criminally charged 196, but they are working their way through the process.

Mr. GOWDY. Actual employers, people, not corporations, people.

Mr. KIBBLE. No, people. Employers, human resource managers.

Mr. GOWDY. A hundred and ninety-six?

Mr. KIBBLE. I beg your pardon?

Mr. GOWDY. A hundred and ninety-six in 2010?

Mr. KIBBLE. A hundred and ninety-six, sir, we criminally charged.

Mr. GOWDY. You will agree, I hope, that criminal consequences get people's attention more so than civil consequences?

Mr. KIBBLE. Yes, sir, they do.

Mr. GOWDY. There is a full range, a panoply of negative consequences that go along with a criminal convention that don't exist with a civil one.

Mr. KIBBLE. That is correct, sir.

Mr. GOWDY. Are you convinced that your department and the United States Attorney's Office are as aggressively pursuing the employers themselves as can be done?

Mr. KIBBLE. Sir, with the tools that are available, absolutely.

However, I would add that part of getting to that deterrence that we were looking for, to the point you are alluding in terms of the importance of a criminal charge, it is also important that we touch as many businesses as we can so that they all feel that, at one point or another, they could be engaged by ICE. And that is going to get us to a culture of compliance——

Mr. GOWDY. But you concede with me, as a wonderful law enforcement officer, which I am sure you are, that nothing gets people's attention quite like seeing a colleague go to prison, agreed?

Mr. KIBBLE. Absolutely. But this is an issue, though, that spans—that is more complex than that. I mean, we are——

Mr. GOWDY. Tell me how it is more complex. We do it in every other category of crime. We send people to the Bureau of Prisons, whether it be for 6 months or 6 years or life. And that is how we deter criminal conduct.

Mr. KIBBLE. That is absolutely correct, sir. And that is why we have record-breaking achievements in terms of our criminal prosecutions of employers.

My point is, if we really want to deter and create a culture of compliance much more broadly—that is why the aggressive use of I-9's are so effective in terms of ultimately getting these employers, holding them accountable and getting them on the right side of the law.

Mr. GOWDY. My time is up.

I will recognize the gentleman from Puerto Rico, Mr. Pierluisi.

Mr. PIERLUISI. Thank you, Mr. Chairman.

As my colleagues and I travel around our Nation, we hear a consistent message from the American people: Fix our broken immigration system by enacting comprehensive reform.

Sensible worksite enforcement designed to identify and penalize those employers who violate Federal law is one important aspect of our Nation's approach to immigration policy. However, unless we do more, an enforcement-only approach will hurt the economy and cost American jobs over the long term.

Although many people would rather not acknowledge it, undocumented workers play an important role in our economy by performing jobs that would otherwise largely go unfilled. Without their

labor, for example, a large percentage of America's farms would close, leading to the loss of millions of upstream and downstream jobs held by U.S. workers.

The undocumented workers who fill agricultural jobs sweat and toil for low wages and often work far away from their families. Because they have no legal status, often they and their employers do not pay taxes. These workers also have no rights that they can feasibly exercise, which results in a lowering of labor standards for all workers, including native-born American workers.

If we truly want to help law-abiding businesses and protect the rights of all American workers, we will find a way to bring undocumented workers out of the shadows and on to the tax rolls.

The Obama administration should continue to focus its worksite enforcement on bad-actor employers who exploit the broken immigration system to undermine their competitors. By stopping employers who violate immigration and labor laws, our government would protect all workers, including native-born American workers, and help level the playing field for honest businesses.

Illegal immigration is not a problem that happened overnight, by the way, and we cannot expect the Obama administration to solve it overnight, especially without reform of our Nation's immigration laws.

Let me address my first question—and I know time will probably permit just one for now—to Mr. Kibble.

I know that, in April of 2009, Secretary Janet Napolitano announced the shift in worksite enforcement strategy. As you have testified, this strategy included a commitment to emphasize enforcement against employers who exploit workers. This makes sense because employers who exploit workers are trying to game the system. Such employers undercut those who are trying to play by the rules. This not only harms good employers, but it drives down the wages and working conditions for all workers, including immigrants and U.S. citizens alike.

Now, I have a statistic that troubles me. Worksite arrests have increased from 510 to 4,940 since 2002. That sounds good. In this same period of time, there have only been 90 arrests of company representatives.

If we do not hold employers accountable, how can we expect to end this jobs magnet? So that is one question I raise to you. I mean, are we really addressing those employers?

And, also, if you can expand on the way that ICE identifies and targets employers who abuse workers, I will really appreciate it.

Mr. KIBBLE. Thank you for the questions, sir.

We are aggressively pursuing criminal sanctions against employers, particularly with these aggravating factors of abusing and exploiting the workforce, harboring, smuggling, trafficking. We are going after them very aggressively. And we have a number of successes in terms of forced labor and other schemes that we have broken up.

And, again, I get back to record-breaking results in terms of our criminal charges against employers—196. It has never been as high as that.

To your other point, in terms of the human trafficking, DHS has the Blue Campaign. We have quite a focus on dealing with human

trafficking. And it is important to make the distinction between trafficking and smuggling. Smuggling is transportation-based. Trafficking is exploitation-based. So where we find elements of force, fraud, and coercion, we aggressively pursue these trafficking investigations.

Now, our investigations start from leads, they start from tips, particularly with respect to human trafficking. We have 18 full-time victim witness coordinators and 350 collateral victim witness coordinators. And the point of that is that, to successfully prosecute a trafficking scheme, it is important to have a victim-centered approach. Because to the extent we can enlist the aid of that victim as a witness, we will be able to more successfully prosecute the trafficker and, therefore, prevent that from occurring again and again.

Mr. PIERLUISI. Thank you.

Mr. SMITH. I thank the gentleman from Puerto Rico.

And I would recognize the gentleman from Florida, Mr. Ross.

Mr. ROSS. Thank you, Mr. Chairman.

Mr. Kibble, is there any role for State and local law enforcement, in terms of worksite enforcement?

Mr. KIBBLE. I mean, to the extent, sir, that, in some instances—I just came—I was the special agent in charge in Denver. And we have had instances where State and local officers, as the front line, may identify schemes or even, in fact, egregious employment patterns that are referenced, that are referred to us for further investigation.

Mr. ROSS. Is that more the exception than the rule, would you say, that you would have State and local law enforcement in that particular capacity?

Mr. KIBBLE. Well, in terms of classical police, yes. But we work very closely with a lot of State and local agencies that can assist us in terms of validating whether a workforce is authorized or not.

Mr. ROSS. The IMAGE program that has been created that allows for employers to voluntarily participate, how has that been? Has that been successful, in your experience?

Mr. KIBBLE. I think it has been very successful. There are 12 best practices that we promote through the IMAGE program. And the key here is that there are employers that we are trying to penalize, that we are trying to deter, but there are also employers that want to do the right thing but they need assistance in terms of scrubbing the workforce.

So one of the key practices in IMAGE is to promote and encourage the use of E-Verify, in terms of validating——

Mr. ROSS. Right.

Mr. KIBBLE. That is the best tool available for an employer to validate whether they have an authorized worker on their hands or not.

Mr. ROSS. Is there anything you would recommend in terms of incentivizing or, you know, expanding the opportunities for employers to want to participate in IMAGE?

Mr. KIBBLE. In IMAGE?

Mr. ROSS. Yeah.

Mr. KIBBLE. Well, the training that we offer, I will tell you, we have a fairly comprehensive program. Recommending and encour-

aging the use of E-Verify is one of them, but we also offer training in detection of fraudulent documents. And this is free. We offer training and outreach in sound hiring practices. We recommend other practices that help to maintain an authorized workforce. We also provide training in anti-discrimination to aid the employer, as far as that concern.

And we have offered training to roughly 14,000 employers through the IMAGE program.

Mr. ROSS. And it has been successful?

Mr. KIBBLE. Yes, we have been pleased with the results.

Mr. ROSS. Good.

Mr. Krikorian, how would you respond to Mr. Kibble's assertion in his preliminary report that, quote, "Just targeting the employers who knowingly break the law is a successful strategy to deter unlawful employment when workers themselves are not prosecuted and free simply to find new jobs"?

Mr. KRIKORIAN. Well, I mean, there are two problems with that.

The first is, unless you are actually arresting the illegal immigrant workers, you are not creating the environment within which you can see an attrition of the illegal population. In other words, they will just walk down the street——

Mr. ROSS. And take one job after the next one.

Mr. KRIKORIAN. But the other side of it is that one of the best ways of getting leads and evidence about crooked employers is actually to do the raids. In other words, this is why I referred to that meatpacking plant in Iowa, that the State authorities had just not been able to, sort of, pierce the veil and really get effective information on what was going on. It was only after the arrests.

And they arrested 400 illegal immigrants on a variety of genuine criminal charges. These were people stealing American children's identities, ruining their credit histories or, if they didn't even have credit histories yet, ruining their futures. Their ability to get student loans in the future would have been compromised. So these were people engaged in serious criminal activity.

But then they were able to find out much better what was going on inside the firm in a way that they just would not have been able to had they not conducted that raid.

Mr. ROSS. You also wrote extensively, I think, about modifying driver's licenses to get a better and more secure form of ID. Is that something you can expound on, in terms of how you think it might be beneficial in worksite enforcement?

Mr. KRIKORIAN. Well, obviously, the key to the I-9 process, even when it has E-Verify to back it up, is the ID that people are showing.

Mr. ROSS. Right.

Mr. KRIKORIAN. And Congress passed the Real ID Act, and States have been making real progress in bringing their licenses up to Federal standards. And the point there is to make sure that, when you present a document to an employer, you actually are who you say you are.

And because, frankly, most employers who are employing illegal immigrants aren't crooks, they don't really know what they are doing. They may suspect somebody is an illegal immigrant, but there is a limit to what they can do about it.

That is why we need, sort of across the board, both better standards for driver's licenses, as well as E-Verify and a variety of other methods, so that employers will know when a job seeker is lying to them and when he is telling the truth.

Mr. ROSS. Thank you.

I see my time is up.

Mr. GOWDY. [Presiding.] Thank you, Mr. Ross.

The Chair would recognize the gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Mr. Chairman, thank you.

Let me thank the Chairman for holding this hearing, along with the Ranking Member, and express my apologizes. This is organizational week, and, as the Ranking Member on Transportation Security, we were organizing our Subcommittee agenda for the 112th Congress.

But I do want to thank the panelists for being here and indicate to some of the Members who are on this Committee that two of these panelists are old friends. This is dj vu. This is same story, same place, and same results.

So I really would hope that this Committee would have the courage of convictions to really do something about immigration reform. Because, otherwise, Mr. Griswold, we could be here in 2025, speaking the same song—singing the same song, and speaking it for those of us who can't sing.

So let me start with Mr. Kibble, to ask him—and I am sorry, Mr. Kibble. How long have you been in your position?

Mr. KIBBLE. In the position of deputy director?

Ms. JACKSON LEE. Yes, sir.

Mr. KIBBLE. For about 2 months.

Ms. JACKSON LEE. Two months, sir. That is okay. You know, this is a new Administration. And were you associated with ICE previously?

Mr. KIBBLE. Yes, I have been in ICE and the legacy Customs Service before that since 1994.

Ms. JACKSON LEE. All right, sir. Would you consider your work a failure?

Mr. KIBBLE. No, not at all.

Ms. JACKSON LEE. Well, why don't you explain that to me? Because it hasn't been personalized, but we have characterized ICE work as a failure. Do you consider that you have not been steadfastly conforming to the laws of which govern ICE enforcement, your internal enforcement work?

Mr. KIBBLE. I would just say, ma'am, that we—you know, in law enforcement in general, you deal with a world of finite resources. And, particularly in Federal law enforcement, we look to target the most effective piece or part of the enterprise. As we do in drug trafficking, we focus on the supplier.

Ms. JACKSON LEE. To grab you the biggest pull, the biggest return.

Mr. KIBBLE. So, in this case, you know, in worksite enforcement, there is a relentless, a surgical, a laser-like focus on holding employers accountability and making sure they are on the right side of the law. Because, in the final analysis, they are the ones that are supplying the jobs.

So it is just—it is balancing—it is making the most impact, achieving the greatest good with the resources that are available.

Ms. JACKSON LEE. I compliment you on that, because I will be the first to raise my hand and say that I was appalled at the raids. You did that a couple years ago. And there may be some more discreet ones. And some would argue that that was a big celebration. In my district, people were falling off ladders and pregnant women were being trampled. It was not effective.

What I understand you to say now is that you are meticulously going to the employer, holding their feet to the fire, and ensuring that they are complying. Is that my understanding?

Mr. KIBBLE. That is correct, ma'am. But an important component of that strategy, for that to work, to have that culture of compliance, we have to touch as many businesses as possible, large and small——

Ms. JACKSON LEE. So you need more resources to answer the call of those who say the employer enforcement is a good thing. Is that what I hear you saying? Or you have already touched all the businesses you think you need to touch?

Mr. KIBBLE. No. No, no, no. We are constantly looking at ways, and particularly with aggressive I-9 audits, to get to that culture of compliance, to address as many of those businesses, so that we can get to that deterrence, that climate of accountability.

Ms. JACKSON LEE. And do you see anything in the Obama administration, President Obama administration, that wouldcounter you enforcing the law and being effective in touching employers and letting them know how serious we are about focusing on the hiring of documented individuals? Do you see anything to the contrary?

Mr. KIBBLE. Ma'am, the key thing for us to do is to just take the resources that we have, and particularly as a career officer, to take the resources that are available, the policies and the laws as we find them, and make aggressive use of them.

Ms. JACKSON LEE. But nobody has called you from the White House or from General Holder's office and said, "Stop doing what you are doing"?

Mr. KIBBLE. No.

Ms. JACKSON LEE. All right.

Mr. Griswold, where can we go, seriously, on this issue of immigration reform? Enforcement is good. I can't imagine that this Administration is—the Administration has the greatest number of undocumented coming through and it is an open door. It is not. But if we don't fix the comprehensive aspect of it, if we don't regularize individuals, are we going to be here in 2025 like I said?

Mr. GRISWOLD. I think we can make an appointment. If we just continue with enforcement only, I think we are going to be here for years and years, wrestling with the same problem.

I think Homeland Security Secretary Napolitano said it well; it needs to be a three-legged stool. You need to have smart enforcement. You need to have some way of legalizing those who are here. And you have to have a robust worker program so we can accommodate the future labor needs of our economy.

It is simple supply and demand. We have demand for these workers. The supply of Americans who have traditionally filled

these jobs is shrinking. Immigrant workers have filled the gap. We don't allow them to come in legally in sufficient numbers. It is not that there are no Americans who will do these jobs; there is just not sufficient number in these industries.

So we need to change our law. Otherwise, we are going to be wasting billions of dollars, hundreds of people are going to be dying at the border each year. We need to change our law. And only Members of Congress can do that.

Ms. JACKSON LEE. And I don't want the bad guys to rule. This kind of process allows bad guys to take over the borders of Texas, California, Arizona, because they are in charge. The human smugglers—they are all in charge.

This last point—and I thank the Chairman for his indulgence—this very last point. Did you propose—and I am sorry; as I said, I was in an earlier meeting—did you propose to take away American jobs? Are you intending to take away American jobs with how you are configuring, reforming the immigration system? You have to get on the record to say what you mean as it relates to American jobs and Americans not being able to have work.

Mr. GRISWOLD. Yeah, quite the opposite. These low-skilled immigrants complement American workers. They allow middle-income Americans to work in these important industries. These low-skilled immigrants actually attract investment. They create job opportunities in upstream and downstream industries for middle-class Americans, it has been shown. If we were able to deport those 7 million or 8 million low-skilled workers in the workforce, it would be a disaster for the U.S. economy.

Ms. JACKSON LEE. I thank the Chairman for his indulgence.

And, Mr. Griswold, I look forward to engaging you.

Mr. Cutler, thank you so very much. You are a longtime colleague.

And, Mr. Krikorian, we have been together before. We thank you.

And, Mr. Kibble, thank you so very much.

I yield back.

Mr. GOWDY. Yes, ma'am. I thank the gentlelady from Texas.

And I would like to thank all of the witnesses. The weather is inclement, the voting schedule is unpredictable, to say the least. And you have been very patient. And we have all benefitted from your expertise and your patience and collegiality with us.

Without objection, all Members will have 5 legislative days to submit to the Chair additional written questions for the witnesses, which we will forward and ask the witnesses to respond as promptly as they can so their answers may be made part of the record.

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

With that, again, I would like to thank all the witnesses.

This hearing is adjourned.

[Whereupon, at 3:15 p.m., the Subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

LETTER FROM LYNN SHOTWELL, EXECUTIVE DIRECTOR,
AMERICAN COUNCIL ON INTERNATIONAL PERSONNEL (ACIP)

February 4, 2011

Hon. Elton Gallegly
Chairman, House Subcommittee on
Immigration Policy and Enforcement
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly:

On behalf of the American Council on International Personnel (ACIP), I thank you for holding the hearing on January 26, 2011 entitled "ICE Worksite Enforcement – Up to the Job," and for bringing much needed attention to this important topic. Without a doubt, an effective enforcement scheme against unauthorized employment is a critical element of an overall sound national immigration policy.

ACIP is the leading trade association in the United States that advocates for sound business immigration policy. Our members consist of over 220 of America's largest employers from the fields of science, technology, healthcare, financial services, hospitality, higher education, and non-profit research. ACIP works directly with the in-house human resource and legal professionals responsible for establishing and maintaining compliant verification systems that cover millions of new hires per year. Our members support a strict but fair enforcement of immigration laws at the worksite, and expect an accurate and reliable verification system that we can trust to help us maintain a legal and productive workforce. ACIP has long supported modifications to the current process which make it easier for employers to comply, including electronic systems, secure identification and biometrics.

The reality, however, is that since employers became liable for verifying employment eligibility in 1986, too much emphasis has been given to fining employers for purely technical and paperwork errors. We respectfully emphasize that the intent of the 1986 legislation is to make employers *partners* with the government, not *suspects*, in the verification process. While the law gives employers the *burden* to verify employment eligibility, it does not give employers the *tools* to do it effectively.

Based upon our members' collective experience, we believe the following improvements are necessary to reduce unauthorized employment and to ensure greater compliance:

1. *Focus on those who break the law, not those who make a good faith attempt to comply*

The government must appreciate that IRCA's verification requirements are premised on *trust*, not *skepticism*, between the employer and the government. Additionally, the

purpose of the statute is to curb unauthorized employment, not failure to complete a form or check boxes properly. Otherwise, it makes little sense to entrust, and consequently burden, employers with the I-9 forms if the results cannot be trustworthy. Enforcement action therefore must be consistent with such statutory intent and be executed in a cooperative and not adversarial spirit.

We urge Congress to expand the "Sonny Bono Amendment,"[1] which currently provides employers a ten-day notice to correct only technical errors or omissions on the I-9 form, to all errors related to the paperwork and where there is no intent to violate the law or evidence of unauthorized employment. At the same time, it is imperative that each employer be held strictly liable for knowingly hiring unauthorized workers in order to incentivize compliance in the business community.

2. *Improve data accuracy and implement paperless technology*

If the government is to direct enforcement resources towards willful violators and not paperwork or procedural errors, it necessarily follows that employers must have confidence in the system that determines employment eligibility. The best way to provide a much higher degree of certainty and to place the burden of ensuring integrity on the government is to establish a truly paperless process that removes subjectivity and risk of identity fraud. Whether it is biometric or other form of technology, the employer only should have to attest to having gone through the process of verification without having to make subjective judgments about the authenticity of documents or risk having an unauthorized worker because the system is inherently unreliable. The benefit of achieving such certainty in the verification process extends beyond just ensuring a legal workforce. By removing subjectivity, there is less of a chance of discrimination because employers will not have the temptation, or the opportunity, to make hiring decisions based on national origin.

3. *Set standards for the verification system and provide adequate funding*

Many ACIP members currently participate in E-Verify and find it satisfactory. However, others have found that E-Verify currently is unable to accommodate their unique hiring situations. Whether implementing a biometric-based system, or simply expanding E-Verify (which the Subcommittee will examine on February 10, 2011), a qualified entity with the necessary expertise should set benchmarks for progress and evaluate the system's readiness before mandating universal participation. We point out that, since 2005, many bills have been introduced to expand or even mandate E-Verify participation. However, most of the proposals did not address 1) how to pay for such a mandate, 2) how to ensure data accuracy and system reliability; and 3) how to eliminate identity fraud. Therefore, Congress must demonstrate its commitment to finding a solution to our immigration problems, and not leave the executive branch with an unfunded mandate and no standards to meet.

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[1] Illegal Immigration Reform and Immigrant Responsibility Act of 1996 § 411, Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996).

Vigilant enforcement of immigration laws at the worksite is an integral part of any successful immigration reform package. Effective enforcement is only possible if it is based on trust, and built upon a system that provides employers with certainty.

ACIP once again thanks the Subcommittee for holding this hearing and asks the Subcommittee to consider our recommendation for a legal workforce.

Respectfully submitted,

Lynn Shotwell
Executive Director

cc: Hon. Zoe Lofgren

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