

JOINT HEARING ON SOCIAL SECURITY NUMBER AND
INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER (ITIN)
MISMATCH AND MISUSE

SUBMITTED TO:

**THE HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON OVERSIGHT
SUBCOMMITTEE ON SOCIAL SECURITY**

Submitted by:

Raul Yzaguirre
President

NATIONAL COUNCIL OF LA RAZA
1111 19th Street, N.W.
Suite 1000
Washington, DC 20036
(202) 785-1670

March 9, 2004

My name is Raul Yzaguirre, and I am President of the National Council of La Raza (NCLR). NCLR is a private, nonprofit, nonpartisan organization established in 1968 to reduce poverty and discrimination and improve life opportunities for the nation's Hispanics. NCLR is the largest national Hispanic constituency-based organization, serving all Hispanic nationality groups in all regions of the country through a network of more than 300 affiliate community-based groups. I appreciate the opportunity to submit comments on the issues of the Social Security Administration's (SSA) no-match letters and ITINs.

The two issues before the Committee have had a disproportionate impact on the Latino immigrant community. While we share the Committee's concerns about homeland security, we do not believe that targeting hardworking, low-income, taxpaying immigrants enhances national security. In fact, efforts to keep immigrants underground and dependent on a cash economy hinders efforts to identify persons residing in the U.S. Furthermore, SSA no-match letters and efforts to undermine the ITIN program will only result in poor compliance among immigrants with regard to filing taxes; make immigrants more dependent on the black market for fraudulent or fraudulently-obtained documents; lead to an increase in the Suspense File; and continue to have other harmful effects on the Latino community

Individual Taxpayer Identification Numbers (ITINs)

The Internal Revenue Service (IRS) created the ITIN on July 1, 1996, for foreign-born individuals who are required to file tax returns. The ITIN, a nine-digit number similarly formatted like a Social Security Number (SSN), is issued only to individuals who are not eligible for an SSN. Since the inception of the program, the IRS has issued nearly 6.9 million ITINs – 70% to Latino immigrants. Over a million taxpayers reported wages of almost \$7 billion and paid more than \$305 million to the IRS in 2001 using the ITIN as their identifier. More importantly, three-quarters of all ITINs issued were reflected in tax returns prompting Nina Olson, the Taxpayer Advocate, to refer to the ITIN population as a “very compliant sector of the U.S. taxpayer population.”

Contrary to common perception, ITINs are not solely for undocumented immigrants; the ITIN is available to a range of foreign-born persons. Use of an ITIN does *not* therefore create an inference regarding a person's immigration status. Those eligible for the ITIN include nonresident students; professors or researchers; authors who earn royalties for their writings or who are paid an honorarium for speaking engagements at a university; individuals who have interest-bearing accounts in a bank, or who receive dividends from money invested in stocks but are not eligible for an SSN; and many immigrants whose immigration cases are in process but who do not yet have employment authorization. Immigrants and U.S. citizens may also apply for an ITIN for their spouse or dependents in order to claim them as dependents on their tax returns.

It is important to distinguish between the ITIN as an “identifier” and that of proof of identity. An ITIN alone cannot and should not be used to prove identity. Just like the Social Security Number, the ITIN is issued so that a taxpayer has a unique identifier that is associated with his or her tax return. Since other forms of identifiers can either be frequently changed (address) or be shared by many people (names and birth dates), the IRS assigns to each individual taxpayer a unique number that will not be assigned to any other taxpayer.

The ITIN is a unique identifier provided to individuals who can prove their identity and foreign-born status. An individual cannot get more than one ITIN assigned to him or her. All applications are submitted and approved at a single processing center in the United States located in Pennsylvania. The IRS ensures that the W-7, the application for an ITIN, is properly filled out and that all of the requisite documents have been submitted. The IRS then authenticates the documents through a number of validation methods such as the use of inspection equipment (Black Lights, Jewelers' Loupe, etc.). All documents must be current and either originals, copies certified by the issuing agency, copies certified by the U.S. Department of State, copies certified or notarized by a military Judge Advocate General (JAG) office, or copies notarized in the United States. Documents notarized in a foreign country are not acceptable unless they meet certain criteria. Documents establishing identity must bear the applicant's name and photograph. The only document that is sufficient by itself to establish both identity and foreign-born status is an unexpired passport. All other documents, including the "matrícula" (the identification issued by Mexican consulates) and voter registration card, must be accompanied by a second document in order for the applicant to corroborate his or her identity.

Although tax return filing is clearly the primary purpose for using an ITIN, ITINs have also been used to open interest-bearing accounts at financial institutions. Linking immigrants to mainstream financial services deters crimes and predatory schemes against immigrants, who are more vulnerable not only because they are more likely to have a lot of cash on hand to pay for daily needs, but because they are the least likely of residents to report crimes to local police. Four out of five (82%) unbanked individuals use check-cashing outlets and, therefore, must often carry large sums of cash making them easier targets for crime – especially theft or robbery. Because of these safety concerns, police departments across the country support efforts to link immigrant workers to mainstream financial institutions as a means of reducing crime and violence in neighborhoods and communities and as a means of promoting good community policing. Therefore, ITINs facilitate, not harm, public safety, crime prevention and investigation, and national security efforts.

SSA No-Match Letters

Sent by the Social Security Administration to certain employers, no-match letters have had a devastating impact on immigrant worker communities throughout the country. For the last several years, advocates have been expressing deep concern about the continued use of these no-match letters by employers to discourage immigrant workers from asserting their workplace rights. Advocates have also been working hard to educate employers who, due to the confusion caused by these letters, feel pressured to take some action against employees listed in the no-match letters.

In an effort to update its database, SSA sends no-match letters to employers when the names or Social Security Numbers listed on an employer's W-2 forms do not agree with SSA records. Attached to each no-match letter is a list of employees for whom the SSA database could not find a match. The no-match letter is intended to be an educational correspondence that informs companies that their employees' wages are not being properly credited to their Social Security accounts. SSA aims to correct its records so that employees' earnings are accurately tracked and can be used to calculate benefit levels when applications for retirement or disability benefits are made with SSA. Correcting the SSA database is certainly a commendable goal. However, the

effectiveness of these no-match letters is unproven, and the resulting consequences on immigrant worker communities have been devastating.

Despite hundreds of thousands of no-match letters that have been sent in the past several years, the Earnings Suspense Fund (ESF) has not decreased. In fact, cumulative earnings in the ESF covering 1937-2001 total over \$420 billion. However, the system's ineffectiveness is not its gravest consequence. The impact of the no-match letters on the immigrant community has been profound and widespread. The failure of the no-match letters to safeguard workers effectively against unfair and illegal practices on the part of employers has had devastating effects on the workers and their families.

As SSA admits, there are many reasons for computer no-matches, and the no-match letters themselves do not prove any wrongdoing by either employer or employee. For example, a large proportion of the names on the no-match letters are Latino, Asian, or other names frequently misspelled by employers resulting in computer no-matches. These honest data-entry mistakes disproportionately affect immigrant workers. However, employer misuse of the no-match letters has caused great harm to workers nationwide. While the letter explicitly warns employers not to take adverse action against workers listed on the letter, layoffs, suspensions, firings, retaliations, and discrimination against these workers are widespread and well-documented. Some employers have simply fired all workers on the list; others have incorrectly reverified the work authorization of workers on the list. In many cases, only Latino or other "immigrant" workers, or workers involved in union organizing campaigns, have been fired or harassed (*See Aaron Nathans, UW and Janitors Settle; Tentative Deal: \$24,000 for Latinos, Capital Times, Dec. 8, 2001 at A1*). And since a disproportionate number of names on the no-match lists are "foreign-sounding" names, many employers fear that they will face sanctions if they hire additional workers who look or sound "foreign," resulting in increased citizenship or national origin discrimination in the hiring process.

Low-wage immigrant workers are the most likely to be affected by all of these illegal practices. In fact, Latino communities have reported widespread abuse of the SSA no-match letters, resulting in greatly increased anxiety within the immigrant community. Many legal permanent residents and even U.S. citizens have been affected, and the undocumented worker community has been pushed even further underground. Because many immigrants live in mixed-status families and close-knit communities, when one worker is fired entire families, including U.S. citizen children, suffer.

Thus the SSA's no-match letter policy has not resulted in reducing the suspense file, has not eliminated computer no-matches, and has not diminished unfair hiring practices. In fact, the consequences have been quite the contrary. Particularly in this time of heightened security, we must foster an environment that that will encourage individuals to emerge from the shadows and participate as productive members of our society in order to separate them from those who are here to do us harm. Rather than pour the SSA's resources and energies into an ineffective and harmful policy, we must be prepared to step back and look at the larger picture.

Conclusion

The problems highlighted during this hearing clearly demonstrate the need for comprehensive immigration reform. The SSA suspense file shows that immigrant workers, regardless of their immigration status, are paying Social Security taxes and are not receiving the benefits of those taxes. The evidence presented also demonstrates that immigrant workers are essential to the U.S. economy and that U.S. employers have knowingly and unknowingly hired many undocumented workers needed to fill jobs in key sectors of the economy. These hardworking, taxpaying immigrants should be rewarded for their contributions by earning the opportunity to legalize their immigration status and obtain permanent residence in the U.S. Future immigrant workers must come through lawful channels. Only in this way can these workers come out from the shadows, be known to U.S. authorities, properly pay all of their taxes, and be compensated appropriately. Reforming our nation's immigration system and making all immigration lawful would also greatly reduce document fraud by virtually eliminating the market for falsified Social Security Numbers and other identifying documents, and the Social Security Administration and Internal Revenue Service could continue their primary missions of administering the Social Security program and collecting taxes.

We urge you to reflect upon the ineffectiveness of the no-match letter policy and work toward effective and comprehensive solutions to the problems associated with unauthorized labor in the U.S. We look forward to working with you in the future.