

Counterterrorism and the Latino Community Since September 11

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I. INTRODUCTION

In 2003, immigration and national security have become intermingled in the U.S. in unprecedented ways. While the new restrictive immigration policies following September 11, 2001 appear to be targeted at Arab American and Muslim American communities,¹ the government appears to be granting itself broad new authority that could be used against anyone. Since 35 million Latinos make up the nation's largest minority, and

because 40% of the Latino population is foreign-born,² these developments have caused serious concerns in the Latino community. Furthermore, since many Latinos live in mixed-status households³ and communities, meaning that undocumented immigrants, lawful residents, and U.S. citizens live interdependently, even measures that are aimed at the undocumented population have huge spillover effects on the larger Latino community.

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This Issue Brief documents the impact of counterterrorism measures and policies implemented since September 11 on the Latino population. First, it provides background on the post-September 11 environment. Second, it examines the new anti-terrorist policies that have had harmful consequences for U.S. Latinos. Third, it looks at other new immigration enforcement activities that have had a negative impact on the Latino community. Fourth, this brief focuses on the need to return to the affirmative immigration reform agenda. Finally, it offers conclusions and recommendations about the future of U.S. immigration policy.

II. BACKGROUND

Immediately prior to the September 11, 2001 terrorist attacks, President George W. Bush and Mexico's President Vicente Fox met to set forth principles from which further migration discussions might proceed. Their discussions showed real promise in constructing comprehensive reforms in the difficult area of migration policy, including regularizing the status of millions of undocumented immigrant workers currently living in the U.S. and bringing additional temporary workers to the U.S. to fill labor shortages through a significantly reformed program. Their discussions envisioned immigration issues within the broader landscape of foreign policy, recognizing the responsibilities for migration flows in both "receiving" and "sending" countries. The U.S.-Mexico negotiations electrified the U.S. Latino community and raised the hopes of immigrant communities throughout the U.S.

Within days of the state visit, the unthinkable happened: 19 foreign nationals engineered the worst terrorist attacks in our nation's history.

The nation's response to the terrorist attacks has had far-reaching effects on its policy agenda and on a wide variety of communities across the U.S. The impact on immigrant communities is worth noting: many foreign nationals were included among the victims and heroes of the attacks. In the immediate aftermath, however, family members of some immigrant workers were hesitant to report missing loved ones out of fear of the Immigration and Naturalization Service (INS), and the identities of some of these workers may never be known. Furthermore, many immigrants and their family members, due to restrictions on eligibility for public services, were unable to access public assistance programs intended to aid the victims. Many more immigrant workers found themselves among the unemployed as a result of cutbacks in travel and other affected industries. And despite strong statements from leaders urging racial and ethnic tolerance, reports of violence, harassment, and hate crimes against Arab Americans, Muslim Americans, Latinos, and other minorities mistaken for "terrorists" were distressingly common.

In the immediate aftermath of the attacks, some people called for severe restrictions on immigrant admissions to the U.S. and the further curtailment of the rights of immigrants already in the country. Immigration restrictionists have taken advantage of the opportunity to push forward their agenda – the same anti-immigrant agenda they have advocated for decades, yet now under the guise of preventing terrorism. Preying upon the fears of ordinary Americans, anti-immigrant

groups and opportunistic political leaders have portrayed ordinary immigrants as terrorists and have sought to deny immigrants the opportunity to make the U.S. their home and exercise their rights.⁴

This focus, based on the September 11 events, is misguided given that the 19 terrorists arrived in the U.S. on temporary nonimmigrant visas; they were not legal permanent residents seeking to make the U.S. their home. Since September 11, 2001, significant changes have been made to the nonimmigrant visa issuance process in an effort to address real concerns in immigration and visa processes that allowed the U.S. government to admit the terrorists legally. The Enhanced Border Security and Visa Entry Reform Act, signed into law in May 2002, provides for increases in intelligence-gathering and information-sharing among government agencies, creates layers of security with multiple opportunities to stop someone from entering who intends to do the U.S. harm, and focuses on regional security arrangements between the U.S., Mexico, and Canada so that our nation's gatekeepers have more tools and information to keep terrorists out.⁵ Furthermore, the Bush Administration signed "Smart Border" agreements with both Mexico and Canada to create regional security zones and to prevent terrorists from using our neighbors as staging areas to attack the U.S. These have been positive measures that address real dangers and provide governments with the tools necessary to identify those who wish to do Americans harm and to stop them before they are able to attack the U.S.

However, some of the new counterterrorism measures go far beyond reforming the nonimmigrant visa process and providing useful

intelligence information and have had profound, negative effects on immigrant and refugee communities. While President Bush called on all Americans to unite and not to scapegoat Arab Americans or any particular groups immediately following the terrorist attacks, the *de facto* immigration policy of the Bush Administration since September 11 has been unabashedly anti-immigrant. The majority of these new policies have been initiated by the Administration, specifically by the Department of Justice (DOJ). While individual policy changes may initially seem reasonable, the new anti-immigrant policies are ineffective as deterrents to terrorism, have negative consequences for innocent, nonterrorist immigrants, result in the marginalization and alienation of immigrant communities, and may, in fact, make our communities less safe.

Beginning with the USA PATRIOT Act, which was signed into law weeks after September 11, the rights of noncitizens have been seriously undermined. Organizations, including the American Civil Liberties Union (ACLU) and Human Rights Watch, have documented the infringements on the civil rights of all Americans which have been implemented since September 11, 2001.⁶ Over 1,000 people have been detained and many deported in secretive conditions with little or no due process. The government has been granted far-reaching powers to track and monitor Americans' telephone and email communications, banking transactions, and charitable contributions. While immigrants have received the brunt of these counterterrorism measures, the civil rights and civil liberties of all Americans have been jeopardized.

III. “ANTITERRORIST” POLICIES THAT HARM LATINOS

The government’s counterterrorism efforts have had the most negative effects on American Muslims and Arab Americans. However, as discussed below, many of the newly-enacted policies have had a detrimental effect on Latinos as well, which will continue to be felt for many years.

VIEWING IMMIGRATION AS A NATIONAL SECURITY ISSUE

Perhaps the change that will have the most far-reaching impact on the Latino community is the creation of a broad, new national security agency. The law creating the Department of Homeland Security (DHS), signed in December 2002, abolishes the INS and incorporates immigration services and enforcement into DHS – a move that fundamentally changes the way that immigrants and immigration are treated in the U.S. Placing the immigration agency within a new mega-national security agency jeopardizes our country’s rich immigration tradition and threatens to make the already poor treatment of immigrants by the federal bureaucracy even worse.

Long before September 11 it was obvious that the INS needed to be restructured in order to better serve immigrants seeking residency and citizenship in the U.S. as well as to enforce our nation’s immigration laws more effectively. The various reports pointing to INS deficiencies regarding the events of September 11 only add to the certainty that the INS needed to be fixed. Prior to September 11, a vigorous

debate focused on how to create an efficient, effective, well-managed, and balanced immigration agency that is accountable for its treatment of the people it serves.

The authorizing legislation for the new agency ignored this debate and the proposals it produced. The new law sends a clear message that all immigration is to be treated as a national security issue, and that immigrants will be viewed as terrorist threats. Simply burying all federal immigration functions in the Department of Homeland Security without restructuring the INS, as originally proposed, is unlikely to fix the inherent problems of immigration processing and enforcement nor is it likely to make Americans safer.

NEW CHANGE OF ADDRESS REQUIREMENTS

In a move touted as a counterterrorism device, but which criminalizes and alienates law-abiding immigrants, the Department of Justice (DOJ) announced that it would renew enforcement of section 265(a) of the Immigration and Nationality Act, a 50 year-old law requiring all noncitizens to report a change of address within ten days of moving. The law also attaches criminal penalties to failure to submit a change of address, and may even lead to deportation. The first high-profile application of the law was the case of a Palestinian man who was stopped for driving four miles over the speed limit and then placed in removal proceedings for retroactively failing to file a change of address form.⁷ This latest attempt to track immigrants subjects millions of Latino immigrants to deportation simply because they were unaware of this rule at the time they moved. Even those who correctly submit the forms may

experience problems because the INS has not been able to process the forms that it has received by mail. In July 2002, the press reported that the INS had 200,000 unprocessed change of address forms sitting in boxes in an underground storage facility. Since then, the number of forms received by the INS has skyrocketed from 2,800 per month to 30,000 per day. The nearly one million additional forms that the INS has received are now also sitting in storage, exposing a large number of immigrants to potential deportation for allegedly failing to comply with the law. Enforcement of section 265(a) is clearly not aiding in the war against terrorism, provides the INS and its successor agency with more information than they can handle, and criminalizes the activities of innocent, law-abiding immigrants.

STATE AND LOCAL POLICE ENFORCEMENT OF FEDERAL IMMIGRATION LAW

Another new measure promulgated after September 11 has been to enlist state and local law enforcement officers in a variety of activities. While the safety and security of our communities and our country are of the utmost importance, and increased information-sharing between intelligence agencies will aid counterterrorism efforts, new policies that would allow local police departments to enforce federal civil immigration law may, in fact, hinder terrorist and other criminal investigations, and have a serious negative impact on Latino communities.

Sniper Case Highlights Need for Community Support

During the month of October 2002, the Washington area was terrorized by a sniper who killed randomly, frustrating the combined forces of several suburban counties and federal law enforcement agencies. During a three-week period that witnessed a dozen shootings and ten murders, the entire population of the capital area was living in fear.

The Latino and immigrant communities of the area had yet another fear – the fear of approaching the authorities with tips and information. The police encouraged the immigrant community to share any information that might lead them to the sniper. Montgomery County's Police Chief made a plea to the area's immigrants, saying that the police were not interested in anyone's immigration status. The INS Commissioner tried to reassure immigrants that the INS would not seek immigration status information on those who came forward with information. He also mentioned the possibility of visas for those who had information that could help solve the case.

During the sniper saga, immigrants saw TV coverage of two men in a white van – a Mexican and a Guatemalan – who happened to use a phone booth that had been used by the sniper. They were detained by police and later found to be completely innocent in the sniper case. Instead of being released, the two undocumented immigrants were turned over to the INS for deportation. That news spread quickly through immigrant communities, and some Spanish-language radio stations even advised people without proper immigration status to avoid the checkpoint areas or risk deportation.

While the Montgomery County authorities were telling people they were not interested in immigration status, that message was contradicted by rumors about the Justice Department's new policy and the televised arrest of two innocent undocumented workers. This story serves to highlight the consequences of leaving a large segment of the population fearful that any contact with police might result in their deportation. In future law enforcement situations, an immigrant may hold the key to solving a crime yet may not share that information for fear of reprisals.

State Police Detain Immigrants and Citizens

On August 14, 2002, nine Latino day laborer activists from Chicago were driving through Mercer County Pennsylvania on their way to a regional day labor conference in New York when the van they were driving got a flat tire. As they were changing the tire, a Pennsylvania State Police officer arrived and demanded immigration documents from all of the passengers. The driver showed his driver's license, but the officer insisted that he needed to see all of the passengers' "green cards." The group included four U.S. citizens, several legal permanent residents, and several undocumented immigrants. The police officer brought the entire group to the police station where the undocumented immigrants were eventually detained by the INS and the others were released. One of the detainees was released (with her three U.S. citizen children), one was eventually released on bond, and one signed a voluntary departure form. As of this writing, two still await their court dates.

In June 2002, Attorney General John Ashcroft declared that state and local police have the authority to enforce civil and criminal immigration violations of immigration law. In the months since that announcement, state and local police have been called upon to catch violators of the new registration and change of address requirements. In April 2002, several months prior to Ashcroft's announcement, the press reported that the DOJ was poised to issue a new legal opinion. This new, unreleased Office of Legal Counsel (OLC) opinion purportedly declares that state and local police have the "inherent authority" to enforce civil and criminal immigration violations of immigration law. While the legal opinion has never been made public, this announcement indicates that the DOJ has reinterpreted the

law and overturned decades of legal precedent, sending an immediate chill through Latino communities. Ashcroft's June 2002 announcement appears to be based on this unreleased legal opinion.⁸

The mere suggestion that local police may have the authority to enforce immigration law has resulted in fear in Latino and immigrant communities resulting in increased unwillingness to cooperate with law enforcement, to report crimes, and to come forward as witnesses. Millions will be affected by this rule as law enforcement officers, who are untrained in immigration law, stop and question Latinos and other Americans who "look" or "sound" like they might be foreign. Unlike federal immigration officials, police departments do not have training in or understanding of the complexities of immigration law. As a result of these problems, police departments lose the trust of the communities they aim to protect, communication between the police and large segments of the community is lost, and all Americans are less safe. Many police departments across the country have stated that they will not involve themselves in immigration enforcement because they recognize the detrimental effects that the loss of community trust can have.

NEW AIRPORT SECURITY POLICIES

Airport security is an obvious concern following the terrorist attacks. However, several of the measures taken by the federal government in an effort to enhance airport security have had a harmful effect on Latino workers. While these policies may convince the

public that the government is improving airport security, they do not accomplish any meaningful antiterrorist goal.

As a legislative response to the terrorist attacks, Congress passed an aviation security law in November 2002. The Aviation Transportation and Security Act (ATSA) requires that all baggage screeners be U.S. citizens. Tying together citizenship and security – without any evidence that the two are linked – sets a new and dangerous precedent in the United States. As an immediate result, thousands of legal permanent resident baggage screeners have lost their jobs as the federal government slowly takes over the nation's airport personnel. Across the country roughly 20% of all baggage screeners were legal immigrants, and in some airports immigrant workers composed 80% of the screener force. These legal immigrants must now find new employment, which may have left them and their families in precarious financial situations.

In addition, a series of new interagency airport security sweeps named “Operation Tarmac” has resulted in many more Latino and immigrant workers losing their jobs, but has not caught a single terrorist. Operation Tarmac includes employment file audits and criminal background checks of airport employees followed by enforcement sweeps and arresting those with immigration violations. In some cases state and local police, and even state Departments of Motor Vehicles, have worked with the INS and other federal agencies on Operation Tarmac activities. As a result, low-income service workers including janitors, food service workers, mechanics, and other workers who never come into contact with planes have lost their jobs, producing headlines that suggest an active enforcement effort to the general

public, even if it is unproductive with respect to terrorism.

The citizenship requirements of both ATSA and Operation Tarmac have had profoundly negative consequences for Latino workers, but have not had a positive effect on enhancing airport security.

IMMIGRANT RESTRICTIONS ON DRIVER'S LICENSES

The issue of restrictions on eligibility for driver's licenses has been one of the most important and broadly-felt problems for the Latino community. Without a driver's license, individuals are often unable to open a bank account, rent an apartment, establish service for utilities, or participate in many other facets of daily life. Prior to September 11, there were efforts in many states to improve road safety by broadening access to driver's licenses to undocumented immigrants who live and work in the community so that they may obtain proper driver training and vehicular insurance. However, the revelations that some of the 19 terrorists had state-issued driver's licenses caused many states to propose and enact restrictions on immigrant access to driver's licenses despite the fact that that all of the 19 had other valid documents, such as passports that could serve as identification. Not only have these practices prohibited many undocumented immigrants from getting licensed, but many legal residents and even U.S. citizens have been caught in the restrictions because of harassment and discrimination, or because poorly-conceived policies deny licenses to some of those lawfully here. At the federal level, several bills to restrict immigrants' access to driver's licenses

U.S. Citizens Denied Driver's License

In Greenville, South Carolina, a young Latina, Paola A. Atehortua, a third-year college student at the University of South Carolina, went to the Department of Motor Vehicles (DMV) early one morning to be among the first in line to be assisted. Paola, a naturalized American citizen, was asked to provide a passport proving she was an American citizen. Unaware that she would be asked to provide a passport, Paola instead offered the original federal document given by the government when she became an American citizen as proof of citizenship. The DMV attendant told Paola that it was not adequate proof of citizenship claiming it was "a new law" to show a passport. Paola ultimately conceded to the request and asked for her driver's license so that she could drive to her home and get her passport, but the attendant refused. Paola, feeling trapped in a no-win situation felt even more frustrated when a police officer intervened and emphasized that the DMV attendant was only doing his job and that the DMV was doing them a favor because it's "hard to tell which Latinos are legal or illegal." Feeling humiliated, discriminated against, and frustrated, Paola was left with no alternative but to leave the DMV.

After the ordeal, the Atehortua family contacted the Manager of the DMV and he responded by immediately offering an apology, claiming that the attendant was not very experienced.⁹

were introduced, and other proposals to standardize licenses across all 50 states – creating a *de facto* national ID card – were considered in 2002. Driver's license restrictions have already been introduced in several states in 2003.

Although portrayed as a counterterrorism measure, denying driver's licenses to large segments of the population is counterproductive. Like all Americans, many immigrants must transport themselves for job- or family-related reasons. By allowing immigrants to obtain driver's licenses, the roads become much safer because proper driver training is ensured, more drivers will have insurance, and the government will have documentation of immigrant drivers on the road.

RACIAL PROFILING

Racial profiling is of particular concern to the Latino community because of an increasingly well-documented history of profiling tactics by local, state, and federal law enforcement.¹⁰ Efforts such as additional joint operations between INS and other state/local law enforcement agencies have served to undermine the physical safety and constitutional and civil rights of Latino communities throughout the United States.

Prior to the terrorist attacks of September 11, the Bush Administration expressed its desire to halt this discriminatory practice during confirmation hearings of the Attorney General. Consequently, Senators Feingold (D-WI) and Conyers (D-MI) introduced a comprehensive anti-racial profiling bill, the "End Racial Profiling Act of 2001" in March of 2002.

However, in the wake of September 11, efforts to advance that legislation have completely stalled and, in contrast, there have been several legislative attempts to maintain, extend, and institutionalize the use of racial profiling as a valid law enforcement tool. For example, the "Customs Border Security Act," which became law in August 2002, expands federal authority

to U.S. Customs officers by granting them immunity from prosecution when conducting searches in “good faith,” despite a well-documented history of severe abuse of ethnic and racial minorities by this same agency.

IV. OTHER GOVERNMENT POLICIES AFFECTING LATINOS

In addition to the counterterrorism measures listed above, a variety of other policy changes and Supreme Court decisions in the past year and a half have seriously undercut the rights of immigrant workers and created an increased climate of fear in the workplace, as outlined below.

Social Security Administration No Match Letters

For the past several years, the Social Security Administration (SSA) has issued “No Match” letters to employers who employed workers whose names and Social Security Numbers do not match the SSA’s database. In past years roughly 100,000 letters were sent annually. In 2002 the program was expanded and SSA issued approximately 750,000 letters to employers, each containing at least one employee name. The SSA’s objective is to clear up its database and reduce the “Earnings Suspense File”¹¹ so that SSA benefits can be allocated to their rightful contributors.

Although the letter clearly states that the employer is simply to report the mismatch to the employee, many employers have used these letters as a pretext to fire the employees listed on the No Match letter. Many Latino workers, immigrant workers, and workers involved in

Workers Organize to Retain Jobs

While hundreds of thousands of No Match letters were sent in 2002, community-based organizations in many states and cities organized efforts to educate immigrant workers, protest the letters, meet with employers, and save the jobs of many workers. Immigrant advocates and community organizations in Chicago had several successful campaigns. In July, members of the Chicago chapter of the community organization ACORN and other advocates persuaded Warner Elektra Atlantic, the record label for Warner Brothers Music and an AOL Time Warner company, to back down on its attempt to fire 31 workers after receiving Social Security Administration No Match letters. The workers were told to straighten out their “SSA No Match problems” or they would be fired at the end of the month. Advocates contacted Warner Elektra Atlantic and demanded immediate negotiations to prevent the firing of the workers. While the company met with its lawyers, a protest was planned at the Warner Elektra Atlantic shop in Aurora, IL. Before the protest began, Warner Elektra Atlantic called the workers into the Human Resources office to tell them they could remain on the job. That same month, the Chicago City Council passed a resolution opposing SSA’s No Match letter policy and urging businesses to follow a code of conduct intended to minimize the damage done to Chicago’s residents and economy by this practice.¹²

union activities have been fired. Other workers simply do not show up for work once they know a letter has been received out of fear of entanglements with government agencies. Often, many of the employees listed on the No Match letters are lawful residents or even U.S. citizens whose names are misspelled or whose information has not been updated. As a result, the No Match letters have been incredibly

disruptive to immigrant communities and to employers who are faced with losing valued workers and who must deal with a rapidly-changing workforce.

Most importantly, the No Match letters are symptoms of a much larger problem and clearly illustrate the inherent discrepancies between the United States immigration laws and the reality of its economy. Important sectors of the labor market are increasingly dependent on undocumented workers. Furthermore, as highlighted by the Suspense File, these workers pay Social Security and other taxes using borrowed or fraudulent Social Security Numbers, but are unable to access the benefits their tax dollars have earned. The No Match policy of the SSA does not get at the root problems of our immigration system, has not effectively met its goal of reducing the Earnings Suspense File, has been disruptive to employers, and has simply resulted in fear and joblessness in the Latino community.

Worker Rights and *Hoffman Plastics v. NLRB*

In addition to the anti-immigrant policies of the legislative and executive branches of government, the Supreme Court has also proven unfriendly to immigrant workers. In March 2002, the Supreme Court handed down a decision that overturned the long-standing precedent that all workers are covered equally by labor laws, regardless of their immigration status. In the *Hoffman Plastics v. National Labor Relations Board (NLRB)* decision, the Court decided that employees working in the United States with false documents are not entitled to back pay from employers, even if they are fired illegally. By denying a remedy to one group of workers, the *Hoffman* decision undermines the status of all workers and strengthens employers' incentive to hire unauthorized

workers because they can fire these employees when they engage in any activity deemed unfit without suffering any legal ramifications. Furthermore, the *Hoffman* decision sends the message that immigrant workers' rights are not valued. This results in a situation in which immigrant workers now have reason to disregard the workplace rights they do possess, and may hesitate to report unlawful or unsafe work conditions or civil rights violations because they are ineligible for remedies.

The *Hoffman* decision hurts all American workers because it lowers wages, reduces working conditions, and discourages organizing, and it also harms law-abiding employers who receive unfair competition from unscrupulous employers who take advantage of undocumented labor.

V. IMPLICATIONS FOR COMPREHENSIVE IMMIGRATION REFORM

Comprehensive immigration reform, which is well-documented as a public policy priority for Hispanic Americans, including those who are not immigrants,¹³ has been another victim of the terrorist attacks. Prior to September 11, President Bush and Mexico's President Vicente Fox were in negotiations that could have led to comprehensive immigration reforms. While the Bush Administration has said that it would like to return to pursuing an affirmative immigration agenda, there has been no action in that direction.

Despite the delay in action, the nation's focus on preventing terrorism since September 11 highlights the need for comprehensive immigration reform. There are two specific elements to this overhaul that are clearly in the

nation's security interest: creating a procedure that brings undocumented immigrant workers in the U.S. out of the shadows and into contact with civic authorities; and regulating the flow of future migrants who will continue to seek job opportunities in the United States, and who currently enter without inspection thereby reducing undocumented immigration.

It has long been clear on all sides of the immigration policy debate that the current immigration policy regime has failed to regulate the flow of migrants to the U.S. While the legal immigration system functions in an orderly – if heavily backlogged – manner, the laws that are intended to control unwanted migration are based on the false assumption that there is not room in the labor force for migrants. Despite the assumption, there is ample evidence that a space exists for this sector of the workforce; indeed, it is currently occupied by more than eight million workers. Increasingly, border enforcement heightens the risks immigrants face – contributing to an average of more than one death per day – to arrive at jobs in industries that openly acknowledge that they rely on this workforce. A number of industries and their official representatives, in sectors such as hotels, restaurants, and nursing homes, argue that their industries could not function without these workers, and express discomfort with the knowledge that a good portion of them are here illegally.¹⁴ Americans seem to be largely aware that the nation relies on immigrant workers, while at the same time its policies aspire to keep them from getting here.

The increasingly obvious hypocrisy in the nation's immigration policy has led to calls from a variety of sectors, including the business community, labor movement, religious

community, and ethnic groups, for reforms that better align immigration laws with the dynamics driving migration.¹⁵ These calls have taken on a new urgency since September 11. The existence of a large undocumented population in the nation's neighborhoods and workforce, which fears contact with civic authorities and is increasingly isolated by virtue of changes in driver's license policy and local police practices, is clearly inconsistent with U.S. security objectives. There are no indications that the flow of migrants into the United States is slowing; indeed, the trends continue largely as they have for the last 20 years, because U.S. law fails to accommodate the economic realities of migration. Comprehensive immigration reform along the lines of the discussion initiated by Presidents Bush and Fox could have an enormous impact, allowing the U.S. to regulate migration flows and legalize the existing workforce in a way that would allow authorities to know more reliably who is here in the U.S. and who is entering. Clearly, the ability to conduct background checks and obtain other information from migrants who are present in or will soon enter the U.S. workforce is preferable to the current situation, in which those who survive the dangerous trek to the U.S. strive to live and work invisibly within its borders.

VI. CONCLUSION

Immigrants continue to come to the U.S. for the same reasons they always have: to work, to reunite with family members, to flee persecution, and to pursue the American Dream. One sign of their continued effort to embrace America is that in the months since September 11, 2001, applications for

naturalization have increased dramatically. Thousands of longtime permanent residents have taken the final step toward U.S. citizenship out of a renewed sense of pride and patriotism.¹⁶

Yet, there is another side to the story. Many are applying for citizenship out of a sense of fear; they feel that they must become citizens as their only protection from abuse at the hands of various law enforcement agencies. This problem extends beyond immigrants to family and community members who also feel fearful and alienated regardless of their citizenship status.

In the post-September 11 environment, the U.S. must reassess its policies and do what is necessary to make Americans safer and prevent future terrorist attacks. However, these policies first and foremost must be effective; they must truly make the nation safer rather than simply making its residents feel better. Second, counterterrorism policies must not have unintended negative consequences or result in an opportunity for discrimination or abuse against innocent individuals or entire communities. Unfortunately, many of the anti-immigrant actions taken by the U.S. government do not meet these basic requirements.

In order to address these concerns and move policy in a more positive direction, NCLR believes the government should:

- ▶ **Use its resources strategically to identify terrorists.** Collecting additional information about immigrants through registration, change of address rules, and other surveillance techniques is

not an efficient or wise use of resources for antiterrorism purposes. The government is gathering more information than it can handle about a large number of people without any additional information about who is truly dangerous. Searching for terrorists is like looking for a needle in a haystack; by casting such a wide net and making all immigrants suspects, the U.S. has simply added hay to the haystack. The federal government should use its resources and work with intelligence agencies around the world to collect intelligence about those who wish to do us harm and share that information to ensure that truly dangerous people are not allowed into the U.S.

- ▶ **Develop closer relationships with immigrant communities so that they feel safe and will cooperate with the authorities in antiterrorism endeavors.** Depriving immigrants of driver's licenses, allowing local police to enforce immigration laws, using employers to enforce Social Security laws, engaging in racial profiling, and ignoring hate crimes all marginalize large segments of our communities. When immigrant communities lose faith in government authorities, lose trust in law enforcement, and live in constant fear of what new tool the government will use to deport them or their family members, important law enforcement efforts that rely on community involvement are undermined.

The United States stands at the threshold of an important opportunity to bring rationality and justice to its immigration policies after decades

of failed experiments. Those policies are currently teeming with inconsistencies: the law seeks to discourage and restrict undocumented workers; the U.S. economy beckons low-wage workers; the law makes the hiring of unauthorized workers illegal, yet it winks at the existence of an unauthorized workforce estimated to be as high as nine million people. Increased border enforcement has not decreased the number of undocumented immigrants, but has increased the number of would-be migrants who die each year along the southern border. While some argue that a legalization program would undermine the rule

of law, it is hard to imagine any situation more likely to encourage disrespect for the law than the hypocrisy of the current system. It is time to realign U.S. immigration laws with the best traditions and values of the United States.

Like all Americans, our nation's Latinos want to be safe and free from future terrorist attacks. While there are important steps that must be taken to ensure our country's security, it is unnecessary, and probably counterproductive, to harm hardworking, contributing members of our American society who happen to be – or look like they are – foreign-born.

ENDNOTES

1. Hate crimes and racial profiling against Arab and Muslim Americans have affected families across the country, and the Department of Justice (DOJ) has actively singled out immigrants of Arab or Muslim descent. Since September 11, hundreds of immigrants have been taken into custody, often without being told why, without access to a lawyer, without anyone knowing where they are being held. Immigration judges closed to the public all immigration-related trials of individuals picked up in connection with the September 11 investigations. The order has applied to more than 600 “special interest” immigration cases. Not only is the courtroom closed to visitors, family, and the press, but the restriction extends to even “confirming or denying whether such a case is on the docket.” Because they are being held in secret, there is no way to determine if these trials are being conducted fairly, or if immigrants are being given proper due process as the government tries to deport them. In addition, the DOJ began to track down and interview up to 8,000 Arabs in the U.S. who were interviewed not because they were suspected of having a connection to terrorism, but because they were Arab, in a certain age range, and were newly-arrived in the U.S. And in each of its enforcement initiatives since September 11, the DOJ has made it a point to enforce the law first on immigrants of Middle Eastern descent. For example, an effort to track down 300,000 immigrants who have been given final deportation orders has focused first on Middle Eastern men. For more see *Healing the Nation: The Arab American Experience After September 11*. Washington, DC: Arab American Institute, 2002.
2. *Beyond the Census: Hispanics and an American Agenda*. Washington, DC: National Council of La Raza, August 2001.
3. According to the Urban Institute, one in ten children in the U.S. lives in a mixed-status family in which at least one parent is a noncitizen and one child is a citizen. “Children of Immigrants Fact Sheet,” Washington, DC: The Urban Institute, 2001.
4. *Combating Anti-Immigrant Opportunism Post-September 11*. Washington, DC: National Council of La Raza, 2002.
5. See National Immigration Forum, *Background: Immigration and National Security, The Enhanced Border Security and Visa Entry Reform Act*. Washington, DC: National Immigration Forum, 2002.
6. See American Civil Liberties Union. *Insatiable Appetite: The Government’s Demand for New and Unnecessary Powers After September 11*. Washington, DC: ACLU, 2002; *Presumption of Guilt: Human Rights Abuses of Post-September 11 Detainees*. New York, NY: Human Rights Watch, 2002; Schulhofer, Stephen J. *The Enemy Within: Intelligence Gathering, Law Enforcement, and Civil Liberties in the Wake of September 11*. New York: Century Foundation Press, 2002; Lawyers Committee for Human Rights. *A Year of Loss: Reexamining Civil Liberties Since September 11*. New York: Lawyers Committee for Human Rights, 2002.
7. Bixler, Mark, “Minor immigration slip becomes costly to INS: Palestinian faces ouster on little-used law,” *Atlanta Journal-Constitution*, July 10, 2002.
8. For more information see Waslin, Michele, *Immigration Enforcement by Local Police: The Impact on the Civil Rights of Latinos*. NCLR Issue Brief Number 10, Washington, DC: NCLR, January 2003.
9. Leon, Wilfredo, “Joven hispana es atropellada en oficina del DMV,” *Latino*, December 28, 2001.
10. See Joge, Carmen T., *The Mainstreaming of Hate: A Report on Latinos and Harassment, Hate Violence, and Law Enforcement Abuse in the ‘90s*, Washington, DC: National Council of La Raza, November 1999.
11. Title II of the Social Security Act requires the Social Security Administration (SSA) to maintain records of wage amounts employers pay to individuals.

- Employers report their employees' wages to SSA at the conclusion of each tax year. Wages on those employer reports containing invalid names and/or Social Security Numbers cannot be posted to an individual's earnings record in SSA's Master Earnings File. Instead, these wages are placed in the Earnings Suspense File – a repository for unmatched wages. See "Congressional Response Report: Status of the Social Security Administration's Earnings Suspense File" (Document A-03-03-23038). Washington, DC: Office of the Inspector General, Social Security Administration, November 2002.
12. Chicago City Council Resolution, passed July 31, 2002.
 13. See National Council of La Raza, *Mobilizing the Vote: Latinos and Immigrants in the 2002 Midterm Election*. Washington, DC: NCLR, November 2003; Pew Hispanic Center, National Survey of Latinos. Washington, DC: October 2002.
 14. See Essential Worker Immigration Coalition (EWIC), www.ewic.org. EWIC is a coalition of businesses, trade associations, and other organizations from across the industry spectrum concerned with the shortage of both skilled and lesser skilled ("essential worker") labor.
 15. *Testimony on Immigration Policy*, presented by Raul Yzaguirre, National Council of La Raza, before the Senate Judiciary Committee Hearing: *U.S. Mexico Migration Discussions: An Historic Opportunity*, Washington, DC, September 7, 2001.
 16. Over 700,000 new naturalization applications were received in FY 2002, compared to 501,646 in 2001 and 461,000 in 2000. INS Monthly Statistical Report, September FY 2002 Year End Report.

NCLR ISSUE BRIEFS

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Brings attention to the importance of the EITC to Hispanic and other low-wage workers and outlines several important steps toward improving the credit for families. **ISSUE BRIEF No. 1**

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Highlights changes in Temporary Assistance for Needy Families (TANF) caseloads nationwide between 1996 and 1999 and offers a preliminary assessment of welfare reform's impact on Latino families and children. The paper also outlines areas for additional research and provides policy recommendations for policy makers to consider during welfare reauthorization in 2002.

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THE LATINO VOTE IN THE 90'S

Examines Latino voting trends in the 1990's. In 1996, Hispanics were the only group of American voters whose turnout at the polls increased. In 1998, Hispanic voters provided the margin of victory in races across the country, especially in California and New York. With every election, this Hispanic mobilization is likely to increase; in coming years it is expected that the Hispanic vote will have a significant impact at all levels, including the Presidential election. **ISSUE BRIEF No. 4**

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Examines the low savings rate of Latinos, what that has meant in terms of their wealth, and how it has negatively affected their overall financial security. The brief also discusses the barriers Hispanics face in saving and lays out promising strategies and recommendations for policy-makers and financial institutions to help increase Latino savings.

ISSUE BRIEF No. 5

SAFE ROADS, SAFE COMMUNITIES: IMMIGRANTS AND STATE DRIVER'S LICENSE REQUIREMENTS

This brief explores the issues involved in current proposals to restrict immigrant access to driver's licenses, arguments in favor of increased accessibility, and steps that can be taken to ensure that driver's licenses remain authentic and prevent unauthorized drivers from making U.S. roads less safe. **ISSUE BRIEF No. 6**

INCREASING HISPANIC HOMEOWNERSHIP: STRATEGIES FOR PROGRAMS AND PUBLIC POLICY

Reviews the most recent data on homeownership and analyzes the factors associated with the low homeownership rate of Latinos. The brief also proposes specific recommendations and lays out a strategy for the private sector, community-based programs, and public policy to increase the number of Hispanic homeowners by two million over the next two decades. **ISSUE BRIEF No. 7**

THE NO CHILD LEFT BEHIND ACT: IMPLICATIONS FOR LOCAL EDUCATORS AND ADVOCATES FOR LATINO STUDENTS, FAMILIES, AND COMMUNITIES

This issue brief examines how the No Child Left Behind Act may impact Latino students, families, and communities. It paints a broad picture of what state and local educators must consider as they attempt to implement this legislation. Specifically, this paper provides a short, recent history of the standards movement in Congress, discusses challenges in implementing these reforms as they relate to Hispanic students, and provides recommendations for state and local policymakers. **ISSUE BRIEF No. 8**

IMMIGRATION ENFORCEMENT BY LOCAL POLICE: THE IMPACT ON THE CIVIL RIGHTS OF LATINOS

Enforcement of immigration laws has always been the responsibility of the federal government. However, following the September 11, 2001 terrorist attacks, the Department of Justice initiated new counterterrorism policies, one of which has been to enlist state and local law enforcement officers in antiterrorist activities. While the safety and security of the United States is a priority, this document points out how new policies that would allow local police departments to enforce federal immigration law may actually hinder terrorist and other criminal investigations and is likely to have a serious negative impact on Latino communities. The report also documents how involving local police officers in federal immigration enforcement contradicts decades of federal case law and policy, and how delegation of immigration authority is likely to result in racial profiling, police misconduct, and civil rights violations. The publication also points out that such efforts erode trust between local police and the communities they serve and protect. **ISSUE BRIEF No. 9**

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