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# Summary Report Prepared for Assembly Select Committee on Statewide Immigration Impact

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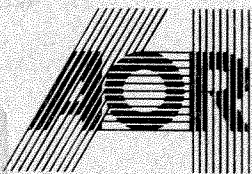
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**Summary Report  
Prepared for**

**ASSEMBLY SELECT COMMITTEE  
ON  
STATEWIDE IMMIGRATION IMPACT**

**Assembly Member Grace Napolitano  
Chairperson**



prepared by  
Assembly Office of Research

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**SUMMARY REPORT**

**ASSEMBLY SELECT COMMITTEE**

**ON**

**STATEWIDE IMMIGRATION IMPACT**

Prepared by Assembly Office of Research  
Jimmy R. Lewis, Director

Coauthors:  
Jennifer Mu  
Brent Barnhart

May 1994

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*Assembly Select Committee  
on  
Statewide Immigration Impact*

*Members:*

*Grace Napolitano, Chairperson*

*Marguerite Archie-Hudson*

*Joe Baca*

*Julie Bornstein*

*Louis Caldera*

*Martha Escutia*

*Paul Horcher*

*Juanita McDonald*

*Bill Morrow*

*Richard Polanco*

*Hilda Solis*

*Nao Takasugi*

*Consultants:*

*Jennifer Mu*

*Brent Barnhart*

*Linda Vasquez*



ERS  
UERITE ARCHIE-HUDSON  
AACA  
BORNSTEIN  
S CALDERA  
RTHA ESCUTIA  
KUL V. HORCHER  
JUANITA McDONALD  
BILL MORROW  
RICHARD POLANCO  
HILDA SOLIS  
NAO TAKASUGI

**Assembly  
California Legislature**  
**SELECT COMMITTEE ON  
STATEWIDE IMMIGRATION IMPACT**  
**GRACE F. NAPOLITANO**  
CHAIRWOMAN



STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0001  
PHONE (916) 445-0965  
FAX (916) 327-1203

May 16, 1994

To the readers of this report:

California has a tremendous ethnic and racial diversity which has contributed to its role as a leader in the world's economy. Immigrants from throughout the world add to that diversity, providing workforce skills that range from professional and technical expertise to manual labor for the state's vital industries.

History teaches us that when the economy takes a downward spiral, it is not uncommon to seek scapegoats. Over the past four years, as California suffered its worst economic downturn since the Great Depression of the 1930s, immigrants have again become convenient scapegoats for some Californians.

During the past 14 months, the Select Committee held five statewide hearings, several informational meetings, and worked with the Assembly Office of Research in the search for truth and clarification concerning the multifaceted issue of "immigration." Where immigrants come from and why, their contributions and their liabilities to the economy and society were among the questions the Select Committee addressed.

Some of the major findings and conclusions reached were:

- Current data sources and statistics are not adequate to provide answers to the major questions concerning immigration, meaning that a well-planned and comprehensive statewide study is necessary to arrive at the kinds of answers needed by state and federal policymakers.
- Preliminary information strongly indicates that visa overstayers account for at least 50 percent of California's illegal immigrants, meaning that initially they entered the country legally. Therefore, federal measures that are separate and distinct from those proposed for border control must be devised to address this problem.
- The National Guard is not trained for border control duties, and there are both fiscal and legal constraints that also limit its effectiveness in performing border enforcement.

- The bulk of our problems with immigration are caused, not by action or inaction of the state, but by the failed federal policies of the past few decades when the problem was growing – well before passage of the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990 which increased family-sponsored immigration.
- Local, state, and federal agencies, as well as foreign governments, must begin a cooperative effort to solve immigration problems.
- The people of California have a duty, both morally and under law, to educate all children, or else we risk creating an uneducated underclass, dependent on public assistance.
- Several factors have converged – including a national recession, defense cuts, and a proliferation of misinformation concerning immigrants – to create increased racial tensions that have resulted in immigrant bashing and hate crimes. A study that would provide facts where none now exist is a necessary step toward easing such tensions, and is the number one recommendation of the Select Committee.

It is crucial to Californians that the immigration issue continue to be studied from a statewide perspective if we are to arrive at a satisfactory public policy. To date, no such study has been done. This report is a first step toward achieving that statewide perspective, so that we can more accurately assess immigration's impact on all Californians.

Sincerely,

  
Grace F. Napolitano  
Chair

Assembly Select Committee on Statewide Immigration Impact

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## CHAPTER I INTRODUCTION

In March 1993, Assembly Speaker Willie L. Brown, Jr., established the Assembly Select Committee on Statewide Immigration Impact in response to rising public concerns over legal and illegal immigration in California. Assembly Member Grace Napolitano was appointed to chair the committee.

The committee's challenges were daunting. After a severe and lengthy economic downturn that began in May 1990, a wave of anti-immigrant sentiment surfaced in California. By January 1993, that wave, predictably, had deepened. A perusal of American and California history clearly connects most anti-immigrant movements with periods of economic distress, when earlier settlers fear that their economic interests are being threatened by newcomers. Between May 1990 and early 1993, approximately 600,000 to 800,000 Californians lost their jobs. As the economy faltered, revenues to pay for federally-mandated state and local services to certain categories of immigrants also fell. Faced with the third consecutive year of state budget shortfalls, the cost of providing services to immigrants generated a controversy over immigrant fiscal contributions to state, local, and federal government. The issue was clouded by both misinformation and a lack of information, and complicated by the fact that during the previous decade, the federal government had made only token payments to cover the costs of services California was required to provide for its disproportionate share of immigrants to this country.

**The Select Committee established two broad goals: 1) to collect information on the impact of both legal and illegal immigration to the state; and, 2) to use that information to develop policy recommendations for both state and federal government, especially as those recommendations would affect the federal-state fiscal relationship.**

Although immigration policies are primarily decided at the federal level, members of the Select Committee believe the state can take certain measures to relieve some of the immigration-related problems.

After informational meetings in Sacramento in the spring and early summer of 1993, the Select Committee held public hearings in Santa Cruz, San Francisco, Los Angeles, San Bernardino, and Sacramento on multiple issues associated with immigration. Scholars and research experts, state and local government officials, school administrators, health care providers, employers, labor union leaders, community service providers, and religious leaders testified. Their testimony focused on the impact of immigrants of all categories on education, health, social services, employment, border control, the criminal justice system, civil rights, and moral imperatives. (See Appendix A for a complete list of the witnesses who were invited to testify before the Select Committee.)

This report is a synthesis of the testimony and information provided to the Committee by these witnesses. The findings and recommendations that address each finding follow.

## **MAJOR FINDINGS AND RECOMMENDATIONS**

The key findings based on testimony to the Select Committee are listed below, followed by the recommendations that address one or more of the findings:

### **Findings:**

- Current data sources are not adequate to answer the questions about immigrants -- their numbers, their contributions, and their costs to the California economy. More information is necessary in order to make better informed policy decisions concerning both legal and illegal, long-time and recent immigrants.
- Existing estimates of immigrants' fiscal impact need to be viewed with caution. Weak research methods and questionable assumptions, coupled with the lack of a statewide focus, have resulted in reports that have not provided an accurate, long-term statewide evaluation of the fiscal impact of immigrants -- legal or illegal.

### **Recommendation:**

The Assembly should commission, with the assistance of the California Policy Seminar and the greater academic community, a comprehensive statewide study of the short-term and long-term economic and social impact of immigrants and temporary residents -- legal and illegal. To the extent possible using sound methodology, the study should attempt to evaluate the differences in immigrant impact on local, state, and federal revenues and expenditures.

### **Finding:**

- There are strong indications that as many as half of the persons who have been included in estimates of illegal immigrants are in the category of visa overstayers, but demographers have not yet reached total agreement on the methodology used to arrive at that estimate. The federal government, when addressing the problems related to illegal immigration, has for the most part focused on strengthening border controls, which fails to resolve the visa overstayer problem.

**Recommendation:**

The Legislature should urge the federal government to more actively pursue and identify undocumented, therefore illegal, immigrants who fall into this "visa overstayer" category, and deport them.

**Finding:**

- Enforcement of our land and sea border policies needs to be strengthened to curb the flow of illegal immigrants. However, enforcement alone will not significantly curb illegal immigration. There are a variety of factors which "push" large numbers of people out of their native countries and into the United States. These factors include persistent poverty and unequal distribution of wealth, human rights violations, and political persecution.

**Recommendations:**

1. State, local, and federal law enforcement agencies throughout California should develop policies and working agreements to form special task forces and cross-designate agents with the Immigration and Naturalization Service to enforce immigration laws.
2. The Legislature should call on the federal government and the Governor of California to seek binational relationships and agreements with nations from which there are large numbers of emigrants, in order to reduce the pressures for leaving those nations.

**Finding:**

- The federal government collects a large portion of the taxes paid by illegal immigrants. However, since most of the government-funded services are provided at the state and local levels, those governments absorb much of the costs. More financial assistance from the federal government is essential to help financially strapped state and local governments.

**Recommendations:**

1. The Legislature should continue its efforts, in conjunction with the Wilson Administration, to persuade the federal government to provide sufficient funding for federally mandated health and social programs which serve large numbers of immigrants -- legal and illegal.
2. The state should centralize its data collection operations for immigrant services to enhance efforts to obtain federal reimbursement.



**Finding:**

- Employer sanctions enacted under the Immigration Reform and Control Act of 1986 (IRCA) have failed to stem the illegal flow of immigrants into the United States. Federal enforcement of IRCA has been limited to "paper" violations. In order to ensure that employers no longer hire undocumented workers, federal and state fair labor standards laws need to be vigorously enforced. Undocumented immigrants are an easily exploited labor force. By making it costly to hire anyone at below minimum wage, or to subject workers to substandard working conditions, the principal incentive to hire illegal workers will disappear.

**Recommendation:**

The Legislature should enact legislation to strengthen the enforcement of existing fair labor standards laws in order to discourage employers from hiring undocumented workers.

**Finding:**

- Criminal justice costs generated by the increased number of criminal aliens incarcerated in California prisons have become a major budget problem for state and local governments. The federal government has not been successful in deporting criminal aliens back to their countries of origin, due to the constraints in international treaties, the complexity of federal deportation procedures, and the lack of resources to prosecute deported criminal aliens who re-enter the country. California needs federal assistance to alleviate the impact of criminal aliens on its criminal justice system, either in the form of federal funding or federal prison space for the incarceration of criminal aliens.

**Recommendation:**

California, through Congress and the Clinton Administration, should seek either federal prison space or federal funding to reduce the impact of an estimated 18,000 deportable felons incarcerated in state prisons. The state also should assist county efforts to obtain federal assistance for approximately 7,000 deportable immigrants in county jails.

**Finding:**

- Providing basic health care to everyone will avoid enormous future costs to the public health care system. Viruses and other pathogens have no respect for political boundaries. Tuberculosis, cholera, or flu will not be confined to the immigrant or undocumented

population or communities. A public health policy that excludes a certain group of people will eventually endanger the health of a much wider portion of society.

**Recommendation:**

California should seek maximum federal assistance for preventive public health programs such as childhood immunizations, tuberculosis testing, and the Women, Infants, and Children's (WIC) nutrition program, and continue to seek additional federal assistance for the provision of basic emergency treatment and delivery services for persons not eligible for other care.

**Finding:**

- All children are entitled to a public education, as ruled by the U.S. Supreme Court in *Plyler v. Doe* in 1982. Attempts to deny access to public schools to undocumented immigrants will create a permanent illiterate underclass and threaten the security of our society.

**Recommendation:**

Appropriate state officials in the legislative and executive branches should petition Congress and the appropriate federal officials to ensure that Part A of Title I (formerly Chapter 1) of the Elementary and Secondary Education Act (EASA) is approved this year. This funding is part of an effort to ensure that high poverty schools, whose student bodies include large percentages of immigrants, are providing adequate educations for their students. In addition, the Legislature should petition Congress to ensure that Title VII of the Act, which provides support for bilingual and immigrant education, is approved.

**Finding:**

- State and federal social services programs are no longer sufficient to assist today's diverse immigrant families in adapting to their new world. Public programs need to be redesigned to assist newcomers to escape the welfare trap and become self-sufficient (see Health and Welfare Services Chapter).

**Recommendation:**

The comprehensive statewide study recommended above should provide the basic information necessary to begin the task of redesigning public social services programs.

**Finding:**

- A proliferation of misinformation concerning the economic, social, and cultural impacts of immigration has resulted in racial and ethnic polarization across California, sometimes creating a climate that fosters hate crimes against immigrants and other ethnic minorities.

**Recommendation:**

The results of the statewide study should be widely disseminated in order to address misinformation that polarizes our society.

## **BACKGROUND**

Throughout U.S. and California history, immigration, with regularity, becomes the focus of intense public debate whenever there is an economic downturn, despite the fact that America is a nation of immigrants. Anti-alien sentiments predictably intensify during economic recessions when the earlier settlers in this country fear that their economic interests are being threatened by the newcomers. Chinese laborers were the focus of public discontent in the 1870s and 1880s; Japanese in the 1900s and during World War II; Italians and Eastern Europeans in the 1920s; and Mexicans in the 1930s and 1950s. Many punitive and discriminatory laws were enacted against immigrants during those times. Later, those laws were repealed or struck down by the courts.

Californians began to feel the pain of the recent recession in early 1990. Since then, approximately 836,000 jobs<sup>1</sup> have been lost in defense industry layoffs, military base closures, and other business and industry downsizing. The issue of immigration soon reemerged at the center stage of political debate, first in California, and then swiftly spreading throughout the country. The California economy, more than any other state, has been severely affected by the worst recession since the Great Depression of the 1930s. Today, while the rest of the country is showing signs of economic recovery, California is only beginning to rebound. California's newcomers -- both legal and illegal immigrants -- have once again become the focus of the state's political debates and legislative actions.

Each year California takes in the largest share of the nation's newcomers. According to the Immigration and Naturalization Services (INS), California has been the leading state of intended residence of the nation's legal immigrants every year since 1976. Of all immigrants who were granted lawful permanent resident status in 1992, the last full year for which records are complete, 35%, or 336,663, came to California. California also leads other states as refugee receivers. The California Department of Finance estimates that there were 6.1 million "legal

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<sup>1</sup> "Economic Recovery: Los Angeles, A Report Submitted to President William J. Clinton by California Assembly Speaker Willie Brown, Jr.," March 29, 1993.

foreign born" residents in California in 1993. The estimated population includes naturalized citizens, lawful permanent residents, refugees and amnesty persons.

However, many demographers have agreed that it has been difficult to estimate the immigrant population, because of "significant gaps remain in our knowledge about immigration to the United States," as stated in the *1992 Statistical Yearbook* of the INS:

"In some areas these deficiencies persist because of the inherent difficulty in estimating the numbers, as is the case for emigration and illegal immigration . . . The collection of statistics on emigration from the United States was discontinued in 1957; no direct measure of emigration has been available since then. Estimates compiled in this country and statistics collected in other countries indicate that . . . between 1900 and 1980, approximately 30 million immigrants were admitted, and an estimated 10 million foreign-born persons emigrated. The U.S. Bureau of the Census currently uses an annual emigration figure of 160,000, which includes both citizens and aliens, for computing national population estimates. However, statistics on U.S. residents migrating to other countries published by the United Nations and the Economic Commission for Europe show that emigration from the United States is likely to be well above 200,000 annually."

In addition to legal immigrants, the INS recently estimated that 40% of the country's undocumented immigrants reside in California. With such a large number of newcomers continuing to arrive in California, at the same time the unemployment rate keeps growing in the state, many have suggested that we pull back our welcome mat.

### **Overpopulation**

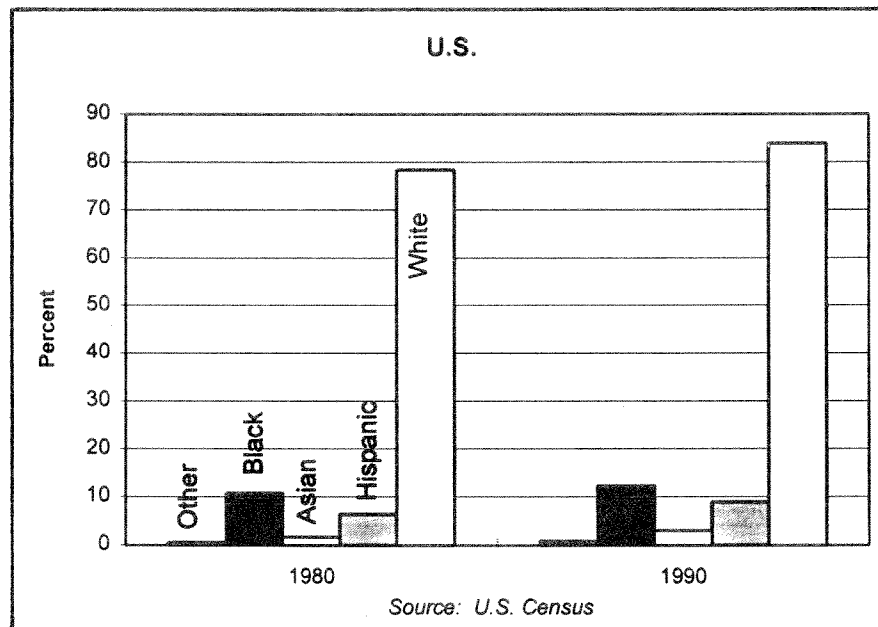
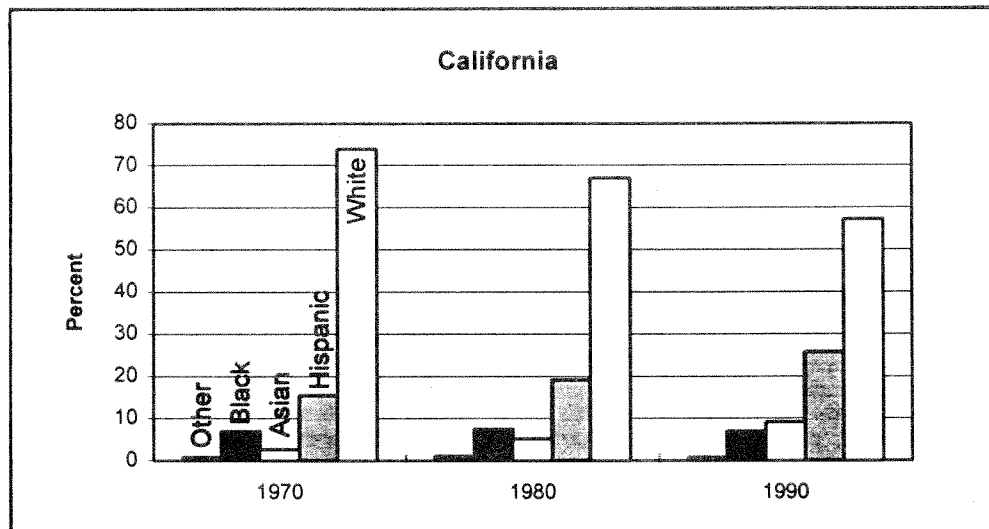
Population growth in California is a major concern of those who advocate for limiting immigration. They believe that the increased number of immigrants, legal and illegal, and their higher fertility rate, aggravate overpopulation in California.

"Many of the immigrants come from countries where large families are the norm, and significant portions of them continue that practice here, at least by our relative standards," stated Ric Oberlink, Executive Director of the Californians for Population Stabilization (CAPS), who testified before the Select Committee in Sacramento. "The result is population growth today, population growth tomorrow. Immigration, then, is a 'double whammy' in regards to population growth. It has the direct impact of additional growth today, and the higher fertility rates of current immigrants mean additional population growth in the future."

However, according to Dr. Wendy Walker-Moffat of the University of California, Berkeley, recent immigrant women are younger and have fewer children than earlier immigrants. In her recent study of immigrant women from Mexico who entered the U.S. between 1987 and 1990, Dr. Walker-Moffat found that their fertility rate is 1.5 births per woman of age 15 - 45. "This is a remarkably low fertility rate," Dr. Walker Moffat told the Select Committee. "For any

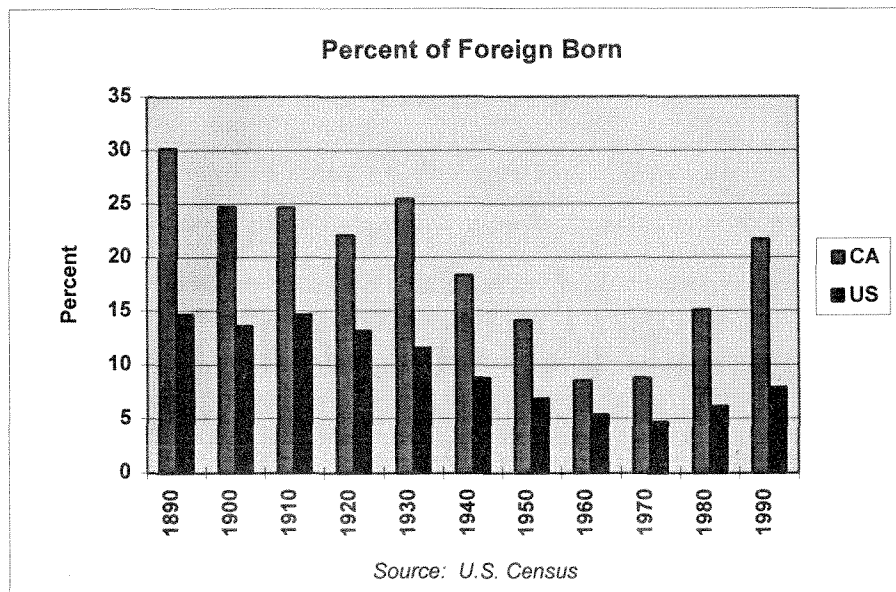
population to remain constant, the replacement level fertility rate is 2.1 births per female of childbearing years, age 15 - 45."

### Percent of Population by Ethnicity



Others argue that the population figures should be put into a national and historical perspective. "In discussing immigration policy today, there often is an assumption that there are too many

immigrants. . . . This is simply not true. The total foreign-born population in the United States was only 8.7% in 1990, compared to as much as 14% in 1910," Ignatius Bau, Staff Attorney of the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, told the Select Committee at its hearing in Sacramento. "Yet so much of the immigration debate remains unfairly focused on Latinos and Asian immigration. However, even with all the recent increases in immigration from those nations, it is critical that we put the population figures into a national perspective: in 1990, only 9% of the United States population was Latino and only 3% were Asian American. We are clearly not admitting too many immigrants."



### Immigrants – A Burden or An Asset?

At the very center of this recently renewed debate over immigration is the fiscal impact of immigrants on the state and local governments. Are immigrants a burden or an asset to our economy? Earlier studies have indicated that immigrants contribute more in taxes than they take from services they use. However, two recent local studies, one sponsored by Los Angeles County and the other by the Office of Auditor General of California, have indicated that in two heavily immigrant-populated metropolitan areas -- Los Angeles and San Diego -- the costs of providing services to immigrants have exceeded their contribution in local tax revenues. Many scholars and researchers have criticized these studies for their methodological deficiencies and questionable assumptions on which their costs were estimated. In the wake of the renewed public interest in this issue, a number of new studies are currently underway to determine the true impact of immigration on our economy.

Unfortunately, before the Legislature can gather sufficient information upon which to make informed policy decisions, public concerns -- many of which are generated by misinformation and misperception -- have prompted a wave of proposed changes in California's policies relating

to immigrants. There are two general assumptions, widely divergent in their implications, which are the basis for most of the recent state policy changes or proposed changes relating to immigration. One school of thought holds that immigrants are attracted to California by its generous health, welfare and education benefits. The other holds that immigrants are attracted to California because they believe they can get a job here.

### **The 'Benefits' Assumption**

Governor Pete Wilson and those who believe in the first assumption have insisted that California's generous public assistance programs, high quality health care, and education have been a "magnet" for both legal and illegal immigration. According to them, an enormous number of foreigners have come to settle in California for free health care and welfare benefits. These immigrants and their American-born children have drained the state's coffers and imposed a tremendous burden on California's taxpayers. "We must end all the incentives that now entice immigrants to enter the U.S. illegally," Governor Wilson stated in his August 9, 1993, letter to President Clinton.

The Governor has sought, in addition to federal reimbursement for the costs of providing services to these immigrants, changes in federal and state policies to deny education and emergency health care for undocumented immigrants and their children. He has already signed legislation denying driving privileges and public-funded employment services to undocumented immigrants. He has also called for an amendment to the U.S. Constitution to deny citizenship to children born in this country to undocumented immigrants.

### **The 'Employment' Assumption**

There are others who believe that immigrants, especially economic migrants, are here to find work, so that they and their children can have a better life. They suggest that in order to stem illegal migration, job opportunities for illegal immigrants should be eliminated by measures that include imposing tougher employer sanctions and stricter enforcement of the state and federal labor laws.

### **International Pressures**

Many witnesses testifying before the Select Committee emphasized that immigration to the U.S. must be placed in the context of world migration patterns, the global economy, U.S. foreign policy, and the domestic demand for immigrant labor in the U.S. As Lina Avidan of the Coalition for Immigrant and Refugee Rights and Services stated in her testimony to the Select Committee:

"The U.S. influences political circumstances that create refugee and migrant flows. Repression and human rights violations are important 'Push' factors . . . past U.S. actions and foreign policy interests in countries such as Vietnam, Laos, Cambodia, Nicaragua, El Salvador, Guatemala, Haiti and Iraq have also contributed to the 'push' of refugees and migrants worldwide."

She also noted that the persistent poverty and unequal distribution of wealth in certain countries will continue to push individuals out of their countries in search of employment to better their economic conditions and opportunities. "Without structural changes in the economies of these countries, these 'push' factors will persist."

Some have suggested that the North American Free Trade Agreement (NAFTA), which was passed by the Congress and signed by the President in 1993, would reduce future migration from Mexico to the United States. However, it is premature to predict the actual effect of NAFTA on both legal and illegal immigration.

Public debates over the issue of immigration, which have employed more rhetoric than facts, have polarized local communities and intensified the tension among ethnic groups, despite the fact that hard statistics have not been available to answer the question of whether immigrants are an asset or a drain to our economy.

## **DEFINITION OF IMMIGRANTS**

Members of the Select Committee have expressed concerns over the fact that most public discussions over the immigration issue fail to make a clear distinction between legal and illegal immigration. A thumbnail sketch of the various categories of immigrants, below, is followed by a discussion in more detail.

### **Legal Immigrants**

Different categories of legal immigrants are admitted under different requirements specified by federal law. These various categories of "legal" immigrants and the legislation that created them are as follows:

#### **1) Permanent Residents**

This category is applicable to persons who, through a variety of avenues specified under federal law, have been granted permanent residency status. A host of federal statutes, too numerous to cite specifically, outline the many avenues to permanent residency.

#### **2) Refugees**

This category applies to persons who have been determined by the INS to have a well-founded fear of persecution in their country because of race, religion, nationality, membership in a particular social group, or because they hold a particular political opinion. Persons in this category cannot apply unless they are outside their country of nationality. Refugees are admitted to the U.S. under the provisions of the Refugee Act of 1980, which amended the Immigration and Nationality Act of 1952.



### **3) Asylees**

This category also was created under the Refugee Act of 1980 and applies to persons who already are in the United States or at a port of entry who otherwise meet the same criteria as a refugee.

### **4) IRCA Persons (Legalized Aliens)**

There are two basic categories of persons created by the Immigration Reform and Control Act of 1986 -- a) "pre-1982s" and b) Special Agricultural Workers or "SAWs."

- a) **Pre-1982s** -- Aliens who had been in the U.S. unlawfully since January 1, 1982, who were eligible for amnesty were granted temporary resident status. Nineteen months after they were granted temporary residency, they were allowed to apply for adjustment to permanent status during a one-year period. They were required to demonstrate that they either had a minimal understanding of English and U.S. history, or were in the process of securing the training needed to acquire that knowledge.
- b) **SAWs** -- Aliens who were employed in seasonal agricultural work for a minimum of 90 days in the year preceding May 1986. SAWs secured permanent resident status automatically.

### **Illegal Immigrants**

Illegal, or undocumented, immigrants are aliens who entered the United States without inspection at the borders, or foreigners who were admitted legally on a temporary basis but failed to depart after the time allowed on their visa expired (visa overstayers).

### **Nonimmigrants**

Nonimmigrants are aliens admitted to the United States for a specified temporary period, but not for permanent residence. They may come as tourists, students, foreign government officials, temporary workers and trainees, and their families. Temporary workers and trainees are admitted under visas that have the designation "H," "O," "P," or "Q."

## **IMMIGRANTS' ELIGIBILITY FOR GOVERNMENT PROGRAMS**

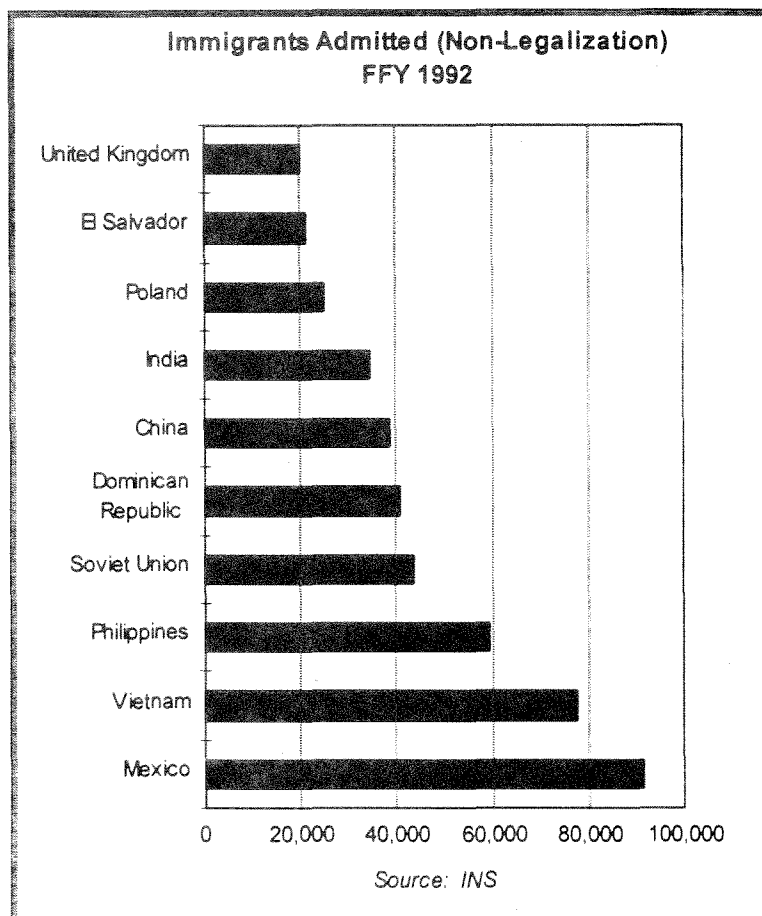
Immigrants' eligibility for government-funded social and health programs varies. The issue of illegal immigration, which has become a serious problem in California and the U.S., must be resolved by measures that are different from those affecting legal immigrants.

### **Permanent Residents**

Lawful permanent residents are eligible to work and to bring family members to reside in the country. Before admission is granted, legal immigrants are required to sign an affidavit pledging

that they will not become a public charge. A family-sponsored immigrant is generally not eligible for any public assistance programs during the first three years (5 years for SSI/SSP) after arrival, because his or her sponsor's income and assets are deemed as his or her income and assets if the immigrant applies for any public assistance program.

Based on the 1990 census data, the California Department of Finance estimated that there were 6.1 million "legal foreign born" residents in California in 1993. The estimated population includes naturalized citizens, lawful permanent residents, refugees and amnesty persons. INS statistics show that of all legal immigrants admitted in 1992, 35%, or 336,663 reside in California. That number, however, does not mean 336,663 new arrivals, because it includes legalized aliens and others who were already in the country and were adjusting their status to lawful permanent residents.



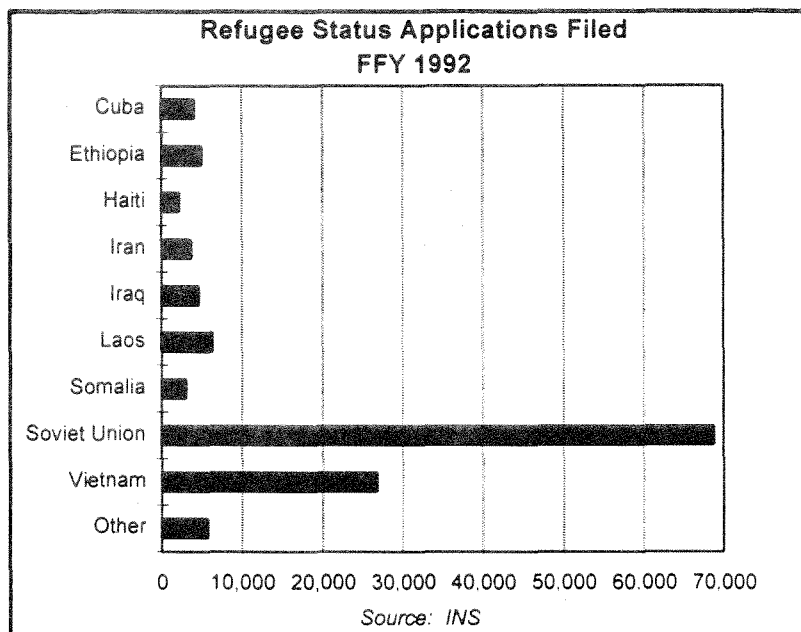
### Refugees/Asylees

**Refugees** are eligible to work upon entry, and eligible to adjust to lawful permanent resident status after one year of residence in the United States. Upon adjustment of status, refugees are eligible to petition for family members to reside in the U.S.

Refugees are also eligible for various cash assistance and health benefits specified in the federal Refugee Resettlement Program (RRP) under the Refugee Act of 1980. After these federally-funded refugee programs expire, the refugees become eligible for other federal, state, and local programs provided for other legal immigrants and citizens, including AFDC, Food Stamp, SSI/SSP, and full Medi-Cal services.

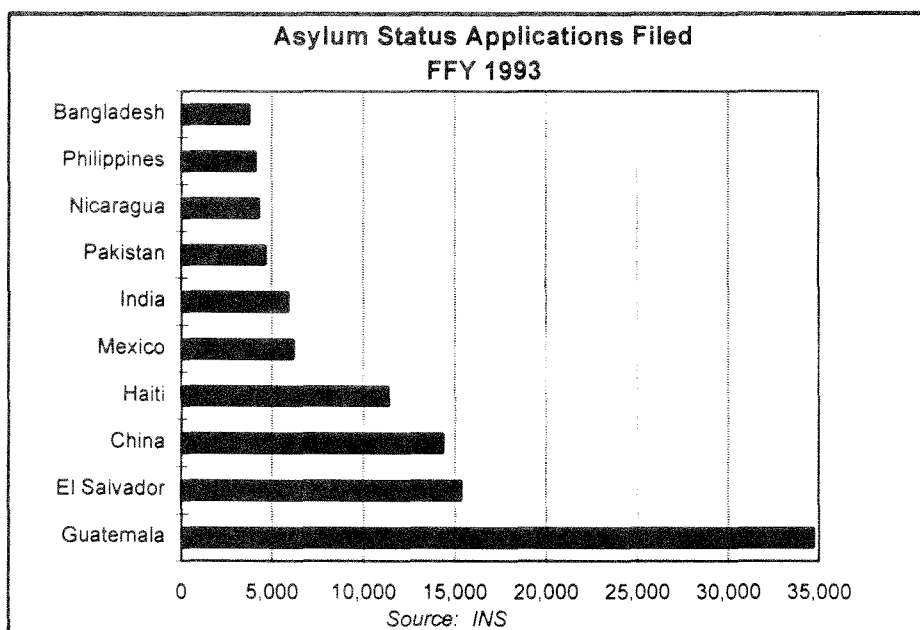
It is not clear how many refugees currently reside in California. The Department of Finance estimated at least 600,000 refugees living in California in 1993. The number includes ex-refugees who have become permanent residents or naturalized citizens.

According to the INS, of all refugees who adjusted their status in 1992, 36%, or 38,261, live in California. The number was 39%, or 45,594, in 1991. The former Soviet Union has been the leading country of origin of all refugees admitted since 1988, followed by Vietnam and Laos.



**Asylees** are eligible for the same public assistance programs and health benefits provided for refugees and other legal immigrants.

According to the INS, approximately 104,000 asylum applications were filed in the United States during 1992; of which more than 46%, or 48,286 cases, were filed in California. However, only 3.7%, or 3,919 new cases were granted in the same year nationally. In 1993, the INS received 150,386 asylum applications. Guatemala is the leading country of origin of all new asylum cases, followed by El Salvador, China, Haiti, and Mexico.



## **IRCA Persons (Legalized Aliens)**

IRCA persons are permitted to work. Upon acquiring permanent residence, they are eligible to petition for the immigration of immediate family members. After five years in permanent resident status, IRCA persons are eligible to apply for U.S. citizenship. Unlike other legal immigrants, amnesty applicants and their children and spouses were required under IRCA to file separate applications. As a result, many legalized immigrants' children and spouses are subject to deportation.

For the first five years after legalization, IRCA persons are not eligible for any cash assistance, except for those who are age 65 or older, blind, or disabled. They are eligible for restricted Medi-Cal coverage only (emergency care and labor and delivery services), except for those who are age 65 or older, blind, disabled, or children under 18, who are eligible for full Medi-Cal services. The first wave of IRCA immigrants who were granted amnesty in 1989, are able to receive full Medi-Cal and other welfare benefits in 1994, if they are otherwise eligible.

As of 1992, according to the INS, approximately 96%, or 2.65 million, of all IRCA persons have attained permanent resident status. It was estimated that about 1.5 million of IRCA persons reside in California.

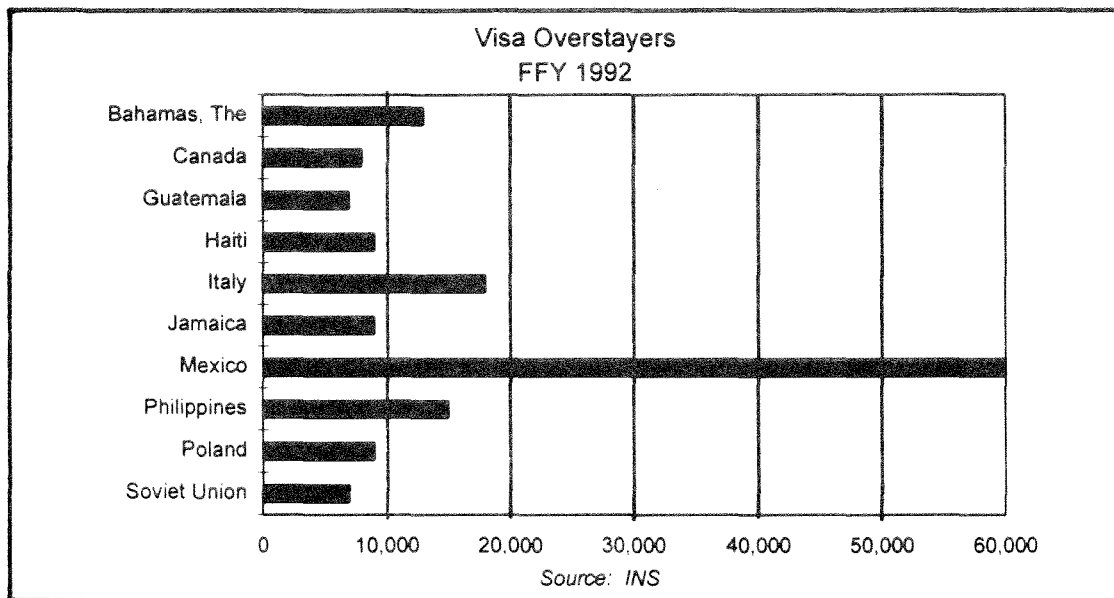
## **Illegal Immigrants**

Illegal immigrants are prohibited from working in this country. Some undocumented immigrants may eventually adjust to lawful permanent resident status through family sponsorship, asylum, or other legal process.

Undocumented immigrants in California are not eligible for any government-funded cash assistance programs, and can receive only restricted Medi-Cal services for emergency medical care or pregnancy-related services.

The population of undocumented immigrants in California is unknown. Estimates of this population by various sources are all based on the statistics provided by the U.S. Census Bureau. However, the Census Bureau's statistics on undocumented immigrants are also estimates, because immigration status is not a question asked on the census questionnaire. Immigration-related questions on the census questionnaire are limited to place of birth, citizenship, and year of entry to the U.S. Therefore, census data can provide only the number of the "foreign born" population, which includes both legal and illegal immigrants.

Estimates of California's undocumented population range from 800,000 to 2.1 million as of April, 1993. The latter number is the most recent, unofficial estimate by the U.S. Census Bureau. The official estimate by the Census Bureau in 1992 indicated 1.3 million undocumented immigrants residing in California. According to a recent INS estimate, the undocumented population in California was 1.3 million as of October 1992, or 40% of the nation's total.



Not all undocumented immigrants in California came across the southern border without inspection. It has been estimated that approximately 50% of current undocumented immigrant population in the United States are visa overstayers. According to the INS, with the exceptions of Mexico and some Central American countries, visa overstayers accounted for nearly all of the estimated illegal population from other countries in 1992. Many of them come from Canada, Europe, and Asia. The INS does not systematically track the whereabouts of foreigners holding temporary visas once they are admitted. Locating visa overstayers and deporting them is nearly impossible, and has never been a priority of the INS.

### **CURRENT FEDERAL ACTIVITIES**

The Clinton Administration has proposed to Congress its \$368 million comprehensive immigration initiative for 1995. The initiative includes measures to strengthen border control, expedite the removal of criminal aliens, overhaul asylum procedures, tighten enforcement of employer sanctions, and streamline naturalization process (see Appendix B).

The federal Commission on Immigration Reform and the Information, Justice, Transportation, and Agriculture Subcommittee of the House Committee on Government Operations, have been conducting extensive public hearings across the nation to hear issues concerning the impact of immigration on state and local governments.

## CYCLES OF ANTI-IMMIGRANT SENTIMENT IN U.S. HISTORY

<b>1820s</b>	<p><b>New Immigrants</b> 1821-30: 143,400</p> <p><b>Total U.S. Population</b> 1830: 12.8 million</p>	<p>■ New York state passes legislation requiring ship captains to post bonds reimbursing the state for expenses incurred in connection with destitute immigrants. The state later imposes a \$1 head tax on new arrivals to finance a hospital for immigrants.</p>
<b>1830s</b>	<p><b>New Immigrants</b> 1831-40: 600,000</p> <p><b>Total U.S. Population</b> 1840: 17 million</p>	<p>■ Broad and sometimes violent backlash takes place against German and Irish Catholic immigrants.</p> <p>■ After a series of battles, Mexico cedes to the U.S. land ranging from present-day Texas to Wyoming and Colorado.</p>
<b>1840s</b>	<p><b>New Immigrants</b> 1841-50: 1.7 million</p> <p><b>Total U.S. Population</b> 1850: 23.1 million</p>	<p>■ The American Republican Party proposes harsh restrictions on immigrants.</p> <p>■ Conflict between natives and immigrants escalates to riots in Philadelphia, leaving about 30 people dead and hundreds injured.</p> <p>■ Dramatic surge in number of immigrants, many fleeing famine in Ireland.</p>
<b>1850s</b>	<p><b>New Immigrants</b> 1851-60: 2.6 million</p> <p><b>Total U.S. Population</b> 1860: 31.4 million</p>	<p>■ California receives a wave of Chinese immigrants during the Gold Rush. Violence against them is common in the mines.</p> <p>■ The anti-immigration Know-Nothing party scores many political successes, carrying state races in Massachusetts, New Hampshire, Connecticut and Rhode Island.</p>
<b>1860s</b>	<p><b>New Immigrants</b> 1861-70: 2.3 million</p> <p><b>Total U.S. Population</b> 1870: 39.8 million</p>	<p>■ With the Gold Rush boom waning, California bars black, American Indian and Asian children from public schools. The ban lasts more than two decades.</p> <p>■ The 14th Amendment to the Constitution is ratified, granting citizenship to any person born on U.S. soil.</p>
<b>1870s</b>	<p><b>New Immigrants</b> 1871-80: 2.8 million</p> <p><b>Total U.S. Population</b> 1880: 50.1 million</p>	<p>■ Eighty thousand Chinese come to the United States from 1870-75. In a time of economic instability, there are outbreaks of anti-immigrant violence throughout the West. California becomes the center of a national movement to ban Chinese immigration.</p>
<b>1880s</b>	<p><b>New Immigrants</b> 1881-90: 5.2 million</p> <p><b>Total U.S. Population</b> 1890: 62.9 million</p>	<p>■ The Chinese Exclusion Act suspends immigration from China.</p> <p>■ The Statue of Liberty is dedicated in upper New York Bay.</p> <p>■ The anti-Catholic American Protective Association is founded in Iowa and grows rapidly. It advocates immigration restrictions and stringent citizenship laws.</p>
<b>1890s</b>	<p><b>New Immigrants</b> 1891-1900: 3.7 million</p> <p><b>Total U.S. Population</b> 1900: 75.9 million</p>	<p>■ Depression wracks the economy. Immigration patterns shift, with nearly half of new immigrants coming from Italy, Russia and Slavic areas.</p> <p>■ Congress approves a literacy test that would, in effect, severely restrict immigration. It is vetoed by President Grover Cleveland.</p>
<b>1900s</b>	<p><b>New Immigrants</b> 1901-10: 8.8 million</p> <p><b>Total U.S. Population</b> 1910: 91.9 million</p>	<p>■ President Theodore Roosevelt calls for immigration restrictions to ensure that newcomers have "economic fitness to enter our industrial field" and that they "appreciate American institutions."</p> <p>■ The San Francisco Board of Education orders the segregation of all Asian pupils. The order is later rescinded.</p>

<b>1910s</b>	<p><b>New Immigrants</b> 1911-20: 5.7 million</p> <p><b>Total U.S. Population</b> 1920: 105.7 million</p>	<p>■ During World War I, public hysteria turns on German Americans. Boy Scouts burn German newspapers in several cities; mobs destroy German shops.</p> <p>■ The Immigration Act of 1917 imposes a literacy test on new immigrants and bans most Asian immigrants.</p>
<b>1920s</b>	<p><b>New Immigrants</b> 1921-30: 4.1 million</p> <p><b>Total U.S. Population</b> 1930: 122.7 million</p>	<p>■ The Ku Klux Klan is at the height of its influence, with national membership estimated at 2 million or more. It is violently hostile to immigrants, blacks, Jews and Catholics.</p> <p>■ The Immigration Act of 1924 ends the policy of virtually free immigration from Europe.</p>
<b>1930s</b>	<p><b>New Immigrants</b> 1931-40: 528,000</p> <p><b>Total U.S. Population</b> 1940: 131.6 million</p>	<p>■ Thousands flee Fascism and anti-Semitism in Europe, but the State Department strictly enforces visa limits, effectively denying entrance to Jews and others.</p> <p>■ More than a third of the nation's Mexican and Mexican American people – half a million people in all – are forced to return to Mexico.</p>
<b>1940s</b>	<p><b>New Immigrants</b> 1941-50: 1 million</p> <p><b>Total U.S. Population</b> 1950: 150.6 million</p>	<p>■ President Franklin D. Roosevelt orders 110,000 Japanese and Japanese Americans to detention camps after the bombing of Pearl Harbor. Some German and Italian Americans also are detained.</p> <p>■ After 61 years, the Chinese Exclusion Act is suspended.</p>
<b>1950s</b>	<p><b>New Immigrants</b> 1951-60: 2.5 million</p> <p><b>Total U.S. Population</b> 1960: 179.3 million</p>	<p>■ The McCarran-Walter Immigration Act renews immigration quotas but ends the ban on Asian immigration and citizenship.</p> <p>■ Under Operation Wetback, the U.S. forces up to 1 million Mexicans – most of them farm workers – to return home. Labor unions and the NAACP back the move.</p>
<b>1960s</b>	<p><b>New Immigrants</b> 1961-70: 3.3 million</p> <p><b>Total U.S. Population</b> 1970: 203.3 million</p>	<p>■ Under the Voting Rights Act of 1965, many areas are required to print bilingual ballots.</p> <p>■ Federal law sets the first annual quota for immigration from the Western Hemisphere. The limits cause an increase in illegal immigration.</p>
<b>1970s</b>	<p><b>New Immigrants</b> 1971-80: 4.5 million</p> <p><b>Total U.S. Population</b> 1980: 226.5 million</p>	<p>■ In a case involving Chinese students in San Francisco, the U.S. Supreme Court rules that children must be educated in a language they can understand.</p> <p>■ With the end of the Vietnam War, immigration from Southeast Asia surges. Public opinion polls show hostility to the new immigrants.</p>
<b>1980s</b>	<p><b>New Immigrants</b> 1981-90: 7.3 million</p> <p><b>Total U.S. Population</b> 1990: 248.7 million</p>	<p>■ Californians vote to make English the official language of the state.</p> <p>■ Revision of U.S. immigration law gives amnesty to thousands of illegal residents but attempts to stem illegal immigration in the future. Employers must verify the legal status of all new workers.</p>
<b>1990s</b>		<p>■ The limit for legal immigration is raised to 700,000 people a year.</p> <p>■ The United States formally apologizes for forcing Japanese Americans into World War II internment camps.</p> <p>■ More than 100 immigration-control measures are pending in Congress in 1994. California groups push for measures denying education and health care to illegal residents.</p>

Source: *San Francisco Chronicle*, 29 March 1994, sec. A, p. 6. (Reprinted with permission.)

## **CHAPTER II**

### **FISCAL IMPACT OF LEGAL AND ILLEGAL IMMIGRANTS**

During this past year, a significant number of research papers and news media reports have been published, broadcast, and telecast about immigrants and their impact on our economy. The conclusions reached by these studies were disparate in the extreme.

Most researchers and scholars who testified before the Select Committee emphasized that current data sources are not adequate to answer the questions about immigrants – their numbers, their contributions, and their costs to our economy.

#### **Facts Unknown**

Georges Vernez, Director of the Institute on Education and Training at the RAND Corporation, stated in his testimony:

"We simply do not have accurate ongoing data on the most basic item, i.e., the number of immigrants, legal and undocumented as well as refugees, who settle in California every year. Beyond that, we lack systemic information about the pattern of public services used by different groups of immigrants; the effects of public service use on the nature and speed of immigrants' linguistic, economic, and social integration and that of their children; and the budgetary, institutional, and community relations effects of sustained cumulative waves of immigrants on local jurisdictions."

#### **Limited Government Data**

Generally, data collection at state and local government agencies, including school districts, where most public services are provided, is not based upon citizenship. County administrators told the Select Committee that they were either not required to, or were legally or ethically prohibited from, collecting information on undocumented immigrants. A data inventory conducted by the County of Orange revealed that "within County Government, formal tracking mechanisms are not in place to provide statistical information on undocumented persons."<sup>2</sup>

Tony Carstens, Director of Policy Research and Planning for the Orange County Administrative Office, testified before the Select Committee in Los Angeles. He stated the need for state legislation to allow local agencies to collect data regarding immigrant status and provide funding for developing "tracking mechanisms that can accurately and comprehensively identify the fiscal impact of legal and illegal immigrants on County governments."

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<sup>2</sup> County of Orange Administrative Office, "Assessment of Data on Fiscal Impact of Undocumented Persons in Orange County," February 18, 1993.



William Weischedel, Regional Manager of the Riverside County Department of Public Social Services, told the Select Committee at its San Bernardino hearing that "the impact of legal immigration on our programs is undetectable. Centralized 'where born' statistics are not systematically collected by our agency."

It has been suggested that the state should establish a centralized office to collect data concerning the immigrants in the state, and to provide services to immigrants. That suggestion must be weighed against the current state budget difficulties, and thoroughly examined to withstand any criticism that such an office would create an additional bureaucratic layer.

### **Limitations of Data Collection**

Accurate identification and verification of immigrants' status presents a political dilemma with which neither Congress nor American society has yet come to grips. Current law does not require governments, schools, or hospitals to identify illegal immigrants. Moreover, even employers complain that their requirement to identify illegal immigrants is impossible to comply with until and unless the U.S. adopts an identification system upon which they can rely.

In 1993, the INS launched its Telephone Verification System (TVS) pilot program, which was authorized by IRCA. The automated data verification system is designed to assist employers in confirming an alien employee's authorization to work. It serves as a supplement to the Form I-9 procedures (see Employment Chapter) required by IRCA. However, the system can verify only the employment eligibility status of an alien. It does not have information on any person who is a citizen or national of the United States. (See Appendix C.)

Non-citizens who are lawfully in the U. S. are required to carry identification which attests to their lawful status. But American citizens, both native-born Americans and naturalized Americans, do not. That means that there is no accurate method of verifying that a person who purports to be "legal" is in fact legal, because an illegal person may assert to be "legal" without having to prove the fact by means of a verifiable ID.

At the same time that Congress enacted employer sanctions under IRCA, it expressly prohibited the creation of a national identification card -- 8 USC Section 1324(c) states: "Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card."

That provision reflects a deep-seated American suspicion of government and an insistence on preserving the privacy of the individual. Compelling citizens to carry ID cards, it is believed, makes citizens prey to government snooping and intrusion, and violates the fundamental right of privacy, what U.S. Supreme Court Justice Louis Brandeis defined as "the right to be let alone" in his dissent in *Olmstead v. United States* in 1928.

In some cases, schools and hospitals have even been prohibited from inquiring whether a person is an illegal alien. Since federal law requires state public schools to admit undocumented children, the State Department of Education advises California school districts that it is unlawful

to demand proof of lawful residency.<sup>3</sup> Similarly, a California appellate court decision (*Crespin v. Kizer*) prohibits hospitals from demanding proof of citizenship or legal alien status, where persons seek emergency treatment, since federal law provides that undocumented persons can receive such treatment. The court reasoned that for the minimal type of coverage the questions were completely unwarranted and could even cause persons, out of fear, not to seek pregnancy or emergency care to which they were entitled.<sup>4</sup>

It is, therefore, inconsistent to attack government agencies, schools, hospitals, and employers for failure to expose applicants' illegality, at the same time that American society has been reluctant to implement an accurate identification and verification system which would make it possible. Information technology is clearly available to verify instantly whether a card presented by a person purporting to be a citizen or a lawful resident is valid. But the most sophisticated information technology is useless without the information base which defines the universe of information. And the information base to which the technology would be applied doesn't exist -- a uniform system of identifying everyone lawfully in the United States.

### **Estimates Based on Assumptions**

Almost all of the existing statistics provided by government agencies on immigration impact are estimates, derived from either sampled surveys conducted within certain agencies, or government sponsored county-wide studies. In his letter to the Select Committee, Mel Wingett, San Joaquin County Administrator, stated that the County "currently [does] not collect statistics which would quantify the nature and extent of these impacts. It would take a special sampling process to extract even estimates of these impacts."

The often-quoted estimate of the number of "births to undocumented alien mothers" in the public hospitals in Los Angeles County was based on a sampled survey conducted by the county's Department of Health Services in selected county hospitals. The Department operates six hospitals, five comprehensive health centers, and 40 community health centers. The survey was conducted in three county hospitals in February 1991 for a full month, and a prenatal clinic in February 1990 for two weeks. The result of the survey was then extrapolated to obtain the number of total births to undocumented women in L.A. County hospitals and contract hospitals. This extrapolation of limited data, obtained from small samples during a limited period of time, into numbers that represent the totality of county hospital births of undocumented mothers is an example of the methodological problems inherent in much of the research on illegal immigrants.

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<sup>3</sup> California State Department of Education Legal Advisory to District and County Superintendents, LO: 5-93, September 13, 1993.

<sup>4</sup> *Crespin v. Kizer* (1st District, 1990) 226 C.A. 3d 498.

Other often-cited estimates of the costs generated by legal and illegal immigrants in Los Angeles and San Diego counties are estimates produced by county-wide studies in 1992, which were either conducted by the county or contracted with the state.<sup>5</sup>

Because the statistics needed to estimate the costs and benefits of legal and illegal immigration are largely unavailable, researchers and government administrators must base their estimates on assumptions. Some cost-benefit studies have received wide criticism for lack of validity or reliability, because of their serious methodological deficiencies, and the weakness in their assumptions.

For example, the Los Angeles study was criticized for not including tax contributions made by long-term immigrants. The often mentioned methodological problems in the San Diego study include: 1) the authors' relying on the Border Patrol apprehension statistics to estimate the county's total undocumented population, which have been criticized for lack of accuracy because of the high percentage of repeat crossings by the same persons; and 2) generalization of the survey results collected from very small samples<sup>6</sup> to show the demographic and economic profile of the entire estimated illegal population in the county.

The recent studies by Professor Donald Huddle of Rice University in Texas<sup>7</sup> on nationwide and California's immigration impact, according to Dr. Wendy Walker-Moffat of the University of California, Berkeley, contain so many serious methodological problems that the results of his studies are "mathematically meaningless."

For example, Dr. Jeffrey Passel of the Urban Institute recently reviewed the Huddle studies and concluded that Huddle underestimated the revenue contributions and overestimated the costs of immigrants. "The study fails to take into account any positive economic impact of immigrant

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<sup>5</sup> The Los Angeles study, "Impact of Undocumented Persons and Other Immigrants on Costs, Revenues and Services in Los Angeles County," was authorized by the County Board of Supervisors, and conducted by the County's Internal Services Department. The San Diego study, "Report by the Auditor General of California: A Fiscal Impact Analysis of Undocumented Immigrants Residing in San Diego County," was prepared by Rea & Parker, Inc., under contract with the Office of Auditor General of California.

<sup>6</sup> Rea and Parker administered two sample surveys in the course of this study sponsored by the California Auditor General. One was conducted with 162 migrant workers, of whom approximately 55% were estimated to be illegal immigrants. The second survey was conducted with another 60 undocumented immigrants. The demographic and economic characteristics of these undocumented immigrants were then generalized to represent the characteristics of the total undocumented population in San Diego County.

<sup>7</sup> Dr. Donald Huddle, Professor Emeritus of Rice University, published two studies last year: "The Costs of Immigration" released in June; and "The Net Costs of Immigration to California" released in November, 1993. Both were sponsored by the Carrying Capacity Network in Washington, D.C.

businesses or consumer spending. It also overstates costs and displacement effects. Huddle's most significant error, however, is a massive understatement of revenues collected from immigrants."<sup>8</sup> The methodological problems that Passel found in Huddle's studies include omission of FICA, unemployment insurance, and other tax paid by immigrants; misinterpretation of INS data on legal immigrants; inaccurate assumptions about immigrants' use of social programs and public school enrollment rates; etc.

### **Lack of Information for Undocumented Immigrants**

According to the researchers who testified before the Select Committee, it is particularly difficult to measure either tax contributions or social service costs attributable to undocumented immigrants, simply because of the lack of information about the population of undocumented immigrants.

In addition to the unknown number of undocumented immigrants, researchers also experience difficulties in making valid characteristic assumptions about these immigrants. As pointed out by Dr. Wendy Walker-Moffat, there is no information about undocumented immigrants' gender ratio, migration pattern, fertility level, the number of children in school, their use of health and welfare services and the type of work they do, number of jobs, and wages and hours -- the knowledge that is essential in assessing the impact of undocumented immigrants.

### **Recognize 'Good' and 'Bad' Research Methods**

Dr. Manuel Garcia y Griego of the University of California, Irvine, testifying before the Select Committee in Los Angeles, emphasized the importance for policymakers and the public to learn "the difference between good and bad research methods, strong and weak estimation procedures," in order to accurately assess the impact of immigration. "Many observers confuse legal and illegal immigration, net and gross costs, average and marginal costs, and short-term versus long-term costs and benefits. Moreover, misleading conclusions can be drawn from certain numbers if immigrants are not compared with similarly situated native groups."

Dr. Rebecca Clark of the Urban Institute, who testified before the Select Committee in Los Angeles, and her colleague, Dr. Jeffrey Passell, revisited the Los Angeles County study and concluded that the study overstated the burdens immigrants impose on local government, because it did not include the contribution and cost of long-term immigrants. The Urban Institute study shows that the long-term immigrant group "pays more taxes and uses fewer social services than recent immigrants." It also shows that the Los Angeles County government spends more on not only immigrants, but all groups -- including natives, than the revenue it receives from them. "Omission of long-term immigrants is a serious weakness of the [L.A. County] and other studies," Dr. Clark told the Select Committee. "Our findings underscore the need to focus on both recent and long-term immigrants when computing immigrant costs and benefits, and to include in such assessments the costs incurred by natives, not just immigrant residents. We also

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<sup>8</sup> Jeffrey S. Passel, "Immigrants and Taxes: A Reappraisal of Huddle's 'The Cost of Immigrants'" (The Urban Institute, January 1994).

need to choose carefully the expenditure and revenue items to include in these calculations and the methods of apportioning them to different population groups."

### **Careful Scrutiny**

Researchers have stressed repeatedly that policymakers should not rely on "case studies, convenience-sample surveys and indirect estimates" to decide on any policy changes regarding immigration. "You will need to scrutinize carefully the 'facts' about the effects of immigration and about immigrants . . .," Georges Vernez of RAND told the Select Committee. "Making guesstimates to inform [policy makers and the public on] such key issues as the net effects of immigration on county, state, and local demand for services and tax revenues is not a good basis for guiding policies."

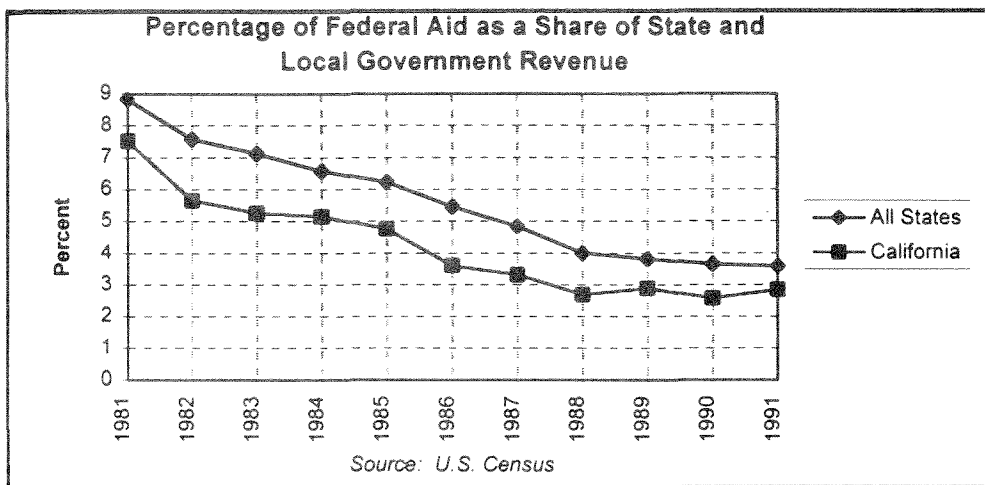
Dr. Clark of the Urban Institute also cautioned that policy recommendations should not be made based on estimates of governmental costs and revenues associated with immigrants "without fully examining their underlying assumptions."

### **Unfair Burden on State and Local Government**

Most of the cost-benefit studies on immigrants' fiscal impact, however limited they may be, have concluded that immigrants generally have contributed more in federal tax revenues than they took from the federal government in services. However, at the state and local level where most government services are provided, many of the reports conclude that immigrants often receive more services than they contribute in tax revenues (see Appendix D). Although they also pay sales tax, state income tax, property tax, and other taxes which are collected by state and local governments, a high percentage of taxes paid by the immigrants -- federal income tax and Social Security tax -- go to the federal government.

Much of the health and welfare burden sustained by state and local governments is the result of federal policy. Enforcement of the U.S. land and sea border policies to stem the flow of illegal immigration is also the responsibility of the federal government. The lack of effective federal border control measures is one of the factors that has contributed to the larger numbers of undocumented immigrants in California.

While some of the localized studies indicate that the federal government receives the lion's share of the tax revenues generated by immigrants, federal reimbursement of state and local costs have been reduced dramatically over the years. As stated in the testimony provided by Ignatius Bau of the Lawyers' Committee for Civil Rights: "The U.S. Census Bureau reports that the percentage of federal aid as a share of state and local government revenue fell 54% between 1981 and 1989." It seems apparent that states and counties are now bearing a disproportionate share of the financial burden of immigrants.



### Nonquantifiable Economic Benefits

Witnesses also told the Select Committee that a major contribution of immigrants, which is often neglected in assessing their impact on the economy, is neighborhood revitalization and job creation by immigrant-owned businesses. As Ignatius Bau stated, "A focus on the 'taxes paid versus services received' equation fails to consider the less quantifiable economic benefits of immigration. Immigrants stimulate the local economy by starting businesses that create new jobs, increase the demand for consumer goods and services and often revitalize certain neighborhoods into growing entrepreneurial centers."

An example of these economic benefits is the revitalization of the Tenderloin District in San Francisco. Minette Kwok of the Committee for Immigration Justice, told the Select Committee at its hearing in Sacramento:

"For as long as many of us can remember, the Tenderloin has been synonymous with decay and degradation, of failed businesses, and high crime. But in the 1970s, the Southeast Asian community moved in, and against all odds, persevered, and slowly began to open their businesses, small shops, restaurants, and grocery stores. Slowly, the neighborhood was transformed and revitalized, where today we see a developing community with a housing infrastructure, hundreds of small businesses which generate local and state revenues and create employment, and a commitment by the local government to reinvest in the area, inspired by the immigrant effort."



## **CHAPTER III EMPLOYMENT**

There have been widespread concerns that immigrants are competing with, or, as some argue, displacing native-born workers in the job market. At its hearings in San Francisco and San Bernardino, the Select Committee heard testimony from University of California scholars, employers, union representatives, and community service and advocate groups on issues relating to employment of immigrant workers.

### **Historical Context**

Historically, during good times immigrant laborers were imported to fill the labor shortage, mostly for the jobs that natives did not want. Later, during economic downturns, these same immigrant laborers would be blamed for displacing native workers. In the 1850s, Chinese laborers were brought into California to build the railroads and to work in the mines. Two decades later in 1879, as a result of a widespread anti-Chinese movement, California prohibited the hiring of Chinese. In 1882, Congress enacted the Chinese Exclusion Act, which suspended the immigration of Chinese into this country until 1943, when the Act was repealed.

In the early 1900s, Japanese farmers were recruited by the agricultural industry in California to make up for the loss of Chinese labor. A few years later in 1907, the U.S. and Japan agreed to bar additional Japanese laborers in what was referred to as "Gentlemen's Agreement." In 1929, riots broke out in Northern California against Filipino laborers. The federal Tydings-McDuffie Act of 1934 limited the number of Filipino immigrants who could enter the U.S. to 50 persons per year. These anti-alien laws were later repealed.

During the Great Depression in 1930, approximately half a million Mexicans were deported from the U.S. Mexican workers were brought back through the Bracero Program in the early 1940s to offset a labor shortage in the agricultural industry. Again, in 1954, "Operation Wetback" deported more than 1 million Mexican immigrants, including some U.S. citizens. In 1964, the Bracero Program was terminated, though the Select Committee heard testimony that farm labor contractors continue today to supply California growers with imported labor.

### **Job Displacement**

"The idea that immigrants do more harm than good to our economy is not a new issue," testified Dr. Abel Valenzuela, Jr., of UC Berkeley. "This idea seems to fluctuate with cyclical downswings in our economy," said Dr. Valenzuela, who has done extensive research on the labor market impacts of immigration.

Based on his review of literature on the subject, Dr. Valenzuela concluded that the overall economic impact of immigrants "generally is not adverse, though immigration may result in slight



wage depression and displacement for some groups of workers . . . . Immigrants also expand employment opportunities for native workers . . . . The issue then becomes under what circumstances there is displacement and under what circumstances there isn't."

One of these circumstances under which displacement has occurred is in California's computer industry, according to the testimony provided by Dr. Norman Matloff of the UC Davis Department of Computer Science at the Select Committee's San Francisco hearing. According to Dr. Matloff, despite the labor surplus in the high-tech industry, American employers continue to hire foreign nationals who are in the country on student visas, or they "import" programmers or engineers through temporary working visas, because employers "are attracted by the cheap, compliant workforce." Dr. Matloff said that evidence he collected has showed that native high-tech professionals and earlier immigrants are being displaced by foreign nationals who are willing to accept "significantly lower salaries."

### **No Single Reason for Job Displacement**

Testimony offered by other University of California scholars has suggested that there is no single reason behind job displacement. "Job displacement for workers in California is less from job competition with immigrants than from the massive exodus and closure of firms that the state suffered in the mid-to-late eighties," stated Dr. Valenzuela. He cited Los Angeles as an example: Los Angeles' manufacturing base expanded in the 1970s, and "accounted for approximately one-fourth of the net growth in manufacturing jobs for the entire country. However, by the [late] 1980s, Los Angeles' economy, which was highly dependent on its defense and associated industries, began its spiral decline that remains with us today."

Professor Roger Waldinger of UC Los Angeles provided the Select Committee with his recent paper, "Who Makes the Beds? Who Washes the Dishes? Black/Immigrant Competition Reassessed," as his testimony on job displacement. The paper is a result of a case study of restaurant and hotel employers in the Los Angeles area. The study found that black displacement from restaurant and hotel work was generally due to a common hiring practice of restaurant and hotel employers that Dr. Waldinger terms "network hiring." Simply put, these employers use groups of social, ethnic and business contacts to find and train potential employees. According to Professor Waldinger, network hiring not only brings immigrant communities into the work place, but also detaches vacancies from the open market, and thus diminishes opportunities for blacks.

Leaders from various labor union organizations who testified before the Select Committee all stated that immigrants should not be blamed for the job loss in California. The job loss, according to the testimony provided by Walter Johnson of the San Francisco Labor Council, which summarizes labor unions' view on this issue in general, is "because of the exporting of jobs from the United States . . . ."

### **Demand for Immigrant Labor**

Witnesses at both the San Bernardino and San Francisco hearings repeatedly stated that immigrant labor is essential to the survival of several major industries in California -- agriculture,

lodging and food services, garment, and electronic industries. These industries rely on immigrant labor because immigrants have provided low-skilled labor at relatively lower wages.

### *Agriculture*

Professor Juan Vicente Palerm of UC Santa Barbara, who has done extensive research on farm labor in California, told the Select Committee in San Bernardino that California's agriculture industry "has always depended on the presence of an immigrant labor force . . . . Without immigrants and a growing supply of them, the industry, as we know it, would not be able to survive."

Testimony provided by the Wine Institute in San Francisco also stressed that immigrant labor is key to the success of the state's \$9 billion-a-year wine industry. Wade Stevenson of the Wine Institute cited the statistics published by the California Employment Development Department (EDD), showing that in 1992, there was an average of 35,900 workers in all grape vineyards. During the peak month of September, 66,700 workers were harvesting the grapes and tending the vines in the vineyards. According to Stevenson, this seasonal harvest workforce is often made up of migrant, non-native workers.

### *Food & Lodging*

James Abrams, Executive Vice President of the California Hotel & Motel Association (CHMA), told the Select Committee in San Francisco that it has been estimated that California's lodging industry "directly employs more than 245,000 people," and among them, many are recent immigrants. "A great many of the immigrants who work in the lodging industry have food service positions and positions as guest room attendants."

### *Manufacturing*

According to Katie Quan of the International Ladies' Garment Workers' Union (ILGWU), there are approximately 20,000 garment workers in Northern California, which brings in more than \$12 billion in sales every year. The ILGWU estimates that in the San Francisco Bay Area, 80% of the garment workers are from China and other Asian countries, and 15% are from Mexico and other Latin American countries. Asian Immigrant Women Advocates, a community-based worker advocacy organization, told the Select Committee at the Santa Cruz hearing that Asian immigrants made up 43% of the 195,000 workers on the electronics assembly lines in Silicon Valley.

### **Foreign Labor Controversy**

The agriculture industry traditionally relies on large numbers of foreign laborers, legal and illegal. It was as the result of the lobbying efforts of California agriculture industry that the category of Special Agricultural Workers (SAWs) was created and included in the amnesty program under IRCA. Nearly 1.3 million seasonal agricultural workers were granted amnesty, and about 52% of them reside in California. According to Professor Palerm, California agribusiness' dependency on the immigrant workforce has not decreased because of agricultural modernization. On the

contrary, it has increased because of "agricultural intensification," which has allowed the production of large volumes of high-value specialty crops, such as strawberries, broccoli, and lettuce.

Dolores Huerta, co-founder of the United Farm Workers, who testified before the Select Committee in San Bernardino, emphasized that "with 1.5 million legalized immigrants living in California, and only approximately 250,000 agricultural jobs in the state, there is no need for additional farm workers."

Growers of perishable crops who testified at the same hearing, however, expressed concerns about the long-term adequacy of the supply of farm labor. What the industry needs, according to Russell Williams, president of Agricultural Producers, is "a workforce capable, available, and willing to accept short-term employment. Perhaps the most difficult employment challenge in agriculture is the requirement for large numbers of individuals for relatively short duration employment." The growers also fear that tougher employer sanctions laws, or more vigorous enforcement of the existing sanctions, may affect the supply of farm labor and increase the need for bringing in additional legal foreign workers.

Dr. Matloff of UC Davis also stressed that there is no need for more foreign labor in the electronic industry. He told the Committee that as a result of a labor shortage in the high-tech industry during the period of the late 1970s to mid-1980s, American employers were actively hiring foreign nationals and sponsoring them for immigration. In the late 1980s, the labor supply in the high-tech industry "caught up to -- and surpassed -- the demand." He also pointed out that in addition to the general labor surplus in the industry, there is a surplus of high-tech professionals who are foreign students with graduate degrees from American universities.

### **Employer Sanctions**

Employers are prohibited under IRCA from "knowingly" hiring undocumented workers. Those employers who testified before the Select Committee claimed that there was no "need" for undocumented workers, and that they have followed IRCA's "Form I-9"<sup>9</sup> procedures to verify employees' work authorization.

The rationale behind IRCA's employer sanctions is that by punishing employers for hiring illegals, job opportunities for illegal immigrants will diminish, thus reducing the flow of illegal migration. However, many studies have concluded that IRCA's employer sanctions program has not been able to stem the illegal flow of immigrants into this country. Critics of IRCA have stated repeatedly that as a political compromise, IRCA's sanctions are easily bypassed, permitting

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<sup>9</sup> A major component of the Immigration and Control Act of 1986 (IRCA) is employer sanctions, prohibiting employers from knowingly hiring, recruiting, or referring for a fee, aliens not authorized to work in the United States. Employers are required to maintain the Employment Eligibility Verification Form (Form I-9) attesting that the employer has examined documentation that the employee is either a citizen or an alien authorized to work in the U.S. (8 USC, Section 1324a).

undocumented immigrants with forged documents to be hired, so long as employers maintain adequate paperwork required by IRCA.<sup>10</sup>

Furthermore, enforcement of employer sanctions has not been a priority of the INS, the primary agency responsible for enforcing the law. INS enforcement has focused on civil sanctions cases ("paperwork" violations), since obtaining proof of actual unlawful hiring of illegals is nearly impossible.

### **Employment Discrimination**

Several community organizations serving immigrant workers told the Select Committee that employer sanctions should be repealed because the potential impact of discrimination against all immigrants "is inherent in current employer sanctions law," as Richard Garcia of CRLA stated in his testimony. Lora Jo Foo, Staff Attorney at the Asian Law Caucus, also stated that "employer sanctions have caused widespread discrimination against Asians and Latinos, even those who are U.S. citizens, as employers either attempt to comply with the law [or to] avoid penalties." The witnesses cited a report published by the U.S. General Accounting Office in 1990,<sup>11</sup> which found that almost 20% of all U.S. employers began discriminatory hiring practices as a result of IRCA.

Employers, however, told the Select Committee that they were concerned about the possibility of hiring illegal aliens with "fraudulent" documents. "In many cases," Richard Matoian, president of the California Grape & Tree Fruit League, told the Select Committee, "where growers examined a document that looked suspicious in one way or another, they simply choose not to employ that individual."

To protect job applicants from employment discrimination caused by IRCA's employer sanctions, Congress included new sanctions provisions in the Immigration Act of 1990. The new federal law prohibits employers from requesting employees to show more, or different documents than those specified on the Form I-9. The same law also makes it a civil offense for employers to knowingly accept fraudulent documents. Matoian said that employers feel that they are boxed into an indefensible legal position.

However, according to Dolores Huerta of the UFW and Claudia Smith of the California Rural Legal Assistance (CRLA), in the agriculture industry, growers have generally insulated themselves from employer sanctions by hiring farm labor contractors (FLCs) to provide their workforce. Under current federal and state labor laws, as long as a grower is not a "direct employer" of workers tending his or her fields, he or she is not accountable for any violations of employer sanctions or fair labor standard laws.

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<sup>10</sup> An employer is deemed to have complied with IRCA if the document examined reasonably appears on its face to be genuine. 8 USC, Section 1324a(b)(1)(A)(ii).

<sup>11</sup>U.S. General Accounting Office, *Immigration Reform: Employer Sanctions and the Question of Discrimination*, GAO/GGD-90-62 (Washington, D.C.: March 1990).

In addition, as pointed out by Ms. Foo of the Asian Law Caucus, "paying of monetary penalties [for violation of employer sanctions] merely becomes a cost of doing business for the employer. The employer continues its practice of hiring and exploiting the undocumented until it is caught again a year or two later."

### **Victims of Exploitation**

Witnesses told the Select Committee that, because of their lack of English and other job skills, and in some cases because of their immigration status, immigrant workers are often forced to work long hours at low wages under sub-standard working conditions, and mostly without workers compensation and health insurance. They stated that employers in the garment and food service industries, which were identified by the U.S. General Accounting Office in its 1988 report<sup>12</sup> as "sweatshop" industries, have routinely violated state and federal labor laws. Undocumented workers, who fear being reported to the INS by their employers, are especially vulnerable to exploitation. According to numerous news accounts, workers in garment factories and restaurants, especially businesses in the ethnic enclaves, were often owed several months of unpaid wages when their employers closed down the business. Katie Quan of the ILGWU told the Select Committee that "there are more than 10,000 garment workers in the Bay Area who are not being paid minimum wage, overtime pay, or being paid at all" by garment contractors.

In the agriculture industry, according to witnesses testifying before the Select Committee, farm workers are often victims of exploitation by farm labor contractors (FLCs), not growers. Enforcement is difficult because of the migrant nature of the business, and because growers are not held accountable for FLC's violation of labor standard laws. Claudia Smith of CRLA said that, in addition to labor law violations, tax evasion by FLCs have also victimized immigrant farm workers. Many workers are unable to receive unemployment or state disability benefits because FLCs pocketed the money withheld from workers' pay checks.

It has been suggested that English language and job skills training should be provided to immigrants. The more skilled they are, the better opportunity they can have, thus less subject to exploitation by their employers.

### **Labor Law Enforcement**

Many of those who testified at the hearings suggested that to stem illegal immigration, the state needs tougher labor laws and more vigorous enforcement of these laws. "Undocumented workers are vulnerable to exploitation by employers who may violate wage and hour, safety and tax laws with impunity knowing that the workers will be reluctant to report such violations," stated Lina Avidan of the Coalition for Immigrant & Refugee Rights & Services in San Francisco. "Vigorous enforcement of these federal and state laws without regard to the immigration status of the workers will remove the incentive for employers to exploit immigrant workers. Working

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<sup>12</sup> U.S. General Accounting Office, "Sweatshops" in the U.S.: Opinions on Their Extent and Possible Enforcement Options," GAO/HRD-88-130BR (Washington, D.C.: 1988).

conditions will ultimately improve, making such jobs more attractive and viable for native-born workers."

Ms. Foo of the Asian Law Caucus also told the Select Committee that vigorous enforcement of labor laws is "absolutely necessary to force employers to comply with minimum wage and overtime laws so that longtime legal residents do not see their wages and working conditions eroded by undocumented workers or new immigrants." Richard Garcia of the CRLA echoed: "Effective enforcement mechanisms will reduce the 'pull' effect of jobs for easily exploitable workers, improve working conditions for all, and help alleviate costs for health and social services."

### *Responsible Agencies*

The Division of Labor Standards Enforcement (DLSE) of the California Department of Industrial Relations (DIR) is responsible for enforcing the state's minimum labor standards laws, including laws relating to minimum and overtime wages, child labor, requirement of employers to secure workers' compensation insurance, payroll tax deductions, etc. The Wage and Hour Division of the U.S. Department of Labor (USDOL) is responsible for enforcing federal labor laws, and the California Occupational Safety and Health Administration (CAL-OSHA) enforces state laws relating to health and safety in the workplace. The California Employment Development Department (EDD) is responsible for collecting payroll taxes from employers.

According to California Labor Commissioner Victoria Bradshaw, who testified before the Select Committee in San Francisco, inspections in the garment manufacturing and agriculture industries are currently carried out by the Targeted Industries Partnership Program (TIPP). TIPP is a joint enforcement effort by DLSE, USDOL and EDD, targeting employers who are "recidivist and egregious violators" of labor and workplace safety and health laws. Bradshaw said that in the first 10 months of TIPP's existence, investigators have "issued 279 citations in agriculture and 311 citations in garment manufacturing. The assessed penalties under TIPP for labor law violations alone for this period are \$4,157,200."<sup>13</sup>

However, according to Ms. Foo, who has assisted many low-income immigrant workers in filing complaints with the Labor Commissioner, TIPP's raids on workplaces "have little or no impact on how business is really conducted." The problem, according to Foo, involves collecting the fines imposed on employers as a result of TIPP's raids. She said that because DLSE is so understaffed it has not been able to collect most of the fines. She also criticized DLSE for not being effective in collecting back wages and overtime pay for employees who are victims of exploitation by employers. "Unless employers are forced to pay those wages, and not just the fines and assessments, there is no incentive to discontinue their sweatshop practices."

In addition to strengthening the enforcement, workers rights groups also stressed the need for toughening the current labor laws, such as increasing monetary penalties, or making garment

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<sup>13</sup> The state's General Fund receives all fines collected for violating California's labor laws.

manufacturers and agriculture growers liable for wage and working condition violations by contractors, as suggested by ILGWU, Asian Law Caucus, and CRLA.

### **Cooperation with the INS**

Former INS Commissioner Alan Nelson told the Select Committee that the State Labor Commissioner should better coordinate with the INS in enforcing state labor laws. "By better cooperation, coordination and information sharing, the State and federal governments could work more effectively to combat wage and hour violations, health and safety violations and violations of the federal immigration laws."

Labor Commissioner Bradshaw, however, repeatedly stressed the importance of enforcing labor laws "without regard to the immigration status of the affected employees." To investigate and prosecute a case involving violations of the state's labor laws, according to Bradshaw, it is important for the investigators to obtain the trust and cooperation of the affected workers. "Such cooperation and trust would be impossible if employees believed that any statements made by them to labor investigators could be used against them in establishing cause for their deportation or the deportation of their family or friends."

## CHAPTER IV HEALTH AND WELFARE SERVICES

Costs of government-funded health services and cash assistance received by immigrants, especially undocumented immigrants and their citizen children, have increasingly become a public concern. Such concern has prompted legislative actions at both federal and state levels attempting to deny services to undocumented immigrants or all immigrants, and to deny citizenship to children born in the United States to undocumented mothers.

### HEALTH CARE FOR IMMIGRANTS

Federal law permits legal immigrants, refugees, and IRCA persons who are under age 18 or age 65 and over, blind or disabled, if otherwise eligible, to receive full Medi-Cal benefits. The rest of IRCA immigrants and undocumented immigrants, who meet all other Medi-Cal requirements, are eligible for restricted Medi-Cal benefits which cover emergency medical services, and labor and delivery services. California, without federal support, also pays for prenatal care for poor and uninsured undocumented women.

California's "anti-dumping" laws require physicians and hospitals to treat people in need of emergency care, and prohibits demand for payment information until after the patient's medical condition is stabilized. When patients cannot afford the cost of treatment, and do not meet the eligibility requirement for Medi-Cal, they become the responsibility of county governments.

The Omnibus Budget Reconciliation Act of 1986 (OBRA) requires the states to provide emergency care, and labor and delivery services for undocumented immigrants through Medicaid. Until 1988, when OBRA was implemented in California, the medical costs generated by undocumented immigrants were borne either by health care providers as "charity care" or "bad debt," or by the counties. This is because under California law counties are the providers of last resort. **Therefore, far from being a burden on California, OBRA is a blessing to its health care providers and its counties, providing federal and state money for services that would go unpaid or become the responsibility of the counties.**

### Use of Public Health Programs by Undocumented Immigrants

Previous studies have indicated that a smaller proportion of undocumented immigrants use Medi-Cal services than the general population. The 1992 Westat study showed that government funds accounted for approximately 25% of payments (including Medicare, Medicaid, and uncompensated care) for hospital stays by those undocumented immigrants who later applied for



amnesty under IRCA.<sup>14</sup> Forty-seven percent of all hospital stays were paid for totally or partially by private insurance, and 45% by self or family.

Todd Eisenstadt and Cathryn Thorup, in their study on the Mexican immigrants in San Diego's North County,<sup>15</sup> cited a survey conducted by the Migrant Services Project of San Diego County, showing that migrant workers living in camps also "tend not to use Medi-Cal [or other social services] at all." The survey "found that 75.5 percent of the residents had never used Medi-Cal . . . . Respondents to the survey . . . reported that they seek treatment at public clinics, try home remedies, or seek medical attention in Tijuana more often than they receive private care in the United States."

### **Health Costs for Undocumented Immigrants**

Health administrators and researchers have stated that it is difficult to quantify health care costs for a population whose size, and usage of health care programs, are basically unknown.

Since patients are not asked to provide information regarding their immigration status, statistics provided by hospitals and county governments on health costs for undocumented immigrants are no more than "concocted estimates," as described by Dr. Thomas J. Prendergast, Director of Public Health for the County of San Bernardino, who testified before the Select Committee in San Bernardino.

According to the testimony provided by Santiago Muñoz of the California Association of Public Hospitals (CAPH), the costs to counties for the services provided to immigrants who are not covered by Medi-Cal "remain unclear . . . . Presently, no county continually tracks costs incurred solely by undocumented indigent patients."

### **Services Provided Under OBRA**

In Fiscal Year 1992-93, according to the California Department of Health services, total OBRA expenditure in California was \$783 million, or 6% of total Medi-Cal expenditure of \$13.7 billion. Fifty percent of Medi-Cal expenditures is paid by the federal government, and 50 percent is paid by the state. The Department estimated that during the same year, there was an average of 304,770 persons eligible for OBRA every month. Actual recipients of services, however,

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<sup>14</sup> The Westat survey gathered information on legalized immigrants' use of health services at the time of application for amnesty or during the 12-month period before the time of application. See *Immigration Reform and Control Act: Report on the Legalized Alien Population* (U.S. Department of Justice, Immigration and Naturalization Service; M-375: March 1992.)

<sup>15</sup> Center for U.S.-Mexican Studies, University of California, "Caring Capacity versus Carrying Capacity" (San Diego: 1994).

averaged 83,225 a month, which amounted to 27% of estimated monthly OBRA eligibles, or 4% of total Medi-Cal monthly average users.<sup>16</sup>

Witnesses testifying before the Select Committee have raised a question as to whether the OBRA numbers correctly reflect the services provided to illegal immigrants. Restricted by privacy laws, hospitals do not routinely ask about their patients' citizenship or immigration status. For full Medi-Cal coverage, the patient must show proof of citizenship, legal status, place of birth and Social Security number. However, an alien may apply for restricted Medi-Cal benefits without providing any of that information.

According to Dr. Wendy Walker-Moffat of UC Berkeley, in many cases, hospitals automatically code patients "as undocumented if they are requesting emergency or pregnancy-related care and if they do not have a Social Security number or driver's license readily available." She said that it was "in the vested interest of the hospitals to classify as many indigent patients as possible as undocumented" because they can expect federal and state compensation under OBRA for services which would otherwise go uncompensated.

### **County Hospitals & Public Clinics**

As the state's "health care safety net," there is no doubt that county hospitals and public health clinics in certain regions with large immigrant populations are overburdened with increased caseloads.

According to CAPH's Muñoz, county hospitals and health systems provide "over 40% of all inpatient and hospital-based outpatient Medi-Cal services in counties where they are located." Muñoz also stated that county health facilities provide 90% of all the care received by medically indigent patients in their respective counties, which makes them in most cases the major providers of care to the immigrant population.

A sampling done by the Department of Health Services of Los Angeles County found that in FY 1991-92, 58.1% of all patients treated by county hospitals and health centers were foreign born, and among them, 24.4% were undocumented immigrants. (As discussed previously, convenience-samples usually produce questionable results; nevertheless, it is apparent that county health systems in several metropolitan areas with large immigrant population sustain a heavy burden.) The county estimated that the net county cost for treating legal and illegal immigrants in the same fiscal year was \$328.5 million. The Department has stated that it does not keep statistics on the number of admissions or visits by legal or undocumented immigrants, and the only way to determine the number of immigrant patients is through sampling.

### **Unmet Health Care Needs**

Health care providers serving immigrant communities also pointed out that immigrants, both legal and undocumented, are underserved, especially in the area of preventive medicine. Immigrants,

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<sup>16</sup> The number of recipients does not include prepaid health plans.

especially the undocumented, generally do not seek medical care except when they experience a real emergency, simply because they cannot afford to, and in most cases, their employers do not provide health insurance. Moreover, undocumented immigrants fear exposure and deportation if they seek health services, and tend to seek help only in emergency situations.

Clinica de Salud del Valle de Salinas, a community/migrant health center serving south Monterey County whose clients are mostly farm workers, told the Select Committee that a large percentage of its patients lacked basic, primary health care. A large majority of children who visited the clinic had not been properly immunized. Only 2-5% of the elderly patients had received any vaccinations against tetanus or flu. They found workers in agricultural fields and labor camps with high blood pressure and high blood sugar, who had never seen a doctor. They also found that there has been no contraception education for teenagers, and that most women did not have a yearly PAP test or mammogram, which would prevent costly treatment for cancer.

### **Public Health Imperative**

Public health administrators and health care providers who testified before the Select Committee, emphasized that denying basic health care and necessary medical treatment to any group of the population, or denying payment for these services on the part of the government, will both endanger the rest of the population, and cost the taxpayers far more in the long run. Most undocumented residents and their children will remain in this country and have direct daily contact with the rest of the population.

"From a medical point of view," stated Dr. Brian Johnston, an Emergency Physician at White Memorial Medical Center in East Los Angeles, "the systematic exclusion or underfunding of illegal immigrants, or any other population in our society is irrational and self defeating. Illegal immigrants, if excluded from the system, will become a source of infection to the general population. Tuberculosis, measles, polio and other diseases will be preserved in a secure reservoir in our population. Lack of prenatal care will inevitably produce low birthweight babies, while hypertension and diabetes, undetected and untreated, will result in expensive custodial care of persons suffering strokes, blindness, kidney failure or limb loss."

### **Cost Saving**

Dr. Prendergast of the San Bernardino County Department of Public Health also advised that "the health of the entire public cannot be jeopardized and future costs must be avoided with current cost . . . . The medical care network serving undocumented [immigrants] must be preserved and be financially viable in any new system . . . ."

The success of California's prenatal care program, which provides prenatal care for poor and working poor residents, including undocumented women, is evidence of future cost avoidance when adequate preventive care is provided to everyone. Earlier studies have concluded that for every dollar spent on prenatal care, over \$3 is saved due to avoidance of expensive neonatal intensive care and follow-up medical services. According to the California Department of Health Services, California has the lowest infant mortality rates among the nation's 10 largest states -- 6.2 per 1,000 live births, compared to the national average of 8.5.

If such preventive care is denied to undocumented women, children who will suffer the consequences are U.S. citizens, as pointed out by Claudia Martinez of the Mexican American Legal Defense and Educational Fund, who testified before the Select Committee at its Sacramento hearing. "If proposals to deny access to health care are implemented and federal mandates for providing these types of medical care are lifted . . . , the State will bear the total burden of the costs of this care. To do so would eliminate any savings currently gained, and would not be in the best fiscal interest of the State."

### **Cost Shifting**

Dr. Brian Johnston of the White Memorial Medical Center also suggested that because physicians and hospitals are required to treat emergency patients regardless of their ability to pay, denying public funding "serves merely to shift the cost through doctors and hospitals to the rest of the public at large."<sup>17</sup>

The Eisenstadt and Thorup study also suggests that cost-shifting will eventually increase the "financial squeeze on private hospitals, which by federal law cannot refuse anyone emergency or prenatal services but receive no government reimbursement for these services," and will result in more emergency room closures.<sup>18</sup>

### **Federal Matching Funds**

Medi-Cal, which is California's Medicaid, is a federal-state partnership program. Each government shares half of the Medi-Cal expenditure. If California decides to exclude undocumented immigrants from Medi-Cal coverage, the state will lose the federal matching funds under OBRA. Since counties are to absorb the uncompensated and indigent health care costs, such policy decision would ultimately save state General Fund dollars at the expense of local government.

"In an era of budget reductions of historical magnitude," Muñoz of the CAPH told the Select Committee, "counties are simply unable to sustain the erosion of key funding sources and continue to provide the same level of health care services to all sectors of the population that rely on health safety net facilities."

## **WELFARE PROGRAMS FOR IMMIGRANTS**

Contrary to the public perception, undocumented immigrants are not entitled to any public assistance programs. Certain legal immigrants, however, are eligible for welfare benefits. Refugees are eligible for all major cash assistance programs such as Aid to Families with

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<sup>17</sup> It is well established that physicians and hospitals are required to shift the cost of undocumented care onto private patients. Private health insurers attribute 20 - 30% of their premiums to increased medical charges from uncompensated care.

<sup>18</sup> "Caring Capacity versus Carrying Capacity," Ibid., 65.

Dependent Children (AFDC), Food Stamps, General Assistance, or SSI/SSP, if they meet the programs' requirements. Sponsored legal immigrants are not eligible for any public assistance for three to five years after their arrival, because their sponsor's income and assets are deemed as their income and assets in determining their eligibility. IRCA immigrants were prohibited from receiving federally-funded public assistance in the first five years after they became legalized.

It is unclear exactly how many legal immigrants in California, including ex-refugees who have adjusted to lawful permanent resident status or have become naturalized citizens, are currently receiving welfare. This is because the Department of Social Services is not required to track welfare recipients based on their immigration status.

### **Refugees**

California leads the rest of the nation as the home of refugees. Although exact numbers are not available, the California Department of Finance estimates that there were 600,000 refugees (including ex-refugees) residing in California in 1993. The California Department of Social Services estimates that over half of these refugees are receiving either AFDC or SSI/SSP.

The Refugee Act of 1980 authorized 100% federal reimbursement of state costs for refugee cash and medical assistance specified under the Refugee Resettlement Program for 36 months after each refugee's arrival in the United States. Since 1982, federal reimbursement has decreased from 36 months to the current eight months, meaning "a drop in federal funding from \$6,000 per refugee in 1982 to \$1,000 per refugee in FY 93," Ignatius Bau of the Lawyers' Committee for Civil Rights told the Select Committee. The state and the counties are left to pay for these benefits.

### **Citizen Children**

The number of children born in the United States to undocumented residents in California is unknown. Based on the data collected for the AFDC's "children-only" cases, the Department of Social Services has estimated that 193,800 citizen children will be receiving welfare in FY 1994-95 at a total cost of \$553 million.

There have been proposals to amend the 14th Amendment to the U.S. Constitution to deny citizenship to the children born to undocumented mothers. The subject is discussed in detail in the Citizen Children Chapter.

# IMMIGRANTS ELIGIBLE FOR PUBLICLY-FUNDED PROGRAMS

<b>IMMIGRANTS STATUS</b>				
<b>PROGRAM</b>	<b>LEGAL PERMANENT RESIDENT</b>	<b>REFUGEE/ ASYLEE</b>	<b>AMNESTY</b>	<b>UNDOCU- MENTED</b>
<b>CASH</b>				
Aid to Families with Dependent Children	Yes	Yes	Not for 5 year, unless 65 or over, blind, or disabled	No
SSI (Disability)	Yes	Yes	Yes	No
Unemployment Insurance	Yes	Yes	Yes	No
<b>MEDICAL CARE</b>				
Medicaid	Yes	Yes	Full services for 65 and over, disabled, or child under 18. Others limited to emergency and pregnancy services for 5 years	Emergency services
<b>FOOD</b>				
Food Stamps	Yes	Yes	Not for 5 years, unless 65 or over, blind or disabled	No
Women, Infants & Children (WIC)	Yes	Yes	Yes	Yes
<b>EDUCATION</b>				
Headstart, K-12	Yes	Yes	Yes	Yes
Federal Student Loans	Yes	Yes	Yes	No
Job Training Partnership Act	Yes	Yes	Yes	No
<b>HOUSING AND OTHER SERVICES</b>				
Federal Housing	Yes	Yes	Yes	Yes

## Welfare Traps

Previous studies have found that immigrants and immigrant families, when all things are equal, are less likely than natives to become dependent on welfare.<sup>19</sup> The majority of undocumented persons come to California to work, and rely upon family and community networks, not the government safety net systems, for financial and social support. Some refugees and immigrants continue to stay on welfare because our traditional social services structure is no longer sufficient to assist today's diverse immigrant families in adapting to their new world.

### *Lack of Health Care Coverage*

According to Dr. Michael Peter Smith of University of California, Davis, who studied recent immigrants and refugees, many political refugees in California, "particularly those from Southeast Asia, facing the choice of work or health, have chosen to remain on AFDC or general assistance for extended periods primarily because it entitles them to Medi-Cal coverage." He found that these refugees preferred work to welfare, but they have been unable to find jobs that include employee health care benefits.

### *Language and Social Barriers*

Many of the new arrivals lacking English-language skills can survive only in ethnic enclaves, with limited mobility and opportunity for success. Ethnic enclaves and ethnically segmented workplaces further enhance the barrier to English-language acquisition. There is a great need for public programs to assist non-English speaking new immigrants to escape the welfare trap and become self-sufficient. As Dr. Smith stated:

"Achieving the goal of economic self-sufficiency for California's new immigrants will require both general policies that cut across all groups, and others specifically tailored to the unique cultural, historical, and contemporary situations of each group. Their circumstances will require a restructuring of today's relatively inflexible welfare system into a more flexible combination of services that takes into account the changing character of work and family life that are part of today's world."

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<sup>19</sup> George Borjas and Stephen Trejo, "Immigrant Participation in the Welfare System" *Industrial and Labor Relations Review* 44(2):195-211 (1991); David Heer, "Undocumented Mexicans in the United States" (Cambridge University Press, Cambridge, England: 1990); Francine Blau, "The Use of Transfer Payments by Immigrants," *Industrial and Labor Relations Review* 37(2):222-39 (1984); and Marta Tienda and Leif Jensen, "Immigration and Public Assistance Participation: Dispelling the Myth of Dependency," *Social Science Research* 15(4): 372-400 (1986).

## CHAPTER V EDUCATION

Recent public concerns over the impact of immigration on education are primarily focused on the increased number of immigrant children in our public schools and the costs of educating them. "California will need to build a new school a day to keep up with the growing numbers of school-age youth," stated Danielle Elliott of the Federation for American Immigration Reform (FAIR) in her testimony before the Select Committee at its Sacramento hearing. Ric Oberlink, Executive Director of the Californians for Population Stabilization, also told the Select Committee that California's school system is failing because of overpopulation: "Our educational system is in crisis; our educational system is failing in its mission. I assert to you that much of the problem is because population growth is overwhelming the educational system, and even more so, because such a large component of population growth is from immigration."

### K-12 PUBLIC EDUCATION

#### Real Numbers and Costs Unknown

The real number of undocumented children and "citizen children" in our public schools and their costs are unknown. The California Department of Education does not have statistics based on students' immigration status, nor is it permitted to do so by law. The Wilson Administration estimates the state will spend \$1.7 billion to educate an estimated 392,260 undocumented children in our public schools in FY 1994-95, and \$400 million to educate citizen children born to undocumented parents. However, estimates vary widely.

The Wilson Administration numbers are "seriously flawed, grossly inflating any alleged costs," according to Ignatius Bau of the Lawyers' Committee for Civil Rights. Bau noted that because of the 1982 U.S. Supreme Court ruling in *Plyler v. Doe*, school districts do not keep records of the immigration status of students enrolled.

#### Education as a Constitutional Right

##### *Plyler v. Doe*

In *Plyler v. Doe*, the U.S. Supreme Court in 1982 held a Texas law unconstitutional which withheld state funds from school districts for the education of undocumented children. The Court ruled that undocumented children are entitled to the same right of access to public education under the 14th Amendment of the U.S. Constitution as enjoyed by citizens and legally admitted residents.



Recently in California there have been legislative proposals and grassroots ballot initiative campaigns to deny undocumented children access to public education. The reason for these proposals, as explained by former INS Commissioner Allen Nelson to the Select Committee, is that "it is preferable that individuals be educated in their home country rather than illegally in the United States, with all the negative aspects of living under illegal conditions."

### *California Constitution*

Irma Rodriguez, Staff Attorney of MALDEF who testified at the Select Committee's Los Angeles hearing, reminded committee members that "under the California Constitution, education is a fundamental right," and that the California Supreme Court, in its 1992 ruling in *Butt v. State of California*, unanimously reaffirmed that fundamental right. "The California Supreme Court so firmly believed that the California constitution protected education as a fundamental right that it rejected the subsequent United States Supreme Court decision holding that education was not a fundamental right in *Serrano II*."

### **Consequences of Reversing *Plyler v. Doe***

A reversal of *Plyler v. Doe*, as the educators and expert witnesses told the Select Committee, not only will not deter undocumented immigrants, but will cost the state and the nation in the long run. Peter Roos of the Multilingual Education, Training and Advocacy, Inc. (META), who argued *Plyler v. Doe* before the U.S. Supreme Court, cited in his testimony to the Select Committee, the Supreme Court's findings in *Plyler v. Doe* that these undocumented children "will remain in this country indefinitely and some will become lawful residents or citizens of the United States." He quoted Justice Lewis Powell's comments in the case: "It hardly can be argued rationally that anyone benefits from the creation within our borders of a subclass of illiterate persons many of whom will remain in the state, adding to the problems and costs of both state and national government attendant upon unemployment, welfare and crime."

### **State's Interest**

Public school administrators and advocacy groups who testified before the Select Committee all agreed that, aside from the legal requirements, it is in the state's strong interest to provide education to every child -- legal and illegal. "Public schools' basic mission is to prepare students with the requisite skills, knowledge, and attitudes to assume their place in society," stated Dr. Gilberto Anzaldúa, Assistant Superintendent of the Los Angeles County Office of Education. "Having students in schools is not only required, but it is sound educational policy to prepare students to function as capable citizens in a global community. We should bear in mind that immigrant workers contribute more than their labor to our economy. In today's hot international competition we need all the talent California can muster to compete in a global economic marketplace."

"By investing in the education of undocumented students, the State would avoid future costs in the criminal justice system, social costs of an illiterate population, and failure to reap the benefits of a better skilled workforce," stated Irma Rodriguez of MALDEF. "The consequences of denying undocumented students access to compulsory public education cannot be overstated."

Waldemar Rojas, Superintendent of the San Francisco Unified School District, in his testimony before the Select Committee in San Francisco, reminded the Committee members of a 1981 California Board of Education position: "As educators concerned with the provision of quality education for all children and for the improvement of society through an educated population, the California State Board of Education believes strongly that there is no rational educational or fiscal purpose in excluding children of illegal aliens from receiving the educational opportunities available to all other children."<sup>20</sup>

### **Impact on Schools**

In the regions heavily populated by immigrants, it has been a challenge for public school educators to meet the needs of immigrant students, especially the newcomers. Typical examples of such impact on local school districts were stated in the testimony provided by the Oxnard Union High School District (OUHSD) and the Oakland Unified School District.

According to Ray Tejada and Walt Dunlop of the OUHSD, about one-third of the District's student population is from immigrant families. Also about one-third of the District's 12,000 students in grades 9-12 are classified as "Limited English Proficient" (LEP) students, who speak 29 different languages at home. The impact is felt in the following areas, according to Tejada and Dunlop:

- "• **Language Barriers** challenge students, parents, and educators to establish essential communication.
- **Culture Clash** occurs where the cultural and linguistic differences are viewed as deficits by the dominant society.
- **Primary Language Literacy** must be developed among students with low levels of academic skill and communicative competencies.
- **Mobile Populations** create the need for a record keeping system that tracks and correctly assesses students' academic need.
- **Lack of Qualified Teachers** who are appropriately credentialed and who will serve youth as role models and safeguards of culture.
- **Equal Access** to the core curriculum is made difficult by limited resources including qualified personnel, instructional materials, and proper placement.
- **Supplemental Education** is required to fill the inadequacies of existing educational programs where individual immigrant student needs are unmet.

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<sup>20</sup> Brief of the California State Board of Education, *Amicus Curiae*, to the U.S. Supreme Court in *Plyler v. Doe* (September 27, 1981), p. 27.

- **Poverty** is a major obstacle to the physical, social, and educational development of immigrant children.
- **Parental Involvement** must be increased to ensure the greater success of immigrant students."

Jean Quan, a member of the Oakland Unified School District Board of Education, told the Select Committee that nearly two in every five students enrolled in the district come from immigrant families, and of the total 52,000 students, 7% are recent immigrants. The number of LEP students has doubled in the past decade to 13,000 students, or 25% of the District's total student population. The District provides bilingual services in more than 20 languages and dialects.

In Los Angeles County, according to Assistant Superintendent Anzaldua, a majority of the County's 1.5 million public school students speak a language other than English at home (speaking a total of 90 different languages).

### **Inadequate Federal Funds**

A consistent theme that ran through testimony offered by the educators and advocacy groups who testified before the Select Committee is that adequate federal funds for education programs targeting immigrant and minority children are necessary to alleviate the negative effects of immigration on schools. Such programs include the Emergency Immigration Education Program under the 1984 Emergency Immigration Education Act, Chapter One of the Elementary and Secondary Education Act, Title VII Bilingual Education Program, and the Transition Program for Refugee Children under the Refugee Assistance Extension Act of 1986.

The Emergency Immigration Education Act (EIEA) was enacted to provide supplemental funds to school districts with large immigrant populations. The funds are available only for students who have been in the U.S. for fewer than three years. According to Superintendent Rojas of the SFUSD, federal EIEA funding has declined dramatically from \$86 per pupil in 1984 to \$40 in the 1992-93 school year. Rojas also suggested that the Chapter One funds under the Elementary and Secondary Education Act, which provide funding for disadvantaged students, should include language minority students.

According to Ignatius Bau of the Lawyers' Committee for Civil Rights, federal Title VII Bilingual Education funds "have declined from \$166 million in FY 80 to \$158 million in FY 90, a 47% decrease in real dollars." He also noted that federal funding for the education of refugee children under the Transition Program for Refugee Children, which provided \$15.8 million in 1989, has been terminated since 1990.

## HIGHER EDUCATION

Several proposals are currently being considered by the Legislature to deny access for undocumented immigrants to the state's public higher education systems, including California Community Colleges (CCC), California State University (CSU), and the University of California (UC).

The key assumption behind these proposals, according to their sponsors, is that California's postsecondary education is one of the magnets attracting undocumented immigrants to California. They believe that these immigrants are taking class space from native-born and legal residents. They also insist that public-funded colleges and universities should not spend limited tax dollars on educating undocumented immigrants, while raising tuition and cutting classes on citizens and lawful residents.<sup>21</sup>

### Numbers Unknown

Actual numbers of undocumented students in the state's three higher education systems are unknown. According to estimates provided by CCC, CSU and UC, undocumented students account for 0.9% of the total student population in community colleges, 0.14% in state universities, and 0.07% in the University of California system.

### Financial Gain for State

Community colleges and the University of California system charge undocumented immigrants nonresident tuition, which exceeds the actual costs of providing educational services to individual students, according to an analysis provided by the Assembly Committee on Higher Education. Therefore, instead of subsidizing undocumented students, the state in fact "realizes a net revenue gain" for each undocumented student enrolling in these two systems. The committee analysis estimates that the state profits about \$5,800 per nonresident student at UC.

### *Leticia A. and Bradford*

The Alameda County Superior Court ruled in 1985 in *Leticia A. v. UC Regents* that it is unconstitutional for the state to preclude undocumented students from establishing residency for tuition purposes. The decision enjoined UC and CSU from charging all undocumented students nonresident tuition.

Subsequently, the Los Angeles Superior Court ruled the other way in *Bradford v. Regents*, and ordered UC to cease granting residency status to undocumented students. CSU continued to grant residency to undocumented students after the Alameda Court, following the Los Angeles ruling

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<sup>21</sup> Assembly Member Mickey Conroy, *California Taxpayers Spend Millions of Dollars to Educate Illegal Aliens* (News Release: January 4, 1994); and Assembly Member Dick Mountjoy, *Should Californians Finance College Educations for Illegal Aliens?* (Capital Comment: January 4, 1994)

in *Bradford*, reaffirmed its 1985 decision. *Leticia A.* is currently pending in the State Court of Appeals.

### **Children of *Plyler v. Doe***

According to META's Peter Roos, "the vast majority of those who seek admission to the state colleges are longtime residents of California who were brought here as children . . . these are the *Plyler* children come of age," and will remain in this country. Denial of higher education to these children "who are bona fide residents and *de facto* Americans," will make them vulnerable to unemployment and more likely to be in need of public aid.

## **VERIFICATION OF STATUS**

College administrators have also expressed their concerns at the Select Committee's hearings over recent proposals to prohibit them from accepting undocumented students. Educators and administrators all agree that their first mission is providing education. College personnel "do not want to, and are not trained to, play the role of INS inspectors," Jose Perales, Director of Personnel at the San Bernardino Community Colleges District, told the Select Committee members in San Bernardino.

If undocumented immigrants are barred from enrolling in CCC, CSU or UC, university personnel will be required to document and verify every student's immigration status. Currently at CCC and UC, because undocumented immigrants are classified as nonresidents for tuition purposes, students are required to provide the admission office with information about their legal status. At community colleges, for example, students are asked to "check a box on the application form" stating that they are legal residents. However, these colleges and universities do not routinely verify the applicant's status. "No proof of documentation is required," Perales said. "We just accept what they say at face value." This is because colleges and universities lack the resources and the mechanisms to verify student's immigration status.

Perales also stated that it would impose a tremendous burden on the CCC system if it is required to determine the citizenship or alien status of every applicant. In Community College districts, according to Perales, the enrollment process is "very condensed;" it is usually completed during a two-week period between semesters. "The San Bernardino Community Colleges District enrolls approximately 20,000 students during this two-week registration period. It is impossible for us to check and verify every applicant's immigration status during those two weeks."

K-12 public school educators have the same concern. Terry Ryan, Assistant Superintendent of Personnel Services of the San Diego County Office of Education, told the Select Committee that there were over 450,000 students in San Diego County public schools. "San Diego public schools presently do not have the financial or personnel resources to verify these students' residences without the financial help of the State." He stressed that educators should not be forced into playing the role of immigration officers:

"It is the job of public education to educate, not to discriminate. Immigration is a federal government issue and not a public education issue. It is unreasonable to expect public schools to enforce immigration law when the federal government, Border Patrol and other law enforcement agencies have failed in their efforts to control immigration. California legislators must also not try to force public schools to violate the Constitution by illegally mandating laws on student enrollment that violates the United States Constitution."



## **CHAPTER VI CITIZEN CHILDREN**

One of the most emotionally debated issues is the rights of the children of undocumented persons. Under the United States Constitution, all persons born in the United States become citizens at birth. Their parents' ethnicity, and lineage, whether or not their parents resided lawfully in the United States at the time of their birth, are effectively irrelevant in the eyes of the law.

Governor Wilson has requested the President and Congress to amend the 14th Amendment to the U.S. Constitution to eliminate that so-called "birthright standard." He argued in an August 9, 1993, letter to President Clinton that California's illegal immigration burden is overwhelming, and that that burden is substantially increased because: "The federal government confers citizenship to children born to parents residing illegally in the state, guaranteeing them education, welfare and health care benefits."

For example, though undocumented adults are not entitled to welfare benefits, their citizen children born in California are entitled to Aid to Families with Dependent Children (AFDC). Based on data collected for the AFDC's "children-only" cases, the Department of Social Services has estimated that 193,800 citizen children will be receiving welfare in FY 1994-95 at a total cost of \$553 million.

### **Effects of Amending the 14th Amendment**

However, Lina Avidan of the Coalition for Immigrant & Refugee Rights and Services, who testified before the Select Committee in San Francisco, argued that the U.S. should continue to grant citizenship by birth and naturalization rather than defining citizenship by blood relationships. "Children with undocumented parents who are born in the U.S. should continue to be recognized as U.S. citizens. In countries in which citizenship is determined by blood rather than birth (e.g., Germany and Japan), there is extreme racial divisiveness and a permanent disenfranchised underclass. The Civil War was fought and the 14th Amendment was passed to reject any system based upon a quantification of how much blood ('free' vs. 'slave') entitled an individual to U.S. citizenship."

### **Historical and Constitutional Background**

The "Birthright Rule" in the Citizenship Clause of the 14th Amendment embodies a legal rule which has been in place throughout four centuries of Anglo-American jurisprudence. That rule reflects the original colonists' decision to seek freedom by breaking away from the English monarchy and entrenched nobility, and rejecting lineage and descent as preconditions for individual freedoms.



That Common Law rule was substantially eroded by the U.S. Supreme Court's decision in the 1857 *Dred Scott* case, in which the Court upheld the Fugitive Slave Law. The pre-Civil War Court said that notwithstanding the birthright rule, slaves of African descent did not become citizens at birth.

After the Civil War, Congress included a clause in the 14th Amendment which expressly embodied the long-established Common Law Birthright Standard:

**"All persons born in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the states wherein they reside."**

When the 14th Amendment was ratified by the states in 1868, it was done with the recognition that the centuries-old birthright standard would thereafter expressly include all persons born in the United States -- including persons of African descent.

Though records of the congressional debate over the Citizenship Clause clearly indicated that it was meant to apply to children born in the U.S. of foreigners, all doubt was resolved by the U.S. Supreme Court in 1898. In *Wong Kim Ark*, the Court expressly ruled that a U.S.-born son of Chinese nationals was a U.S. citizen by birth, even though the Chinese Exclusion laws then in effect directly barred his parents from ever becoming citizens.

Similarly, in 1922, the California Supreme Court upheld the right of a U.S.-born child of Japanese parents to acquire and hold property, notwithstanding the fact that her parents were forbidden by the Alien Land Law from owning property in California.

The birthright standard prevails not only in the United States, but throughout the Western Hemisphere, including Canada and Mexico. By contrast, the "blood rule" is prevalent throughout much of Europe, where there is a tradition of preserving ethnic and cultural distinctions. For example, in Germany, a child born to German parents is automatically a citizen at birth. A child of Turkish parents born in Germany, on the other hand, can only become a German citizen upon reaching adulthood and satisfying the conditions of German citizenship.

Amending the 14th Amendment to deny birthright citizenship to children of illegal immigrants would essentially replace the birthright rule with the blood rule for all children born in the United States. In order to establish citizenship, every person would have the burden of proving to the government by some means that his or her parents were not undocumented aliens.

Those opposing eliminating citizenship by birth argue that the result would be to significantly increase the undocumented population in the United States, because the children of illegals would themselves never become citizens -- compounding the problem, as each succeeding generation added to the total. By denying them legal status, they argue, U.S.-born children of undocumented parents would be permanently without the benefits of citizenship, creating a permanent undocumented underclass without say in the political process, or stake in preserving the American democracy.

## **Amnesty Children without Derivative Rights**

At the same time that immigration reform advocates are seeking to eliminate what they view as an unwarranted loophole in American citizenship laws, a large group of children whose parents reside lawfully in California are themselves deemed to be illegal.

Traditionally, American immigration policy has assured that the spouses and children of people lawfully residing in the United States could also lawfully reside here. That policy of derivative rights for family members has applied to naturalized citizens, legal residents, and even foreign people coming to the U.S. on a travel, student or work visa.

One major exception to that policy has been the treatment of the families of approximately 3 million persons who were granted amnesty under the Immigration Reform and Control Act (IRCA) of 1986. That law permitted certain undocumented persons who had lived continuously in the U.S. prior to 1982, and certain other undocumented persons who had worked for at least 90 days in specific types of agriculture prior to May 1986 to apply to become lawful residents.

Of those 3 million persons who were granted amnesty under IRCA, the INS estimates that 1.6 million, or 53%, make California their home. Their spouses and children are not allowed to live in the United States. They must either stay in the home country, separated from their loved ones, or reside as illegals in California, subject to deportation.

According to Mark Silverman, attorney to the Immigration Legal Resource Center, who testified before the Select Committee in Sacramento, "it makes no sense for American society to grant amnesty to parents and leave their children subject to deportation. It is an inhumane miscarriage of justice for the United States government to destroy the families of taxpaying Californians who have become lawful permanent residents, by deporting the children, wives and husbands of those permanent residents."



## CHAPTER VII CRIMINAL ALIENS

Although problems presented by criminal aliens can be addressed only by federal actions, criminal aliens who are incarcerated in state and local facilities have become a major issue in this renewed, recent debate on immigration. Public concerns over the impact of criminal aliens have primarily focused on our overtaxed criminal justice systems, and the costs to the state and local governments of incarceration.

### **Population and Cost of Criminal Aliens**

#### *State Prisons*

The California Department of Corrections (CDC) estimated that, as of December 31, 1993, there were more than 18,000 "deportable aliens" in California prisons, approximately 14 percent of the total CDC prison population. Deportable aliens, in the context of "criminal aliens," generally refers to undocumented immigrants who have committed crimes, or any non-citizen who is convicted of certain serious crimes specified by federal law, including aggravated felonies, drug offenses, etc.

The cost to the state is estimated at \$409 million for FY 1994-95, which includes the cost of incarcerating and paroling deportable criminals in CDC and California Youth Authority facilities, at approximately \$22,000 per prisoner per year.

#### *County Jails*

Total criminal alien population in county jails, and their total cost to the counties are unknown. Several counties have produced county-wide estimates, which were extrapolated from sample studies.

The California Youth and Adult Correctional Agency (YACA) estimated in early 1993 an annual cost of \$56.2 million for the incarceration of 3,325 "convicted undocumented-alien felons" in California county jails. The Agency estimated that there was a total of 6,971 undocumented aliens in county jails in 1992, 9% of the total inmate population.

#### *Los Angeles County*

According to Commander Alan Chancellor of the Los Angeles County Sheriff's Department, who testified before the Select Committee in Los Angeles, criminal aliens comprise over 11% of the county's jail population, based on a joint study conducted by the Los Angeles Countywide Criminal Justice Coordination Committee, the County's Sheriff's Department and the INS in May

1990. The estimated County cost of deportable aliens was "over \$75 million each year for prosecution, defense, incarceration, court proceedings and probation."

#### *Orange County*

The average incarceration cost in Orange County, according to the testimony provided to the Select Committee by Tony Carstens of the County Administrative Office, was "between \$1.5 and \$2.2 million in fiscal year 1991-1992 for in-custody cases." In addition, Tony Carstens noted, the Border Youth Project of the County's Probation Department spent approximately \$54,000 in the same fiscal year for returning undocumented minors to Mexico.

Judge David Carter of the Orange County Superior Court told the Select Committee at its Los Angeles hearing that 35.5% of all defendants who passed through his court in a nine-month period in 1989 were identified by the INS as deportable criminal aliens.

#### *San Diego County*

The 1992 Auditor General report on undocumented immigrants in San Diego County (Rea & Parker Study) indicated that total annual criminal justice system costs for undocumented immigrants in the County exceeded \$105 million, including costs of law enforcement, prosecution, probation and incarceration, and the cost of juvenile justice system.

However, the Rea & Parker study has been criticized by other researchers for lack of reliability because of its methodological weakness. In his testimony before the Assembly Select Committee on California-Mexico Affairs in early 1993, Daniel Wolf of the Center for U.S.-Mexican Studies at the University of California, San Diego, told the legislators the Rea & Parker report "overestimates by as much as 250 percent the number of undocumented immigrants processed by the criminal justice system," and, therefore, overestimates the costs by \$90 million.<sup>22</sup>

He stated that instead of using the known annual statistics of felony cases brought by the San Diego District Attorney's office in previous years, the authors of the report relied upon a single primary data source for all of their statistics -- a study of felony cases brought by the D.A.'s office in a three-month period, and then extrapolated several times to obtain annualized statistics. The result, according to Wolf, was an unrealistically high number of undocumented immigrant felony cases. He also noted that the authors used average costs rather than marginal costs in estimating fiscal impacts, thus overestimating the costs by almost ten times. Wolf also criticized the way the authors manipulated and represented the data: "the report . . . is extraordinarily difficult to unscramble: It is based on interpolations of interpolations, labels tables deceptively, and conveys an artificial sense of authoritativeness when citing underlying sources for its interpolations."

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<sup>22</sup> See testimony of Daniel H. Wolf, "Immigrants, Immigration & the California Economy: A Compendium of Materials Submitted at an Informational Hearing of the Assembly Select Committee on California-Mexico Affairs" (Assembly Publications No. 0473-A, Sacramento: February 25, 1993).

## Cooperation with the INS

The Immigration Act of 1990 requires states to share with the INS all criminal justice records of aliens who are convicted felons. Consequently, the state implemented the "California Plan," which requires that local law enforcement agencies report alien convictions to the INS at the booking stage for determination of resident status of a suspected deportable alien.

In 1993, the Legislature passed SB 691 (Kopp), which preempts local ordinances which prohibit peace officers from identifying and reporting to the INS any arrested person who is suspected of being undocumented.

Local law enforcement agencies testifying before the Select Committee stressed the importance of intergovernmental cooperation in coping with the problems involving criminal aliens. "The vast majority of criminal aliens are first encountered by LOCAL criminal justice agencies," stated L.A. County Sheriff's Commander Alan Chancellor. "Most are never identified as deportable aliens and most will never come to the attention of INS. Intergovernmental cooperation and coordination is needed to ensure effective strategies for criminal alien apprehension and prosecution."

Chancellor told the Select Committee that Los Angeles County and various federal agencies in the region "have developed effective partnerships and successful cooperative programs to combat the criminal alien problem." An example of such cooperative efforts is the Institutional Hearing Program initiated by the Los Angeles District Office. The program allows the INS to schedule deportable criminal aliens for deportation hearings before an immigration judge while they are still serving their sentences in the county jail. According to Clifton Rogers, Acting District Director of the INS Los Angeles District Office, the aliens ordered by the judge for deportation are immediately removed from the United States upon release from the county jail. In federal fiscal year 1993, Rogers told the Select Committee, the program deported 563 criminal aliens directly from the Los Angeles County jail.

Rogers said that the Criminal Alien Unit in the INS Los Angeles District Office "work[s] closely with officials from the California Department of Corrections, federal prisons and correctional facilities, as well as with the Los Angeles and Orange County jails to locate, identify, and process for deportation proceedings well over a thousand criminal aliens per month."

In San Francisco, according to Captain James Molinari of the San Francisco Police Department, the Department has worked with the City's District Attorney, Sheriff, Adult Probation Department, Mayor's Office, and INS to develop a plan that has delivered hundreds of convicted illegal immigrants for deportation.

In Santa Cruz County, Sheriff Alfred Noren told the Select Committee the county's revamped policy of notifying the INS of criminal aliens "has assisted [INS personnel] tremendously in performing their job." Sheriff Noren suggested that "even though responsibility for enforcing immigration laws does not rest with local authorities, it might be possible to form task forces and cross-designate agents with INS as is currently being done in the area of drug enforcement. "

## **Deportation/Transfer of Criminal Aliens**

There are two distinct procedures by which criminal aliens can be sent back to their home country.

### *Deportation*

After serving their criminal sentence, the INS has the authority to initiate deportation procedures. If the INS determines that deportation is warranted, the criminal alien will be sent back to his or her home country, provided the U.S. has a treaty with the home country by which each country agrees to accept the others' deportee.

Criminal aliens make up at least 14% of California's prison population. About half of the criminal aliens who complete their sentences wind up on parole; the other half are deported.

In 1987, the California Department of Corrections (CDC) implemented an Institutional Hearing Program at two specific prisons where inmates subject to deportation are transferred, and where INS can commence deportation proceedings. CDC houses deportation candidates in separate facilities for the last six months of their terms, in order to help INS identify and commence deportation proceedings.

In 1992, the California Legislature enacted Penal Code Section 5025, which requires CDC to identify inmates serving terms in state prisons who are subject to deportation. And in 1993, the Legislature enacted SB 345 (Hill), which requires CDC to provide prison facilities, transportation, and general support to the INS for the purpose of expediting the deportation hearing process.

### *Transfer*

There is also a Transfer Treaty Program by which criminal aliens can be transferred to their home country to serve their sentence. The Transfer Treaty Program originated with Mexico under President Carter in 1976, and now includes U.S. treaties with approximately 40 nations. Transfers require a three-party consent -- the U.S. government, the government of the prisoner's home country, and the prisoner. Given the complexity of the process, very few criminal aliens have been transferred. In California, 18 of 150 requests were granted between 1983 and 1991, primarily nationals of Mexico and Canada.<sup>23</sup>

### *Formal Deportation/Voluntary Departure*

The form of deportation -- voluntary departure or formal deportation -- is also critical in reference to future prosecution, according to Judge Carter. He said that because re-entry into the United States is a federal crime only if the person is formally deported, it is important to make

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<sup>23</sup> See *The Criminal Alien: A Report of the California State Legislature Joint Committee on Prison Construction and Operations* (Sacramento: March 1993).

sure that all deportable state felons are formally deported, instead of going through a voluntary departure process.

### *Earlier ID Process*

Judge Carter suggested that in addition to the need for "tremendous cooperation" among federal, state and local agencies, there is also a need to combine the resources of federal and state courts to alleviate the problems caused by criminal aliens. He believes that identification and INS holds for illegal felons are best placed at the earliest possible time in the justice system. He invited INS personnel to screen all the defendants scheduled before his court, and to place holds on the defendants who have been identified as illegal immigrants. With assistance from the courts in preparing necessary paperwork, Judge Carter said that the early identification in state courts would expedite the identification process and save the INS tremendous personnel time in searching through the state prison population.

When contacted, the California Judicial Council indicated that it recently became familiar with Judge Carter's proposal. To date, it has taken no position.

### **'Revolving Door' Cycle**

A follow-up study of the aforementioned May 1990 survey by the Los Angeles Countywide Criminal Justice Coordination Committee has concluded that over 40% of the trackable deportable aliens in the original study were rearrested during the year following their release or deportation.

Commander Alan Chancellor told the Select Committee that "deportation alone will not discourage re-entry into the country and will not deter criminal behavior . . . . Federal agencies must also ensure that all convicted criminal aliens be positively identified, formally deported and aggressively prosecuted for re-entry after deportation. Strict enforcement and harsh criminal punishments are essential to combatting the problem of criminal aliens."

Judge Carter of the Orange County Superior Court also believes that more vigorous prosecution of deported criminal aliens who re-enter the country will disrupt the "revolving door" cycle of criminal alien activities. "Most importantly, the federal system must institute federal prosecutions of these re-entering felons," he stated. "The example of federal prosecution for the simple act of re-entering, even for a small street [drug] dealer will send an instant and chilling message to deter reentry."

### **Prosecute Reentering Criminal Aliens**

Judge Carter told the Select Committee that prosecution of criminal aliens who re-entered the country after deportation has not been a priority of the federal government in the past. He said that "there had to be five illegal re-entries before the United States Attorney's Office would enter into the process of formal deportation hearings." He suggested that the low priority was due to limited resources on the U.S. Attorney's staff, federal courts, and federal prisons.



However, according to Clifton Rogers of the INS Los Angeles District Office, and Commander Chancellor, the collaborative efforts between the federal agencies and the county have significantly increased federal prosecutions of convicted criminal aliens for re-entry after deportation under federal law. "Sentences for re-entry after deportation have also been significantly enhanced," stated Chancellor. "In Los Angeles, convictions for a single violation of Section 1326 are now resulting in an average federal prison term of 46 months compared to 31 months in 1991."

### **Needs Better I.D. and Tracking Mechanism**

A major difficulty experienced by law enforcement agencies in stemming re-entry by deported alien felons is the lack of an effective tracking and identification system. According to Chancellor, the name-based systems currently used by all enforcement agencies "are incapable of meeting the demands of criminal alien apprehension and enforcement." He stressed that there is an urgent need for the federal government to establish a nationwide, automated fingerprint system, which would link local, state, and federal law enforcement agencies, and provide criminal history and immigration records with information on prior deportations.

### **Transfer to Federal Custody**

Local law enforcement agencies told the Select Committee that convicted criminal aliens should serve their entire sentences before they are deported. They also agreed that the federal government should assume the responsibility of the incarceration of deportable criminal aliens. They expressed a need for legislation to allow the transfer of convicted criminal aliens in state prisons and county jails to federal custody, and for deportation upon completion of their full sentences.

## **CHAPTER VIII**

### **BORDER ENFORCEMENT**

Enforcement of the nation's land and sea border policies is the responsibility of the federal government. The proposals such as imposing border-crossing fees, or using military troops to enforce the borders can be addressed only by the Congress.

At the state level, it has been suggested that the California National Guard be deployed to assist the Border Patrol in the enforcement of the state's southern border. However, according to Gustavo de la Vina, Chief of the San Diego Border Patrol Sector, who testified before the Select Committee in San Bernardino, border-enforcement is a "tremendous job which requires extensive training." He suggested that the National Guard be utilized "only in a support mode," which includes construction and clerical support -- areas where the Border Patrol Sector is in dire need of assistance.

The California National Guard agrees that its troops are not trained for border enforcement duties, and are "constrained from participating in any kind of law enforcement activity regarding illegal immigration." (See Appendix E.)

### **BORDER PATROL ACTIVITIES**

Although Border Patrol Sectors of the INS are under federal jurisdiction, Border Patrol activities were included in the subjects of the Select Committee's public hearings in Santa Cruz and San Bernardino, in response to the public concerns over Border Patrol raids in residential neighborhoods, and the conduct of business at inland checkpoints.

#### **Enforcement Based on Appearance**

One of the major concerns about Border Patrol agents' activities is the rationale for detentions and arrests. Witnesses who testified at both hearings said that people have been arrested or detained for no other reason than their brown skin color. Jon Silver, a board member of the Santa Cruz County Immigration Project, told the Select Committee that "skin color appears to be the only motive for detention" of residents in the Santa Cruz Beach Flats area and Watsonville by Border Patrol agents. "In fact it is difficult to find any people without brown skin color who have been detained by the Border Patrol despite the presence of large numbers of Canadians and other fair skinned European immigrants in the area."

The same problem occurred at inland checkpoints, where agents appeared to select their targets based on the driver's or passenger's appearance. Assembly Member Julie Bornstein, a member of the Select Committee, said she has experienced the discriminatory treatment by Border Patrol agents at the Highway 86 checkpoint. According to Assembly Member Bornstein, who is

caucasian, she was never questioned by agents at the checkpoint when she was driving alone. The only time she was questioned was when her Latino staff person was in the car with her.

Representatives from the INS Border Patrol Sectors who were invited to testify before the Select Committee, including Livermore Sector, El Centro Sector, and San Diego Sector, all denied that agents targeted only Latino or non-white residents or drivers. They said the vast majority of immigrants they encountered every day were Latinos, thus the high apprehension rate among Latino immigrants.

Alan Dwelley, Assistant Chief Border Patrol Agent of the Livermore Sector, provided the Select Committee with the following statistics:

Between October 1, 1992, and July 31, 1993, Livermore Sector agents arrested 17,038 undocumented aliens from 67 countries; of this number, 16,287 were from Mexico.

Dwelley told the Select Committee that apprehensions were made based on reasonable suspicion that agents are trained to acquire.

Chief de la Vina said that Border Patrol agents at inland checkpoints have gone through "extensive training to develop expertise" in detecting the signs that include nervousness of driver, unreasonable number of people in a car, and unusual movements such as changing lanes when approaching the checkpoint.

### **Neighborhood Raids**

Border Patrol enforcement activities in Central Coast neighborhoods where large farm worker communities are located have created controversies and endangered the safety of local residents, according to testimony received by the Select Committee. William Melendez of the League of United Latin American Citizens stated that in Monterey County, Border Patrol agents raided public buses, engaged in car chases, discharged firearms in residential neighborhoods, and detained immigrants without proper cause.

Jon Silver also stated that in Santa Cruz and Watsonville, "the Border Patrol sweeps through neighborhoods in a random fashion, creating havoc and fear, a situation where they can grab people off the streets or from local businesses. Local Border Patrol sweeps have also included blocking-off streets and alleyways as well as randomly chasing people through the neighborhood streets."

### **Inland Checkpoints**

Witnesses also pointed out that controversial Border Patrol actions at various inland checkpoints have resulted in costly legal battles and tragic loss of human lives. High speed chases by the Border Patrol along the freeways near the checkpoints have killed or injured many undocumented immigrants as well as bystanders. According to Roberto Martinez of the American Friends Service Committee (AFSC), who testified before the Select Committee in San Bernardino, human

and civil rights abuses occur more often at the inland checkpoints because agents have less supervision at inland sites.

Martinez said that the AFSC has received numerous complaints in the past about the abuses by the Border Patrol at the San Clemente and Temecula checkpoints, and other checkpoints along several freeways in the Imperial Valley. "The abuses range from insults, threats and beatings, to humiliating strip searches of women in front of male agents." He told the Select Committee that almost half of all complaints the AFSC has received recently were from U.S. citizens and legal residents.

There also have been complaints alleging that Border Patrol agents failed to respect detainees' basic legal rights. "Ever since the Border Patrol was granted added power to search vehicles for drugs," Martinez said, "we have seen an increase in 4th Amendment rights lawsuits, as well as complaints." Jon Silver also mentioned that Border Patrol agents often "use coercive tactics including verbal intimidation and threats to get individuals to waive their rights and sign a voluntary departure form."

### **Civilian Oversight Commission**

Several witnesses advocated creation of a civilian oversight commission to monitor Border Patrol and INS practices and to investigate complaints filed against these federal agents. The proposed Immigration Enforcement Review Commission Act (HR 2119), which would establish an independent federal civilian law enforcement review commission, is currently pending in Congress.



## CHAPTER IX

### IMPACT ON LOCAL COMMUNITIES

Some communities with large immigrant populations experience specific problems. For example, housing is a major issue in Santa Cruz and Napa counties where a large number of farmworkers reside. In the City of San Rafael, immigrant day labor has become a controversial issue for the local community.

#### **Housing Needs**

##### *Central Coast Counties*

Holly Cervantes Torres, speaking before the Select Committee on behalf of the Legal Aid Society of Santa Cruz County, told Committee members that it has been almost impossible for immigrants working in the county's agricultural and service sectors to find decent, affordable housing, where monthly rents range from \$900 to \$1,100 for a two-bedroom house. "Such rents are simply beyond the resources of a field worker earning \$5 - \$6 an hour. The local Housing Authority can offer little hope, since there is a seven-year wait for a subsidized unit."

Torres said that it is "common practice to see two or three families living in single family residences in Watsonville, in order to afford the rent." Because of the lack of affordable housing opportunities, Torres stated, many migrant workers are forced to camp out or live in their cars, presenting health and safety concerns for themselves and the public.

In Monterey County, according to Vanessa Vallarta of the Center for Community Advocacy, farmworkers "live in some of the most substandard housing units" in the county. "Mainly these are aging labor camps in the Salinas Valley, that suffer from inadequate sewage disposal systems, nitrate-contaminated water, and structurally unsound floors, ceilings and walls. Yet tenants routinely pay \$500 in rent for such marginal units."

##### *The Wine Country*

David Dickson, Director of Housing of Napa County, who testified before the Select Committee in San Francisco, said that wine-industry-based immigration in Napa County has severely impacted the county's housing system. Grower-provided housing in the county, according to Dickson, "has been reduced by 35% over the past 10 years, forcing the government and non-profit social service sectors to increase expenditures on emergency and seasonal housing services."

Dickson said that overcrowding of housing units has become a serious local problem. The County's recent Farmworker Housing Study showed that 86% of workers live in overcrowded conditions in order to "minimize the proportion of available income going to housing."

Another serious housing problem in Napa, according to Dickson, is the increased number of undocumented job seekers who are homeless. "There has been a marked increase over the last three years in the number of unemployed and homeless agricultural workers, while the number of jobs has stayed fairly constant." As a result, the county's "emergency housing system of homeless shelters and housing services has been expanded in recent years to accommodate a much larger unemployed immigrant workforce," thus increasing the financial burden of the County government.

### **Day Job Seekers**

The growing presence of day workers in the City of San Rafael has become a controversial issue and has polarized the local community. Suzanne Golt, Assistant City Manager, told the members of the Select Committee that in San Rafael, which is the financial, economic, and cultural center of Marin County, "the presence of large numbers of immigrant day workers has proven to be disruptive, potentially unsafe in some instances, and the source of ongoing strife and polarization in San Rafael." She said that the INS estimates that up to 90% of the day workers, "who are almost exclusively Hispanic men seeking employment off the streets," are undocumented immigrants.

Since the INS was unable to effectively respond to San Rafael's problems caused by immigrant day workers, the City Council approved a plan in January 1993 to establish a day worker job center to keep the workers off the streets. According to Golt, an "extremely organized and active opposition to the job center" by some immigration reform groups and the INS "has caused serious polarization in the community." The City of San Rafael eventually put the job center on hold, but "the number of day workers remains large and the employment transactions on the streets continue."

Golt told the Select Committee that communities such as San Rafael, which attempt to address day worker related problems at the local level, often encounter obstacles that they are not capable of resolving without cooperation of the state and federal governments. "Shrinking revenues and the recession make local governmental agencies financially ill-equipped to resolve such immigration related problems. Local police departments do not have immigration authority or the staff and time to take on such a role; yet, the INS is insufficiently staffed to play a meaningful role in mitigating day worker problems."

## **CHAPTER X**

### **HUMAN AND MORAL CONCERNS**

Much of the recent debate over immigration has been focused on the fiscal impact of immigrants. Members of the Select Committee have been urged repeatedly by human rights groups and religious leaders to include the moral dimension in the discussion, and to address the immigration issue with compassion and fairness. They emphasized that the country needs not only an effective immigration policy, but also an "immigrant policy" which would address the human and social needs of immigrants.

"When we discuss immigration policy, it is very easy to overlook the fact that we are not talking about abstractions but about human beings, namely immigrants," stated Ignatius Bau of the Lawyers' Committee for Civil Rights. "Yet the word 'immigrant' has been given such negative connotations that it is easy to forget that we are discussing people, not just policies."

#### **Basic Human Right**

Cardinal Roger Mahony, the Roman Catholic Archbishop of Los Angeles, who testified before the Select Committee at its Sacramento hearing, emphasized that the immigration debate should recognize basic human dignity. "Every person is endowed with a basic and fundamental dignity as a creature created by God, regardless of their immigration status . . . . Respect for human dignity and human life is not negotiable. Human dignity is not determined by social class, citizenship, race or ethnicity."

"Immigrants living in this country -- documented or undocumented -- need to have access to those things necessary to sustain and develop life in all its dimensions," Cardinal Mahony said. "This includes access to education, health care, housing, employment, and all the other basic necessities for a decent living." He warned that public policies limiting access to those basic services "have failed to weigh the long-term social cost of denying children education, of preventing families access to preventive health care, of adding to the numbers of homeless persons on our streets, and of further institutionalizing people on the margins of our society."

Cardinal Mahony's statement was echoed by Rabbi Steven Carr Reuben, who spoke to the Select Committee in Sacramento on behalf of the Jewish Federation Council of Los Angeles. "What we need . . . is a calmly considered, rational, compassionate, forward-looking immigration policy that reaffirms the essential sacredness of all human life. We need a policy that treats all who are drawn to the hope and freedom of America with dignity, respect and justice, and must have the courage to reject the reactionary responses to the worst fears and prejudices of our communities and constituencies."



## **Victimization of Immigrants**

Immigrants have become convenient victims of mean-spirited citizens, as many witnesses told the Select Committee. "Perhaps our greatest challenge is to confront as aggressively the victimization of immigrants and their exploitation by unscrupulous employers as we pursue remedies to the problem of illegal immigration itself," stated Rabbi Reuben. "Can we be proud of a California where new immigrants live in fear of constant victimization, labor in dangerous, unhealthy working conditions for near slave wages, whose very existence should make us all cringe with embarrassment? Such exploitation undermines the values of our society, even as it undercuts our economic strength and vibrancy."

In addition to the exploitation of immigrants by employers, immigrants -- legal and undocumented -- are also subject to abuse in many other areas, including housing, consumer protection, legal representation, etc. "It is not uncommon these days for an employer who refuses to pay minimum wage or a slumlord who refuses to provide hot water or heat to intimidate our clients by threatening to call the INS to either deport them or hold up their naturalization applications by making false criminal activity claims," Dania Torres Wong of the California Rural Legal Assistance told the Select Committee in Santa Cruz. "In all of these situations, there was no distinction made between documented and undocumented individuals."

Jane Yokoyama, Director of Immigration Services of the Santa Cruz County Immigration Project, also told the Select Committee in Santa Cruz that immigrants, documented and undocumented, "are among the most victimized residents in our communities, falling prey to unscrupulous practices of landlords, employers, private hustlers, and poorly trained tax preparers. They lack sufficient information in regards to consumer protection, and likewise the consumer protection agencies lack sufficient staff, especially those prepared linguistically and culturally, to assist them in pursuit of remedies."

In Monterey County, according to Vanessa Vallarta of the Center for Community Advocacy, immigrants are "the victims of numerous predatory practices in the housing market," because of their lack of English skills and lack of knowledge of basic tenant rights. "Tenants are often threatened with evictions if they complain or worse, with deportation. In extreme cases, such as we have had repeatedly in Monterey County, of workers living in caves, land owners directly use the threat of deportation to intimidate workers into silence and acceptance of shockingly unsafe and unsanitary living conditions."

## **Racial Tension and Hate Crimes**

Many of those who spoke before the Select Committee have expressed their concerns over increased racial tension and hate crimes, which they believe are accelerated by the rhetoric in recent immigration debate. "The divisive rhetoric of the immigration debate as we have heard it so far plays upon fears and emotions," stated Cardinal Mahony, "and affirms the racism and prejudices deeply ingrained in the hearts and minds of people."

"The anti-immigrant sentiment only fuels a climate of fear, heightens differences, and leads to incidents such as the recent bombings in Sacramento of the Japanese American Citizens League

office, the NAACP office, a Jewish synagogue, and the home of Chinese American City Councilman Jimmy Yee," Minette Kwok of the Committee for Immigration Justice told the Committee.

Ignatius Bau also warned that "without constructive dialogue and realistic solutions in the immigration debate, anti-immigrant hysteria will continue to escalate in this state. Already we have witnessed the direct relationship between the increase in anti-immigrant sentiment and an increase in hate violence against immigrants."

"Will we today fall prey to the irrational, emotionally-driven social fears directed at all immigrants whether legal or not?" questioned Rabbi Reuben. "Will we give in to the increasing anti-immigrant scapegoating that lays all the blame for our current economic woes at the feet of every immigrant who comes to our shores, and now chisel a new motto on the Statue of Liberty -- 'Give us only your wealthy, your Europeans, your Caucasians, your computer specialists, your doctors, scientists or athletes?' I pray not."

### **Immigrant Bashing?**

Others argue that the issues concerning immigration and overpopulation are real human and social issues, which cannot and should not be dismissed by "labeling" immigration reform advocates "anti-immigrant" or "immigrant bashing."

"Charges are made that attacks on illegal immigration is 'racist, anti-immigrant' or is a form of 'immigrant bashing.' Rarely is this the case, particularly since most of the comments and actions are directed solely at illegal immigration," stated former INS Commissioner Alan Nelson. "Rather, the accusations themselves create the problem by intentionally blurring the distinction between legal and illegal immigration and by raising this 'straw-man' in the hope that those seeking solutions would be 'frozen out' from finding solutions to the problems of illegal immigration."

Ric Oberlink of Californians for Population Stabilization (CAPS) also told the Select Committee that in the past supporters of "unrestricted immigration" have always used "name-calling" to cut off the immigration debate. He said that it is "inaccurate and offensive" to characterize his organization as anti-immigrant. "We harbor no ill will toward those who come here or seek to do so, but we recognize that, for a variety of reasons, restrictions are necessary."

### **Who Suffers?**

"Who is it that suffers as a result of these high immigration levels?" asked Oberlink. "It is not the wealthy industrialist who realizes greater profits by keeping wage levels down. It is not the upper-middle-class family who can afford private schools or the move to affluent suburbs where public schools do the jobs they are supposed to do. Those who suffer the most are our own poor, including recently-arrived immigrants, but especially hard-hit are inner-city blacks."

## **Environmental Concerns**

Immigration impact on the natural environment is also a major concern of those who support immigration reform. Oberlink told the members of the Select Committee:

"Humans everywhere must learn to live within the carrying capacity of their environments, i.e., human numbers should not exceed that which the natural environment can support and sustain over the long term without causing environmental degradation and a declining quality of life. In California and the United States that will require placing limitations on immigration. There are 5.5 billion people in the world and they cannot all live here."

Danielle Elliot of FAIR also noted that "resource consumption and environmental considerations" are the key reasons to limit immigration. "When we add roughly the equivalent of the city of San Diego to our population every year, we must consider how we can provide for everyone's basic human needs. How are we going to educate additional children, care for the sick, provide housing, increase infrastructure and protect the environment? All of these obligations come with high price tags."

## CHAPTER XI RECOMMENDATIONS

The views of persons on all sides of the immigration issue are strongly felt and deeply held. Actions taken based only upon limited information and isolated circumstances may have far more serious consequences than are first apparent. The Select Committee, therefore, strongly recommends that before taking action, decision-makers examine all the relevant facts in light of the serious human and philosophical considerations which all the parties have voiced.

- The Assembly should commission, with the assistance of the California Policy Seminar and the greater academic community, a comprehensive statewide study of the short-term and long-term economic and social impact of immigrants and temporary residents -- legal and illegal. To the extent possible using sound methodology, the study should attempt to evaluate the differences in immigrant impact on local, state, and federal revenues and expenditures.
- The Legislature should urge the federal government to more actively pursue and identify undocumented, therefore illegal, immigrants who fall into the "visa overstayer" category, and deport them.
- State, local, and federal law enforcement agencies throughout California should develop policies and working agreements to form special task forces and cross-designate agents with the Immigration and Naturalization Service to enforce immigration laws.
- The Legislature should call on the federal government and the Governor of California to seek binational relationships and agreements with nations from which there are large numbers of emigrants, in order to reduce the pressures for leaving those nations.
- The Legislature should continue its efforts, in conjunction with the Wilson Administration, to persuade the federal government to provide sufficient funding for federally mandated health and social programs which serve large numbers of immigrants -- legal and illegal.
- The state should centralize its data collection operations for immigrant services to enhance efforts to obtain federal reimbursement.
- The Legislature should enact legislation to strengthen the enforcement of existing fair labor standards laws in order to discourage employers from hiring undocumented workers.
- California, through Congress and the Clinton Administration, should seek either federal prison space or federal funding to reduce the impact of an estimated 18,000 deportable

felons incarcerated in state prisons. The state also should assist county efforts to obtain federal assistance for approximately 7,000 deportable immigrants in county jails.

- California should seek maximum federal assistance for preventive public health programs, such as childhood immunizations, tuberculosis testing, and the Women, Infants, and Children's (WIC) nutrition program, and continue to seek additional federal assistance for the provision of basic emergency treatment and delivery services for persons not eligible for other care.
- Appropriate state officials in the legislative and executive branches should petition Congress and the appropriate federal officials to ensure that Part A of Title I (formerly Chapter 1) of the Elementary and Secondary Education Act (EASA) is approved this year. This funding is part of an effort to ensure that high poverty schools, whose student bodies include large percentages of immigrants, are providing adequate educations for their students. In addition, the Legislature should petition Congress to ensure that Title VII of the Act, which provides support for bilingual and immigrant education, is approved.
- The comprehensive statewide study recommended above should provide the basic information necessary to begin the task of redesigning public social services programs.
- The results of the statewide study should be widely disseminated in order to address misinformation that polarizes our society.

## APPENDIX A: EXPERT WITNESSES LIST BY TOPIC

### Name

### Organization

#### *Fiscal Impact*

Clark, Rebecca	Urban Institute
Frank, Dana	University of California, Santa Cruz
Garcia y Griego, Manuel	University of California, Irvine
Vernez, Georges	Rand Corporation

#### *Employment*

Abrams, James	California Hotel and Motel Association
Bradshaw, Victoria	California Labor Commissioner
Coryell, Nora	Rehabilitation Experts in Mexico
Davenport, Allen	Service Employees International Union
De Paz, Jose	California Immigrant Workers Association
Draper, Mark	Riverside County Farm Bureau
Espinoza, Rafael	Hotel and Restaurant Employees Union, Local 2
Fahey, Joe	Teamsters Local 912
Foo, Lora Jo	Asian Law Caucus
Huerta, Dolores	United Farm Workers
Ilchert, David	U.S. Immigration and Naturalization Services
Johnson, Walter	Central Labor Council of San Francisco
Jones, Ray	Urban Economic Development Corporation
Matloff, Norman	University of California, Davis
Matoian, Richard	California Grape & Tree Fruit League
Navarro, Yolanda	Displaced Cannery Worker
Palerm, Juan Vicente	University of California, Santa Barbara
Smith, Claudia	California Rural Legal Assistance
Smith, Michael Peter	University of California, Davis
Thompson, Jo-Linda	California Restaurant Association
Valenzuela, Abel	University of California, Berkeley
Williams, Russ	Agricultural Producers

#### *Health/Welfare Services*

Carstenas, Tony	Orange County Administrative Office
Estrada, Emma	Santa Cruz Women's Health Center
Hinojosa-Pereira, Teresita	Santa Cruz Human Resources Agency
McFadden, Bill	Los Angeles County Department of Public Social Services
Muñoz, Santiago	California Public Hospitals Association
Prendergast, Thomas	San Bernardino County Department of Public Health
Riley, Irene	Los Angeles County Department of Health Services

Torres-Wong, Dania  
Walker-Moffat, Wendy  
Weischedel, Bill  
Yokoyama, Jane

California Rural Legal Assistance  
University of California, Berkeley  
Riverside County Department of Public Social Services  
Santa Clara County Immigration Project

### ***Education***

Anzaldua, Gilbert  
Dunlop, Walt  
Gonzales, Mary Ann  
Nava, Paul  
Navarro, Armando  
Perales, Jose  
Quan, Jean  
Rodriguez, Irma  
Rojas, Waldemar  
Roos, Peter  
Tejada, Ramon

Los Angeles County Office of Education  
Oxnard High School District  
Institute for Social Justice  
Pajaro Valley Unified School District  
University of California, Riverside  
San Bernardino Community Colleges District  
Oakland Unified School District  
Mexican American Legal Defense and Educational Fund  
San Francisco Unified School District  
Multicultural Education, Training & Advocacy  
Oxnard High School District

### ***Criminal Aliens***

Bassett, Jack  
Carter, David  
Chancellor, Alan  
Molinari, Jim  
Noren, Al  
Rogers, Clifton

Santa Cruz Police Department  
Superior Court Judge, Orange County  
Los Angeles County Sheriff's Office  
San Francisco Police Department  
Santa Cruz County Sheriff  
U.S. Immigration and Naturalization Services

### ***Border Patrol Activities***

de la Vina, Gustavo  
Dwelley, Alan  
Martinez, Roberto  
Melendez, Bill  
Nieto, Gloria  
Silver, Jon  
Skain, Pat  
Williams, Johnny

San Diego Border Patrol Sector  
Livermore Border Patrol Sector  
American Friends Services Committee  
League of United Latin American Citizens  
Familia Center  
University of California, Santa Cruz  
Bay Area Coalition for Immigration Reform  
El Centro Border Patrol Sector

### ***Local Communities***

DeHaydu, Mike  
Dickson, David  
Golt, Suzanne  
Lightbourne, Will  
Ream, David

Alliance of California Taxpayers  
Napa County Department of Housing  
San Rafael City Manager's Office  
Santa Cruz Human Resources Agency  
Santa Ana City Manager

Torres, Holly  
Vallarta, Vanessa

Legal Aid Society  
Center for Community Advocacy

***Human/Moral Concerns***

Bau, Ignatius	San Francisco Lawyers' Committee for Urban Affairs
Elliott, Danielle	Federation for American Immigration Reform
Garcia, Richard	California Rural Legal Assistance
Kwok, Minette	Committee for Immigration Justice
Martinez, Claudia	Mexican American Legal Defense and Education Fund
Mahoney, Cardinal Roger	Archbishop of Los Angeles
Nelson, Allen	Former INS Commissioner
Oberlink, Ric	Californians for Population Stabilization
Reuben, Rabbi Steven Carr	Jewish Federation Council of Los Angeles
Silverman, Mark	Immigrant Legal Resource Center





EXECUTIVE SUMMARY  
FY 1995 IMMIGRATION INITIATIVE



FEBRUARY 3, 1994

## FY 1995 Immigration Initiative

The Administration's budget builds on its commitment to the reform of our immigration system. Taking a comprehensive approach, we are not only addressing all parts of the immigration system, but, for the first time, linking them together as a single system. By taking advantage of new technology, we will be able to multiply the effectiveness of the people on the front lines who deliver benefits and enforce the immigration law.

INS will invest in technologies that will free officers of repetitive and time consuming paperwork, capture and use positive identification to accurately identify illegal aliens for enforcement actions, and create an information network that links with other Federal, state and local agencies to verify eligibility for employment and services, develop cases, and analyze threats.

INS has traditionally accomplished its mission through labor intensive approaches, adding more personnel without giving them the tools and infrastructure they need to do an effective job. We will add officers, because more are needed. But we will also provide them with data system automation and linkage so that they can manage the immigration process in a systemic, data-based manner.

Of the \$368 million enhancement, \$327 million will be for INS activities. The remaining \$41 million will be for other Department of Justice (DOJ) components that are integral parts of the immigration process. The enhancements will allow us to close the door to illegal immigration and keep it open to legal immigration through the following steps:

- **Strengthen Border Control.** We will welcome legal immigrants and legitimate refugees, and turn away those who are ineligible or do not obey the laws. We will make it tougher for illegal aliens to get into our country.

Between the ports-of-entry, the Border Patrol will stop the "revolving door." By deploying a strategy of "prevention through deterrence," with increased agents on the line and resource multiplying technology, we will strengthen control along the Southwest border. In FY 1994 and FY 1995, the Border Patrol will add up to 1,010 additional agents on the line along the Southwest border through a combination of new agent hires, and redirecting agents freed up as a result of increased automation and support. In FY 1994, INS will continue to stabilize the El Paso environment with an infusion of resources and begin to establish a similar level of control in San Diego. The entire Southwest border will benefit from the use of advanced technology to identify and prosecute immigration law violators and repeat offenders. With smuggling routes disrupted, illegal traffic will be deterred, or forced over more hostile terrain less suited for crossing and more suited for enforcement.

In FY 1994 and FY 1995, we will hire 200 additional immigration inspectors for the land border ports-of-entry. To increase their effectiveness, we will electronically link all agencies involved in the admission process, thus giving us an effective lookout system and automated inspection process. In particular, links with the U.S. consulates will increase the integrity of the visa-issuance process while improving inspectors' ability to speed admission of valid entrants and build cases against those whose entry should be denied.

- **Expedite the Removal of Criminal Aliens.** INS will expedite the deportation of criminal aliens by expanding the use of fingerprint data to rapidly and accurately respond to Federal, state and local law enforcement officers' requests on alienage of criminals. The Institutional Hearing Program (IHP), which allows INS to assume custody and promptly remove deportable aliens when they complete their sentences, will be expanded in the five states that have the largest concentration of incarcerated aliens, and the Federal prison system. In addition, we will use teleconferencing to conduct more hearings.

- **Comprehensive Asylum Reform.** INS will build a more timely asylum decision system. The new procedures, coupled with additional resources, will enable us to process both incoming applications and backlogged cases. This effort will also focus enforcement on fraudulent applications and will reduce incentives for asylum abuse.

- **Reduce Magnet of Job Opportunities.** We will ensure that aliens who have broken immigration laws do not receive work authorization or social service payments. At the same time, we will make it easier for employers to determine who they may employ while preventing unscrupulous employers from hiring and exploiting illegal aliens with impunity. The Department of Justice will increase efforts to educate employers about their responsibilities to comply with the law in non-discriminatory ways and prosecute those who do discriminate. INS will focus enforcement efforts on high-violator industries and employers who exploit illegal workers.

- **Naturalization Promotion and Education.** INS will encourage and promote naturalization through public education programs and by providing cooperative agreements to community-based organizations, ethnic group networks, and educational institutions to help prepare applications, and study for civics and language tests. We will augment staff to handle the anticipated increase in applications, and streamline the naturalization process, including the selective waiver of interviews.

## RESOURCE SUMMARY

**Control the Border (\$180M).** We will intensify "prevention" at the border in the most active areas and will implement an enhanced strategic plan that includes:

- Adding more Border Patrol Agents to San Diego and El Paso in FY 1994. Both in FY 1994 and FY 1995, we will increase agents on the line through new agent hires, adding support personnel along the entire Southern border -- increasing and redirecting agents on the line and their effectiveness in all sectors by providing automated booking processes and improved communications capabilities. The total increase of agents on the line in FY 1994 and FY 1995 is 1,010 (\$65M in FY 1995);
- Control admissions at ports-of-entry by strengthening inspectional capabilities and linking the State Department visa information system (CLASS) with an enhanced Interagency Border Inspection System (IBIS) for more accurate determinations of admissibility in all instances (\$32M);
- Adding 200 Immigration Inspectors at high volume land ports of entry (funded by new charges for certain services at land ports-of-entry); and
- Linking data that INS collects in various functions to provide a proactive approach to investigations (\$83M) so that INS can prevent illegal migration by dismantling smuggling organizations and reacting to trends and patterns.

**Expedite the Deportation of Criminal Aliens (\$55M).** We will respond rapidly and accurately to law enforcement officers' requests to identify criminals and expand the Institutional Hearing Program (IHP) in the five states that have the largest concentration of incarcerated aliens (California, Texas, New York, Florida, and Illinois) and in the Federal prison system by:

- Capturing and relaying fingerprint information on aliens and linking the data to the FBI's NCIC 2000 and potentially to systems to check for handgun purchases (\$28M); and
- Adding investigators and judges to identify deportable aliens in prisons and complete deportation orders before sentences are completed (\$27M).

**Asylum Reform (\$64M).** We will make timely asylum decisions that give legal status to real refugees and reduce the enforcement vulnerability posed by those who abuse the system by:

- Streamlining the process;
- Eliminating Work Authorization during the review process; and
- Adding staff to INS, the Executive Office of Immigration Review (EOIR) and Civil Division to become current with incoming receipts and to handle backlogged cases.

**Reduce Magnet Effect of Job Opportunities (\$38M).** We will reduce the marketability of fraudulent documents and aggressively pursue sanctions against employers who hire unauthorized workers while protecting the rights of legal aliens by:

- Increasing security features of INS work authorization documents and expanding the Telephone Verification System (TVS), and adding investigators and lawyers to identify and prosecute counterfeiters (\$10M);
- Targeting increased investigations of employers to industries that historically employ illegal labor and increasing education of employers (\$23M); and
- Increasing education for discrimination provisions of the law and prosecuting employers who discriminate (\$5M).

**Naturalization (\$30M).** We will increase participation by:

- Establishing cooperative agreements with community-based organizations, ethnic group networks, and educational institutions to assist in preparation of applications and educate, and possibly test for civics and language proficiencies, to lessen the intimidation of the current process and promote ease of applying (\$15M);
- Providing an "800" hot-line to disseminate information to the public on naturalization requirements (\$2.5M); and
- Streamlining the process, including a change to allow selective waiver of interviews and electronic filing (\$12.5M).

**TOTAL:     \$368 Million**

**Immigration and Naturalization Service**  
**1995 Budget Summary**  
(Dollars in thousands)

Account / Items	1994	1995		Total INS Request
		Congressional Request	Crime Control Fund Investments 3/	
<b>Salaries &amp; Expenses</b>	<b>\$1,051,238 1/</b>	<b>\$1,148,488</b>		<b>\$1,413,888</b>
Increases:				
STRENGTHEN BORDER CONTROL				
• Stop Flow at the Border		---	\$65,100	65,100
• Facilitate/Control Admissions at POE's		---	32,000	32,000
• Reduce Alien Smuggling and Illegal Migration by Integrating Databases		---	83,600	83,600
EXPEDITE REMOVAL OF CRIMINAL ALIENS				
• Expedite Deportation of Criminal Aliens through Positive ID and Responses to Inquiries		---	28,000	28,000
• Simplify/Expedite Deportation Process		---	17,200	17,200
COMPREHENSIVE ASYLUM REFORM				
• Comprehensive Asylum Reform		---	38,300	38,300
REDUCE MAGNET OF JOB OPPORTUNITIES				
• Sanctions Enforcement, Information and Education		32,656 2/	---	32,656
NATURALIZATION PROMOTION AND EDUCATION				
• Naturalization Grants, Information, and Staffing		30,000	---	30,000
Decreases:				
• 1995 Locality Pay Absorption		(3,037)	---	(3,037)
• Administrative Savings		(4,045)	---	(4,045)
Subtotal.....		55,574	264,200	93,874
<b>Exams Fee</b>	<b>322,152</b>	<b>353,216</b>		<b>353,216</b>
Increases:				
• INSPASS Expansion		1,400	---	1,400
• Outreach initiative		250	---	250
• Asylum Officer Corps expansion		8,840	---	8,840
• Systems interface with Department of State		1,000	---	1,000
• Automated Information Services		2,040	---	2,040
• Management & Administrative Support		1,685	---	1,685
Subtotal.....		15,215	---	15,215
<b>User Fee</b>	<b>287,012</b>	<b>321,578</b>		<b>321,578</b>
Increases:				
• Airport Inspectors		8,659	---	8,659
• ATD&W - New York Detention Contract		8,000	---	8,000
• Management & Administrative Support		2,285	---	2,285
Subtotal.....		18,944	---	18,944
<b>Land Border Fee</b>	<b>1,500</b>	<b>1,585</b>		<b>1,585</b>
Increases:		---	---	---
<b>Breached Bond/Detention Fund</b>	<b>5,900</b>	<b>6,235</b>		<b>6,235</b>
Increases:		---	---	---
<b>Immigration Legalization</b>	<b>4,344</b>	<b>3,503</b>		<b>3,503</b>
Increases:		---	---	---
Increases: TOTAL		89,733	264,200	128,033
<b>TOTAL, ALL ACCOUNTS</b>	<b>1,672,146</b>	<b>1,835,605</b>		<b>2,099,805</b>

1/. This amount includes \$2,700,000 for INS operations in High Intensity Drug Trafficking Areas.

2/. This amount does not include \$743,000 requested for the Executive Office of Immigration Review and \$5,743,000 requested for the Office of Special Counsel for Immigration Related Unfair Employment Practices.

3/. As described in the President's Budget of February 7, 1994, once the Crime Bill passes, this request will be officially transmitted as a budget amendment. The Crime Control Fund will include additional resources for the Executive Office of Immigration Review (\$24,300,000), the U.S. Attorneys (\$6,800,000), and the Civil Division (\$4,700,000) to allow these organizations to address the workload generated by enhanced INS operations.

# 1995 IMMIGRATION INITIATIVE FUNDING SUMMARY

01-Feb-94

04:10 PM

INITIATIVES	DOLLARS (millions)
<b>Crime Control Fund</b>	
<b>STRENGTHEN BORDER CONTROL</b>	
• Stop the flow at the border	65.1
• Facilitate/Control admissions at ports of entry	32.0
• Reduce alien smuggling/illegal migration by integrating databases	<u>83.6</u>
Subtotal:	180.7
<b>EXPEDITE THE REMOVAL OF CRIMINAL ALIENS</b>	
• Positive I.D. and respond to criminal alien inquiries	28.0
• Simplify and expedite the deportation process	<u>27.2</u>
Subtotal:	55.2
<b>COMPREHENSIVE ASYLUM REFORM</b>	
• Increase asylum officers, immigration judges, and attorneys to adjudicate claims	54.1
• Deport and remove denied claimants	<u>10.0</u>
Subtotal:	64.1
INS Subtotal:	264.2
Other Departmental Subtotal:	<u>35.8</u>
Total, Crime Control Fund:	\$300.0
<b>Appropriation</b>	
<b>REDUCE MAGNET OF JOB OPPORTUNITIES</b>	
• Reduce marketability of fraudulent documents	10.6
• Reduce incentives for illegal migration/presence	22.8
• Protect legal aliens from discrimination	<u>5.0</u>
Subtotal:	38.4
<b>NATURALIZATION PROMOTION AND EDUCATION</b>	
• Grants for education and outreach	15.0
• Provide public information services on citizenship benefits	2.5
• Improve naturalization process	4.3
• Reduce waiting time for processing	<u>8.2</u>
Subtotal:	30.0
INS Subtotal:	62.7
Other Departmental Subtotal:	<u>5.7</u>
Total, Appropriation:	\$68.4
<b>GRAND TOTAL:</b>	<b>\$368.4</b>



Immigration and Naturalization Service

## **Fact Sheet**

# **ASYLUM REFORM: PROPOSED REGULATIONS**

### **Background.**

The President has directed the reform of the asylum system.

The United States is faced with a growing number of aliens already in the United States requesting asylum. In 1991, there were 56,000 applications. In 1993, asylum applications increased to 150,000.

The existing system and resources for adjudicating asylum claims cannot keep pace with incoming applications and does not permit providing protection for legitimate refugees nor removal from the United States of those persons whose claims fail.

Presently, cases are adjudicated annually. The current backlog is about 370,000 cases.

Abuses of the existing system also cause delays in the approval of meritorious claims. Many applications are motivated primarily by the hope of obtaining immediate work authorization while the case is processed (currently averaging between 18 to 24 months) or during its pendency in the backlog.

The Immigration and Naturalization Service (INS) is proposing new regulations in the processing of asylum cases to expedite approval of meritorious claims and deter abuse.

### **Proposed Actions.**

The proposed reforms call for a system of "grant-refer":

- o Grant meritorious claims in approximately 60 days from filing.
- o Withhold work authorization until meritorious claims are granted, or not longer than 180 days.
- o Refer cases not approved to Immigration Judges (IJs) for exclusion or deportation proceedings when asylum claim fails before the IJ.
- o Prosecute preparers of "boilerplate" applications.
- o Reduce the overall processing time for final decisions to 180 days.
- o Set a fee of \$130 for filing asylum applications.

### **Resources.**

INS is doubling the Asylum Officer Corps from 150 to 334 by the end of 1994, with the new officers being fully operational in early 1995. Additional IJs and other staff will be added to the Executive Office for Immigration Review (EOIR). These measures will permit INS to become current with incoming applications and then to handle backlogged cases.

March 29, 1994

# PROPOSED AFFIRMATIVE ASYLUM SYSTEM

**1** File Application

**2** Begin Processing

- Work authorization when claim is granted or when 180 days have passed without decision by Immigration Judge.
- Asylum Officer Corps doubled.

**3** Interview

- No longer mandatory; can be eliminated in cases without merit.
- Approvable cases completed in 60 days or less; work authorization granted.

**5** Immigration Judge Grants or Denies Asylum or Withholding of Deportation and Orders Removal.

- IJ considers asylum application previously submitted.

**Appeals to BIA and Federal Court.**

INS estimates that only 10% of all types of IJ decisions will be appealed.

**EXECUTIVE  
OFFICE FOR  
IMMIGRATION  
REVIEW  
(EOIR)**

*Asylum and work authorization;  
Adjustment of status after 1 year.*

Grant **4** or Refer Deportable or Excludable Applicants to Immigration Judge in EOIR for Removal Proceedings\*

*Total processing time through Immigration Judge 180 days or less; meritorious cases to be granted within 60 days.*

\* Asylum Officers will continue to grant or deny the relatively few cases involving applicants who have a current legal immigration status not derived from their asylum application. In these cases, the Asylum Officer will prepare and send the Notice of Intent to Deny.

**INS  
ASYLUM  
CORPS**

# CURRENT AFFIRMATIVE ASYLUM SYSTEM

**1** File Application

**2** Begin Processing

- About 70 percent of new applications are placed in backlog.
- Work authorization possible after 90 days.

**Appeals to BIA and Federal Court.**

Only 10% of all types of IJ decisions are appealed to BIA; 10% of BIA decisions go to Federal Courts.

**3** Interview

- Mandatory.
- Completed in 30 percent of cases.

**4** Wait 60 days for State Department Advisory Opinion

**11** Immigration Judge Grants or Denies Asylum or Withholding of Deportation and Orders Removal of Denied Applicants.

- Applicant may file new application

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR)**

**5** or Recommend Denial

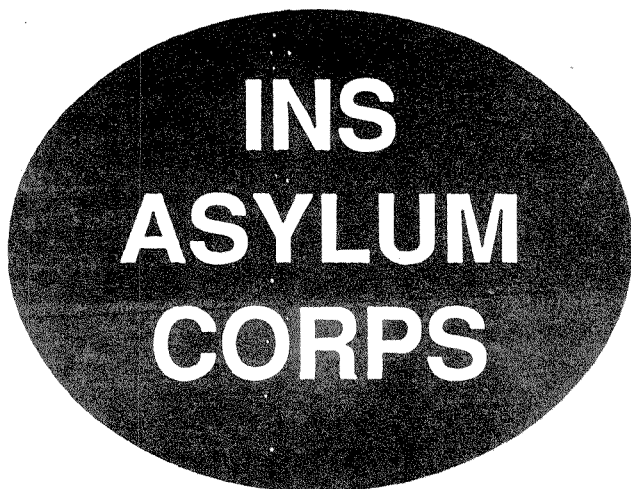
**6** Prepare Notice of Intent to Deny

**7** Send Notice and Wait 30 days for Rebuttal

**8** Grant or Deny

**10** Denied case goes to Immigration Judge in EOIR for Removal Proceedings

**9** Determine Withholding of Deportation



*Asylum and work authorization;  
Adjustment of status after 1 year.*

*Total processing time through Immigration Judge averages 18-24 months.*

## SUMMARY OF PROPOSED ASYLUM REFORM REGULATIONS

Comprehensive new regulations have been proposed that will reform the political asylum system, as directed by President Clinton in July 1993. The centerpiece of the proposed regulations is to grant protection to legitimate refugees quickly and to refer claims that cannot be granted to an Immigration Judge (IJ). If the Immigration Judge does not grant the claim, and no other relief is appropriate, the hearing will result in an exclusion or deportation order.

The proposed system, coupled with substantial additional resources in FY 94 and requested in FY 95, will reduce application processing times from an average 18-24 months to six months or less. It will deter non-meritorious applications by reviewing all cases and deciding them quickly. The proposal was developed through extensive consultation within the Administration, among key congressional offices, and with a representative range of non-governmental immigration organizations. The essential elements are as follows:

Establishes a Streamlined, Timely Asylum System. Currently, an alien may pursue his asylum application before the INS Asylum Officer Corps (AOC) until receiving a decision, but if denied, he may restart the whole process before an IJ during the removal proceedings. This lack of integration contributes to duplication of effort, increasing backlog of cases and delays in reaching final decisions. Affirmative asylum processing - including INS processing and de novo adjudication by an IJ - now takes a minimum of 18 to 24 months. Under reform, INS and IJ procedures are expected to be completed in 180 days or less for all newly filed applications. The proposed regulations streamline the process by:

- o Granting asylum and work authorization within 60 days to meritorious cases and referring cases that cannot be granted to IJs;
- o Eliminating the preparation of detailed, time-consuming denials by asylum officers in cases where they do not grant asylum to applicants who have no legal immigration status. Instead, asylum applications from these individuals will be referred automatically, and mandatorily, to IJs for adjudication as part of exclusion or deportation proceedings;
- o Giving asylum officers discretion in conducting personal interviews. Certain cases lacking any merit will not be interviewed;
- o Eliminating the requirement that an asylum officer send the applicant a Notice of Intent to Deny (NOID), thereby eliminating the 30 day rebuttal period for challenges to the NOID;
- o Requiring the asylum officer, in cases where he has not granted asylum and the applicant lacks lawful status, to refer the application to an IJ at the same time the applicant is served with the charging document that initiates removal proceedings;

- o Eliminating the need in virtually all cases for asylum officers to determine whether "withholding of deportation" is an appropriate benefit after the denial of an asylum application. Under the proposed rule, asylum officers, in most cases, will not need to reach this issue because they will not be issuing asylum denials in exclusion or deportation cases. IJs will continue to determine whether withholding of deportation is appropriate in those cases;
- o Specifying that information contained in an asylum application may be used as a basis for removal proceedings before an IJ against otherwise deportable aliens;
- o Authorizing asylum officers and IJs to deny otherwise approvable claims on the ground that the applicant can be deported or returned to a country in which the alien would not face harm or persecution and would have access to full and fair procedures for determining the asylum claim in that country, in accordance with appropriate international agreements;
- o Discouraging applicants from filing claims before IJs that differ from the claims they filed before asylum officers by requiring that the original asylum application be forwarded to the IJ at the time the case is referred by the asylum officer.

**Reduces Incentives to File for Asylum Solely to Obtain Work Authorization.** Currently, an asylum applicant may apply for an Employment Authorization Document (EAD) at the time of filing. INS must grant work authorization if the asylum application is not frivolous or has not been adjudicated within 90 days of filing. Our analysis shows that many applicants are filing claims solely to obtain an EAD. Such filings increase both the backlog of cases to be adjudicated and the time before deserving applicants are granted asylum. The proposed regulations provide that work authorization will not be granted unless the original asylum application has been granted or is not decided within 180 days. This is a 90-day increase over the current waiting period for an interim EAD. The reforms place the burden upon INS and the IJs to adjudicate claims promptly within the 180-day period, since, by doing so, the need to adjudicate work authorization separately is avoided. Well-founded asylum applications are anticipated to be granted within 60 days of filing and employment authorized immediately for those applicants. An applicant who has been convicted of an aggravated felony will not be granted employment authorization. An applicant who previously obtained work authorization, but whose application for asylum or withholding of deportation is denied because of the conviction, shall have his work authorization terminated automatically as of the date of the denial.

**Improves Communication With Department of State on Country Conditions.** Asylum officers and the IJs will have access electronically to State Department information on detailed country conditions to assist them in making asylum decisions. INS and the IJs also may request specific information from the State Department on individual cases or specific country conditions. The State Department may, in its discretion, provide information available to it concerning individual cases. Under the proposed regulations, INS will not be required to wait 60 days, as now mandated, for the Department of State's discretionary advisory opinion before issuing a decision on each asylum application.

Requires A Filing Fee for Asylum and Initial Work Authorization Applications to Alleviate Increasing Costs. The proposed regulations institute a fee of \$130 for filing an asylum application. The proposed fee for initial applications for an EAD is \$60. Consistent with fees for non-asylum applications, these filing fees will be waived if the applicant is able to demonstrate that he is unable to pay. The estimated cost of adjudicating each asylum application is \$615. INS has avoided charging fees for asylum in the past by funding the program through a surcharge assessed on other immigration benefits. Funds collected through this surcharge are no longer sufficient to cover the asylum program and will be supplemented with funds collected through the fee.

Reduces Paperwork. The proposed regulations reduce asylum application paperwork in two primary ways. First, the Biographical Information Form (Form G-325A) is eliminated because the main asylum application (Form I-589) will be redesigned to request necessary information that is now sought in separate Form G-325A. Second, an applicant must submit only three, not the currently required four, copies of the asylum application, and any supporting material.

March 29, 1994



OFFICE OF RESEARCH  
1020 N Street, Room 408  
Sacramento, California 95814  
(916) 445-1638  
(916) 327-3874 FAX

# Assembly California Legislature

Jimmy R. Lewis  
Director

## ASSEMBLY OFFICE OF RESEARCH

1/4/94

### INS Employee Verification Program

#### 1. WHAT IS IT?

The program is called Telephone Verification System (TVS) pilot, authorized by the Immigration Reform and Control Act of 1986 (IRCA). It is a 3-year pilot program, the INS began implementing it in March 1992.

The automated data verification system is designed to assist employers in confirming an alien employee's authorization to work. It serves as a supplement to the Form I-9 procedures required by IRCA. Employers participating in the pilot are not exempt from their obligation to complete and retain a Form I-9 for every employee hired after November 6, 1986.

TVS can only verify the employment eligibility status of an alien. It does not have information on any person who is a citizen or national of the U.S.

#### 2. WHO'S USING IT?

Nine corporations in five states (California, Florida, Illinois, New York and Texas) are participating in the first year's demonstration program; El Gallo Giro in Huntington Park is one of them. The INS is ready to move into Phase Two of the program, which will increase the number of employers to 200. The number of participating employers will reach 500 in Phase Three.

Currently the INS has a list of 800 employers nationwide, who have either indicated interest in the program, or been identified by the INS as potential participants.

#### 3. HOW DOES IT WORK?

Using a Point-Of-Sale (POS) instrument, TVS pilot users may access INS' Alien Status Verification Index (ASVI) database. The POS instrument resembles a touch-tone telephone with a small LED or LCD display screen. Some models also have printers. It is connected to an individual telephone line through an ordinary telephone jack. The device is commonly used by merchants to verify credit card purchases.

To verify an employee's document, the employer needs to put in a Personal Identification Number (PIN), the employee's Alien



Registration Number (A-Number), date of birth and first name initial. The system will communicate its response through the display, or directly to a POS printer, whichever is preferred by the user. The response will include the employee's first and last name, Alien Registration Number, an Employment Eligibility Statement, and an INS "Verification Number."

The Employment Eligibility Statement portion will indicate whether the person's employment is authorized or a secondary verification is necessary. If secondary verification is needed, the employer must fill out a standard form (Form G-845T), and send it to the INS local field office for verification. The verification process is done manually, which takes approximately 10 days.

#### 4. THE DATABASE

ASVI is part of the INS Central Index database which contains all kinds of information about an alien, including his/her individual ID number, admission information, name, date of birth, country of origin, etc. All the existing alien verification systems, including SAVE and TVS, share the same database. Each system is designed based on the purpose of the program, e.g., SAVE tells welfare agencies whether the alien is eligible for certain benefits, while TVS only tells employers whether the person is authorized to work in this country.

The INS alien verification systems do not verify Social Security numbers.

#### 5. NOT FOR PRE-SCREENING JOB APPLICANTS

Because of the privacy and employment discrimination laws, employers are not allowed to use the device to pre-screen applicants prior to hiring. Employers are required to sign a "Memorandum of Understanding" with the INS, which stipulates that they can only verify the applicant's immigration documents after the job is offered and accepted, and the Form I-9 procedure is completed. The employer then uses the device to verify the information given on the Form I-9.

#### 6. LIMITATIONS OF TVS

The system contains alien information only. Many "acceptable documents" listed on the Form I-9 cannot be verified through TVS, simply because they are not immigration-related documents. If an employee indicates on the Form I-9 that he or she is a U.S. citizen, and shows a Social Security card and a photo ID as proof of eligibility, there is no way the employer can verify the information with the INS.

#### 7. RESPONSE FROM EMPLOYERS

According to the INS, since the inception of TVS they have received only positive responses from the employers participating

in the pilot program. Many recommended that INS begin wide-spread implementation of the system as a permanent program. Some suggested connecting the system to touch-tone telephone or personal computer. Many indicated that they would pay for using the system.

There has been no cost to the employers who participate in the pilot program. The INS is considering charging employers a fee for providing the service if the program is expanded and becomes permanent.

#### 8. CAPABILITY TO EXPAND TO STATEWIDE SYSTEM

The INS has been working with the participating employers to modify and improve the program to meet the needs of the employers and to make it more cost-effective. A major task is to increase the number of responses through primary verification, and thus reduce the number of secondary requests, which require tremendous manpower.

The INS welcomes the idea of making the Telephone Verification program a state-mandated program. The problem, however, is the impact such mandate will have on the program at this point. The INS does not know if they have enough resources and ability to respond to massive inquiries within reasonable time. The foreseeable problems are: system overload and excessive number of secondary requests, which the INS will not be able to handle with its current staffing.

-----

#### VERIFICATION OF SOCIAL SECURITY NUMBERS

California Department of Employment Development (EDD) currently has a program which allows the agency to verify worker's Social Security number with the Social Security Agency (SSA). According to the EDD, the process is very slow and cumbersome.

EDD has no direct access to the SSA data bank. When EDD comes across claims in which multiple names are associated with the same Social Security number, they batch them together on a tape and send the tape over to the SSA for verification. The SSA will then do the "probability test," using various data and documents to "piece together the picture" of the true owner of a Social Security number.

According to the EDD, they have cases in which over 200 farm workers used the same Social Security number, and it usually would take the SSA a while to find the right person for the number.

# # # # #



OFFICE OF RESEARCH  
1020 N Street, Room 408  
Sacramento, California 95814  
(916) 445-1638  
(916) 327-3874 FAX

# Assembly California Legislature

Jimmy R. Lewis  
Director

## ASSEMBLY OFFICE OF RESEARCH

(Updated 11/4/93)

### LITERATURE REVIEW

#### PREVIOUS STUDIES ON THE IMPACT OF IMMIGRATION

6/30/93

#### OVERVIEW

1. Most of the existing empirical studies on the impact of immigrant population are based on 1980 and/or earlier census data. Many were done before IRCA. Only a couple of recent published studies included 1990 census data.
2. Most studies focus on the fiscal impact of immigrants nationwide or on local governments. There has been no comprehensive study on the statewide economic impact of immigrants in California.
3. The results of these studies are mixed. Some have found immigration to have a positive impact on our economy, while others suggested that immigrants have become a fiscal burden to our government. The different results are attributed to the authors' choices of study population, data sources and methodologies.
4. In general, the cost-benefit studies have yielded two types of conclusions. On the national level, immigrants contributed more in tax revenues than they took from services they use. For state and local governments, immigrants often generated fiscal deficits. These results attest to the argument that the distributions of tax revenues generated by immigrants and financial responsibilities of providing immigrant services among federal, state and local governments have imposed an disproportionate financial burden on state and local governments.
5. Many researchers suggest that immigrant impact on various systems is best approached by examining the impacts of particular groups on particular systems. This is because the immigrants are a heterogeneous population; those with different legal status and from different backgrounds affect the labor market and the economy in different ways.
6. It has also been suggested that in order to understand the total impact of immigration, studies should include the long-term costs and contributions of all immigrants, because the size and characteristics of immigrant population often vary over time.

7. Researchers have all agreed that, due to lack of reliable statistics, it has been very difficult to quantify the costs and revenues associated with immigrants in this country. Some of the cost-benefit studies have generated controversies and heated debates because of the questionable assumptions and methodologies used in those studies.
8. There have been discussions about the beneficial economic impact of immigrants through the "multiplier effect" that was missing in the existing cost-benefit studies. The "multiplier effect" theory is based on the viewpoint that many immigrants fill jobs that other local workers don't accept, which in turn stimulates the local economy by expanding the overall level of employment, and lowers the cost of locally produced goods and services because of the reduced wages they receive. Some economists also argue that immigrants, through ownership of small businesses, have contributed to the economic growth in the country.

The following is a brief sketch of major studies and reports published in recent years on immigration impacts, with an emphasis on the most recent studies on the immigrants in California.

#### 1993

Rebecca L. Clark and Jeffrey S. Passel. "How Much do Immigrants Pay in Taxes? Evidence from Los Angeles County." (The Urban Institute, August 1993).

The study focuses on the fiscal contributions of both long-term immigrants and recent arrivals. It finds that in 1990 immigrants in Los Angeles County contributed \$10.6 billion in taxes. The authors also compared their findings with those of the County study conducted by the Los Angeles County Internal Services Department (ISD) in 1992. They found that the ISD study underestimated the tax contributions of immigrants by excluding long-term immigrants in the study population. They also found that the ISD study overestimated the costs for providing health and social services to recent legal immigrants by attributing to them the costs of services used by all legal immigrants.

Donald Huddle. "The Costs of Immigration." (Carrying Capacity Network, June 1993).

Based primarily on the results of the Los Angeles County ISD study, Huddle estimates that the total "net costs to American taxpayers for all categories of legal and illegal immigration" is over \$45 billion a year. The Huddle study has been widely criticized for its serious methodological flaws.

U.S. General Accounting Office. "Customs Services and INS, Dual Management Structure for Border Inspections Should Be Ended." (June 1993).

At the request of the U.S. Senate Committee on Finance, the GAO studied the role of the Customs and the INS at border crossing points. It concludes that current coordination of border inspection functions between the two agencies is not effective, and recommends a single independent agency to merge the border inspection functions of the Customs and the INS.

Roger Waldinger. "Who Makes the Beds? Who Washes the Dishes? Black/Immigrant Competition Reassessed." (Institute of Industrial Relations, UCLA).

In this survey study the author finds that "network hiring," a common hiring practice in the restaurant and hotel industries, is the primary reason for black displacement from restaurant and hotel work. Restaurant and hotel owners use groups of social, ethnic and business contacts to find and train potential employees. Such hiring practice has brought immigrant communities into the workplace, and at the same time separated vacancies from the open market, thus diminished job opportunities for blacks.

Senate Office of Research. "Californians Together: Defining the State's Role in Immigration."

The report contains most recent demographic information of the immigrants in California, developed by the California Research Bureau using 1990 census data. It also looked at the services provided by the State to its newcomers and the State's effort to coordinate these services. The report concluded that there has been no coordination effort made by the State. It recommended that California should create an office, funded by federal monies, to administer the state's immigrants and refugees affairs. The budget for the office is estimated at \$3 million, and the goal is to further the immigrants' economic assimilation. The report suggested that the office be housed in the Employment Development Department.

California State Legislature, Joint Committee on Prison Construction and Operations. "The Criminal Alien."

This report examined criminal justice costs and other economic and social impacts of non-citizens who committed serious offenses in California. It estimated the state criminal justice costs generated by alien felons at a total of \$385 million annually, and the costs to counties at approximately \$112 million per year.

However, the report admitted that cost estimates of crimes committed by alien felons was "at best an educated guess," and that the social and economic impacts of the criminal aliens were "all but impossible to compute..."

The report recommended, among other things, large scale

repatriation of criminal aliens; legislation to mandate local jurisdictions to cooperate with the INS or otherwise face loss of specified state funds; and building a prison in Mexico for housing immigrants convicted of felonies in California.

**Alameda County. "Alameda County: Profile of Ethnic and Immigrant Populations."**

This report is put together by the Newcomer Information Clearinghouse, a project of the International Institute of the East Bay in Oakland. It is a compilation of various types of data on the ethnic and immigrant groups in Alameda County. The sources of data include the U.S. Census Bureau, INS, State Departments of Finance, Health Services and Education, local school districts and community-based organizations. It presents a comprehensive picture of the demographic composition of the refugees and immigrants in Alameda County, and provides detailed information on the ethnic diversity of the student population in the County's public schools. The report also discussed the limitations of the data and warned that the statistics were conservative estimates and not actual numbers. Major findings of the report include:

- One in four in Alameda County speaks a language other than English at home; and 16 percent of AFDC recipients in the County speak a primary language other than English.
- It is not clear how many undocumented immigrants live in the County.
- Alameda County's students speak over 80 different languages; and four out of five students who speak a primary language other than English are from Latin America and Asia.

**Santa Clara County: "General Assistance and the Sponsored Alien," by Supervisor Michael Honda.**

The report discussed a rising problem shared by California counties concerning the increased number of sponsored aliens who receive General Assistance (GA). General Assistance is a state mandated and county funded welfare program. A sponsored alien is a legal immigrant with sponsors in the United States. Usually sponsors are family members or relatives. They are required by the INS to sign a sponsorship agreement, pledging to provide financial support for the sponsored aliens and promising that they won't become a public charge for the first three years after entry.

However, the report stated that many sponsored aliens have received GA soon after they arrived. It showed that as of February 1993, sponsored aliens accounted for 38 percent of total GA caseload in Santa Clara County. The annual cost of providing GA to the sponsored aliens in the County in February 1993 is approximately \$5 million, comparing to \$586,188 in December 1989 -- an increase of 750 percent in three years.

The paper pointed out that, although sponsored aliens were not eligible for federal programs, they were eligible for GA due to a discrepancy between federal and state laws. Several counties have modified their GA policies to hold these alien applicants' sponsors more accountable. The paper proposed several changes in Santa Clara County's GA procedures to prevent the abuse of the system by some immigrants and their sponsors.

**Orange County. "Assessment of Data on Fiscal Impact of Undocumented Persons in Orange County,"** by Orange County Administrative Office.

The Orange County Administrative Office conducted an inventory of existing County data to determine whether sufficient statistical information was available for assessing the fiscal impact of undocumented immigrants on county government. The Office also reviewed the recent San Diego County study to determine the feasibility of applying its findings to Orange County.

The study found that there was no tracking mechanism within the county government to collect data on undocumented immigrants. Consequently, they were not able to identify or estimate the costs directly related to services received by illegal aliens. The report also concluded that it was impossible to make valid inferences about Orange County from the findings of the San Diego study, because of the study's methodological deficiencies, and the procedural and policy differences between the two counties. The study also reviewed the 1992 Los Angeles County report but did not attempt to make a comparison.

1992

**Los Angeles County. "Impact of Undocumented Persons and Other Immigrants on Costs, Revenues and Services in Los Angeles County,"** by the Internal Services Department of the L.A. County.

The study estimated costs and revenues generated by the immigrants in L.A. County. It included three groups of immigrants -- recent legal immigrants (entered the U.S. since April 1, 1980 through January 1, 1992), Amnesty Persons and undocumented aliens, and citizen children of undocumented persons. The costs studied included health and social services, education and public housing.

The study concluded that the estimated net 1991-92 county costs of providing services to the immigrant population studied were about \$947 million, while the estimated revenues generated by them were \$139 million. The estimated net deficit was about \$808 million.

The report also showed that those immigrants studied contributed more than \$4.3 million in taxes and fees to all levels of government in 1991-91, and that the County did not get its fair



share of immigrants' tax dollars.

Questions have been raised about the methodology used in the study to derive the estimates of costs and revenues. Nevertheless, the L.A. county study is generally considered a credible study, particularly for its effort to use census data to estimate the numbers of undocumented and other immigrant groups.

**San Diego County. "Report by the Auditor General of California -- A Fiscal Impact Analysis of Undocumented Immigrants Residing in San Diego County."**

This study is also referred to as the "Rea & Parker Report" because it was prepared under contract by Rea & Parker, Incorporated. It analyzed the costs and revenues generated by the undocumented aliens in San Diego County. The cost estimates included the areas of education, health and social services and criminal justice. It concluded that the undocumented immigrants generated about \$60 million annually in state and local tax revenue, and the total cost to State and local governments for providing the above services to this population is about \$206 million per year. The deficit: \$146 million.

The San Diego County study has been dismissed by many researchers for its serious methodology deficiencies in estimating the County's undocumented immigrant population. Critics argue that by using the Border Patrol and INS estimates of undocumented aliens as the basis of analysis, the statistics could be easily skewed from the very beginning.

1991

**George Borjas & Stephen Trejo. "Immigrant Participation in the Welfare System."**

This is an empirical analysis of nationwide immigrant participation in the welfare system. Using the 1970 and 1980 census data the study examined immigrant households in which any member received AFDC, SSI or GA. The study focused on differences in welfare participation behavior among different immigrant cohorts.

It concluded that recent immigrants were more likely to be welfare recipients than earlier ones, because recent immigrant waves are less skilled than previous waves. The study also showed that, all else being equal, immigrant households were less likely to receive welfare than demographically comparable native households. In addition, the analysis suggested that much of the increase in welfare participation by immigrants was associated with the changing national-origin composition of immigrants.

To the surprise of the authors, the study found that the longer an immigrant household has been in this country, the more likely it is to receive welfare. The authors concluded that there

was a strong "assimilation effect" on the use of welfare by immigrant households. They suggested that new arrivals might be reluctant to use welfare because they were afraid that, if they became public charges, they would risk being deported or jeopardize their chances for naturalization. They also suggested that "immigrant assimilation involves the accumulation of information not only about labor market opportunities, but also about alternative opportunities available through the welfare system."

1990

George Borjas. "Friends or Strangers: The Impact of Immigrants on the U.S. Economy."

The book examined the impact of immigration on the earnings and employment opportunities of natives. It also included a study on the welfare use by immigrants. Among the book's findings:

- Contrary to the public perception, immigrants did not lower earnings or lessen employment opportunities.
- Recent immigrants are significantly less skilled and poorer than their predecessors, and are less successful in the labor market than the earlier group. Consequently, new immigrants are more likely to be on welfare than the old.
- The assimilation process, while improves immigrant earnings and employment opportunities, also increases their propensities to enter the welfare system. However, there is no evidence to support the popular belief that immigrant households are generally more welfare-prone than native households.
- Generally, immigrants are more likely to be self-employed than natives. One-quarter or more of the Greek and Korean immigrant population are self-employed.

David Heer. "Undocumented Mexicans in the United States."

Based on data collected in the 1980-81 Los Angeles County Parents Survey, Heer examined the effects of undocumented Mexican immigrants on the United States, including their costs to the public. He interviewed the parents of 903 babies born in L.A. County, for whom either the mother or the father in the household was of Mexican descent.

He found that families with undocumented mothers were the least likely to participate in food stamp, AFDC, Medi-Cal and public housing programs. On the other hand, these families were also the least likely to pay federal income taxes. He also found that families with native-born mothers were more likely to participate in welfare programs than were families with undocumented-alien or legal-alien mothers.

It is inconclusive whether undocumented Mexicans are a fiscal burden or an asset to the public, because the study focused on participation rates, not dollar amounts, of revenue contributions and service usage by Mexican families.

**Portes, Alejandro & Rumbaut, Ruben G. "Immigrant America: A Portrait."**

Using census and INS data, the authors discussed the characteristics of immigrants, patterns of their settlement in this country, the problems immigrants and their children encountered in learning English, and their occupational and economic adaptation.

The book pointed out that the socioeconomic profile of the foreign born did not support the public perception that recent immigrants were predominantly low-skill laborers and that the quality of immigration has declined over time. It indicated that in 1980 "the proportion of college graduates among all immigrants was the same as in the total U.S. population," and was higher than the proportion among immigrants coming earlier. They also noted that in 1986, 27 percent of newly arrived immigrants listed their occupation as professionals and managers, and the percentage "significantly exceeds the national average." They used a 1984 census report to show evidence that "highly educated immigrants remain strongly represented at the top of the U.S. occupational pyramid."

#### **Earlier Studies:**

**Thomas Muller & Thomas Espenshade. 1985. "The Fourth Wave: California's Newest Immigrants."**

In this Urban Institute study, the authors compared the costs and revenues generated by the Mexican immigrants in Los Angeles County, and found that in 1980, Mexican immigrant households in L.A. County imposed a fiscal burden of nearly \$1,779 per household on state government's budget, while the average L.A. County household imposed a deficit of \$139 on the State.

At the county level, the study estimated, each Mexican immigrant household generated a deficit of \$466 for L.A. County in 1980.

The study also used 1970 and 1980 census data to analyze the labor market impacts of Mexican immigrants. It found little evidence that Mexican immigrants compete for jobs with native workers or depress native workers' wages.

**Kevin McCarthy & R. Burciaga Valdez. 1986. "Current and Future Effects of Mexican Immigration in California."**

The study is the often quoted 1986 Rand report. The authors examined the fiscal effects of Mexican immigrants on the State of

California. They used 1980 census data to estimate the number of cyclical (seasonal) and permanent Mexican immigrants in the State, and then estimated per capita costs and tax revenues generated by the two Mexican immigrant groups.

The results of their analysis showed that the two groups of Mexican immigrants behaved differently economically. They showed that seasonal immigrants paid more in taxes and used less services than permanent Mexican immigrants did. When educational costs are included, both groups of Mexican immigrants generated more costs than revenues for the State in 1982.

**Julian Simon. 1985. "How do Immigrants Affect Us Economically?"**

Julian Simon wrote numerous articles and books during the 1980's concerning the fiscal impacts of immigration on all levels of government, using the Census Bureau's 1976 Survey of Income and Education results. In this study, he discussed, among other things, immigrants' net effects on the public coffers, their effects on natural resources and the environment and on the labor market.

He concluded that at the national level, both legal and illegal immigrants contribute "much more to the public coffers in taxes" than they receive in welfare payments or other services. He also argued that, contrary to the popular belief, population increase through immigration would not drain the natural resources and energy. In his study on the effects of immigration upon unemployment of natives, he found that "the extent of the effect is either very small or non-existent." However, he also found evidence that immigrant workers have caused the reduction of wages for some natives.

**Francine Blau. 1984. "The Use of Transfer Payments by Immigrants."**

Blau also used the 1976 SIE results to evaluate the impact of immigrants on the nation's transfer system, which he divided into two categories: welfare and social insurance. In his study, welfare included AFDC and SSI, and social insurance included social security, the railroad retirement program, workers' compensation, unemployment insurance and veterans' benefits.

Some of his conclusions: all else being equal, male-headed immigrant families were less likely to participate in welfare system than male-headed native families, and immigrant families received lower welfare payments than natives. And all else being equal, immigrants who participated in the social insurance programs received slightly smaller payments than natives.

**Marta Tienda & Leif Jensen. 1986. Immigration and Public Assistance Participation: Dispelling the Myth of Dependency."**

The study is similar to Blau's 1984 study, except that the authors used 1980 census data. The results echoed those of Blau's

study: all things equal, immigrants were considerably less likely than natives to participate in welfare programs.

#### **Studies Concerning Regions Outside California:**

**Texas: Sidney Weintraub & Cilberto Cardenas, 1984.**

Weintraub and Cardenas, in their study for the University of Texas, "The Use of Public Services by Undocumented Aliens in Texas: A Study of State Costs and Revenues," examined the costs to the State of Texas of providing services to undocumented aliens. They interviewed 250 undocumented aliens in the 1982-83 academic year, and the public service providers in the State, to collect data on aliens' income and spending patterns and their usage of services.

They found that illegal aliens contributed between \$122 million and \$179 million more to the state coffer than they took in services. However, the authors recognized the problems associated with using interviews as the primary data source, and that the samples were not randomly selected.

**New Jersey: Nancy Collins, 1991.**

In her report, "Do Immigrants Place a Tax Burden on New Jersey Residents?" Nancy Collins used 1980 census data and government reports to analyze the fiscal impact of immigrants on New Jersey's state and local governments. Collins found that there were many similarities between immigrant and native households in new Jersey, including their average income, household size, etc. She concluded that immigrant and native households in New Jersey generated almost the same amount of net fiscal benefits to state government, while at the local level, both groups imposed almost identical net fiscal costs on local governments.

**Massachusetts: Office for Refugees and Immigrants, 1990.**

Under a court order, the State of Massachusetts conducted a study on state service usage by non-citizens in that State, which resulted in the report, "Through the Golden Door." In the process of collecting data and estimating the service costs, they experienced the same problems researchers did in California. There were no hard data available from government agencies. Therefore, the report were largely based on assumptions and estimates. It did not attempt to estimate the costs of services provided to immigrants, thus the fiscal impact of immigrants to the State is unclear.

**New York City: Elizabeth Bogen, 1987.**

Elizabeth Bogen, as the Director of New York City's Office of Immigration Affairs, compiled a report, "immigration in New York" in 1987 which included a fiscal study of immigrants' impact on

city government. Using 1980 census results as primary data, her analysis concluded that immigrants contributed slightly less to city revenues than their proportional share of New York City's population, while they accounted for slightly more health care costs and much less AFDC and Home Relief costs than their proportional share of the population.

#### Other Reports & Articles:

##### "Tending Our Future Together"

by Terri Lobdell and Lewis Butler  
California Perspectives

The article provides a short glance of California's immigrants: who are they, where are they from, their use of health and welfare programs, and their children in public schools. It also contains a brief discussion on the immigrants and the economy, citing results from various studies and comments from experts.

##### "Illegal Immigration"

by Rodman D. Griffin  
The CQ Researcher, April 14, 1992

This report presents an in-depth look at the issues facing the nation related to illegal immigration. It discussed in detail the failure of IRCA to deter illegal migration to the United States. It included all sides of the arguments about the economic impact of undocumented immigrants on the nation's economy, the pro's and con's of a national ID card, open or closed border, and the political dynamics behind federal policies concerning illegal immigration.

##### "Redefining California: Latino Social Engagement in a Multicultural Society"

by Aida Hurtado, David Hayes-Bautista, R. Burciaga Valdez and Anthony Hernandez. 1992.

In 1988, the California Identity Project (C.I.P.) conducted face-to-face interviews with 1,086 Latino households, and surveyed 600 Anglos by telephone. The purpose of the survey was to "identify the extent and types of social engagement emerging within a multicultural society that affect Latino communities." The results of the survey were presented in this paper. Its findings include:

- Latinos in general believe strongly in family, but the third generation families have shown higher rates of divorce and single-person-headed households.
- Seventy percent of third-generation Latinos finish high school compared to 59 percent of the second and 25 percent of the first generation.

- Latinos show high level of labor force participation, but are poorly rewarded.
- About half of the Anglos surveyed approve of Latinos' participation in society, and about half prefer complete assimilation by Latinos.

**"No Longer a Minority: Latinos and Social Policy in California"**  
David E. Hayes-Bautista, Aida Hurtado, R. Burciaga Valdez & Anthony C.R. Hernandez. 1992.

This is a companion report to the monograph discussed above -- "Redefining California: Latino Social Engagement in a Multicultural Society." The report analyzed the data produced by various government agencies to supplement the findings of the California Identity Project surveys. It suggests that the term "minority" is no longer applicable to Latinos because in the next twenty years, Latinos will become the largest ethnic group in California.

The report finds that, although Latinos have the highest levels of poverty, the urban underclass model is inappropriate for developing Latino social policy. The study shows Latinos have high labor force participation, high rates of family formation, low welfare dependency, strong health indicators, strong educational improvement and strong sense of citizenship. Their high rates of poverty and lack of education, the report points out, is due to lack of opportunities and not to lack of cultural values and moral behavior.

**"The Immigrants: How They're Helping to Revitalize the U.S. Economy"**  
Michael J. Mandel, Christopher Farell & Others  
Business Week, July 13, 1992

This Business Week cover story presents a positive view on the immigration impact on the U.S. Economy. The article has been frequently quoted in recent discussions on the subject. The major points included in the article:

- A total of 1.5 million college-educated immigrants joined the U.S. work force during the 1980's. Today, about one in four immigrant workers are college graduates, slightly higher than the proportion for native-born Americans.
- About 11 million immigrants are working, with an annual income of \$240 billion, and paying more than \$90 billion in taxes. On the other hand, immigrants receive an estimated total of only \$5 billion a year in welfare.
- The country's high-tech industries are increasingly depending on immigrant scientists, engineers, and entrepreneurs to remain competitive.

- Immigrant entrepreneurs have created jobs, not only for other immigrants, but also for natives. They have also made big contributions to the U.S. export boom.
- New immigrants have revitalized many decaying urban neighborhoods. Without the contributions made by these immigrants, many cities and older suburbs would have been suffering from a shrinking tax base.





## DEPARTMENTS OF THE ARMY AND AIR FORCE

OFFICE OF THE ADJUTANT GENERAL  
CALIFORNIA NATIONAL GUARD  
9800 GOETHE ROAD - P.O. BOX 269101  
SACRAMENTO, CALIFORNIA 95826-9101



March 24, 1994

Honorable Grace F. Napolitano  
Member of the Assembly  
State Capitol, Room 6011  
Sacramento, California 95814

Dear Ms. Napolitano:

This letter is in response to your recent inquiry regarding the possibility of using the National Guard to patrol the border. I have addressed your questions to the best of my ability without knowing exactly what the potential missions of the Guard would be. Your questions have been answered in the order asked.

● IF THE CALIFORNIA NATIONAL GUARD WERE ASSIGNED BORDER PATROL DUTIES TOMORROW, WOULD THE GUARD BE READY TO ASSUME THOSE DUTIES IMMEDIATELY?

- No. We are State troops and performing such a mission would likely require a change of statutes. Existing law and other constraints significantly limit the type of duty which could be performed. At present, any California National Guard support to the INS or border patrol would have to be limited to a support role. There could be legal concerns regarding the use of armed military troops on the border and possibly violating existing treaties (e.g. the Treaty of Guadalupe Hidalgo).

● ARE GUARD PERSONNEL TRAINED IN PATROLLING BORDERS?

- No. The National Guard is trained in patrolling procedures. There is no military training in immigration operations and border patrol techniques in that special field.

● WOULD GUARD PERSONNEL COME UNDER THE COMMAND OR DIRECTION OF BORDER PATROL OFFICIALS, OR WOULD THEY REMAIN UNDER STATE COMMAND?

- The National Guard works in support of law enforcement, whether federal or state, but maintains command and control of its own forces under the governor.

● WHAT UNITS WOULD YOU COMMIT?

- A special task force has been created to support law enforcement. The task force is comprised of individuals from all units of the California Army and Air National Guard and is trained and tailored to respond to law enforcement requests based upon the skills required.

● TOTAL PERSONNEL?

- Cannot be determined until we know the mission.

● WHAT MAJOR EQUIPMENT (FOR EXAMPLE, HELICOPTERS)?

- Law enforcement agencies usually request the following equipment from the California National Guard: Helicopters, engineer equipment, radar, and electronic communications equipment.

● WHAT BASES WOULD THESE FORCES OPERATE OUT OF?

- National Guard and Active Component facilities near the border.

● WOULD GUARD PERSONNEL BE ISSUED LIVE AMMUNITION?

- Depends on the type of mission and potential risks involved. Weapons are reserved for self-defense contingencies only.

● WHAT WEAPONS?

- Personal weapons such as M-16 rifles, 45 caliber and 9mm pistols.

● BECAUSE THIS IS A RATHER UNIQUE MISSION, AND OUTSIDE THE SCOPE OF ITS NORMAL PEACETIME ASSIGNMENTS, AND BECAUSE THE GUARD RELIES ON CITIZEN-SOLDIERS WHO DEDICATE ONE WEEKEND EACH MONTH AND TWO WEEKS EACH YEAR TO MILITARY SERVICE, HOW WOULD YOU HANDLE PERSONNEL CALL-UPS?

- Current regulations do not permit Guard personnel who are performing normal periods of Inactive Duty Training (weekend drill) or Annual Training (AT) from performing unrelated duty such as border patrol during these periods. Border patrol duty is not emergency duty contemplated under California Military and Veterans Code (CMVC) sections 143 and 146 and would have to be performed pursuant to CMVC section 142, which does not confer police officer status. Normally, our

procedure would be to seek and obtain volunteers in the numbers required or order persons to State Active Duty (involuntarily for short periods).

- WOULD THE SOLDIERS BE COMMITTED TO SERVE ONLY IN TWO-WEEK INCREMENTS OR EXTENDED ACTIVE DUTY?

- They would be volunteers not in federal status. Federal status would most likely violate the Posse Comitatus Act. The National Guard is not a full-time organization. If a mission lasts longer than two weeks, we would most likely rotate volunteers in two week increments.

- AS ILLEGAL BORDER CROSSINGS HAVE BEEN GOING ON FOR DECADES, WOULD THE GUARD BE IN A POSITION TO MOUNT OPERATIONS INDEFINITELY?

- Probably not. It is questionable that this would be a continuing National Guard mission, since we are State troops and a Reserve Component.

- IF NOT FOR AN INDEFINITE TIME, FOR WHAT PERIOD OF TIME COULD THE GUARD MOUNT OPERATIONS WITHIN YOUR EXISTING BUDGET?

- Within our current State budget, not at all.

- WITH EXISTING STAFFING AND EQUIPMENT?

- Again, the mission and scope of operations must be defined.

- WHAT WOULD THE COST BE OF MOUNTING OPERATIONS ON A WEEKLY, MONTHLY, OR ANNUAL BASIS AND COULD THE GUARD ABSORB THOSE COSTS WITHIN ITS EXISTING BUDGET?

- Until we know the mission, we cannot determine the cost. In any case, funding would have to be appropriated to support additional requirements.

- COULD, OR WOULD ANY OF THOSE COSTS BE ABSORBED BY THE FEDERAL GOVERNMENT?

- Only if the Federal Government directed the mission, and forces were activated in a federal status.

- IF YOUR ANSWER TO QUESTION 1. IS "NO," WHAT WOULD IT ENTAIL FOR THE GUARD TO BE "MISSION READY" IN TERMS OF TIME, TRAINING, STAFFING AND FUNDING?

- If properly resourced, we are mission ready for most of what we anticipate would be required. Again, there is a question

of legality. We are constrained from participating in any kind of law enforcement activity regarding illegal immigration.

● HOW WOULD ASSUMING BORDER PATROL DUTIES IMPACT THE GUARD'S ABILITY TO PERFORM ITS OTHER PEACETIME DUTIES?

- It would impact other responsibilities to some degree. The extent that peacetime duties will be affected can only be determined when the mission is known.

● WHAT ADDITIONAL AUTHORIZATIONS, IF ANY, WOULD THE GUARD NEED FROM EITHER THE STATE OR FEDERAL GOVERNMENT IN ORDER TO APPREHEND, PURSUE, AND DETAIN PERSONS CROSSING THE BORDER ILLEGALLY FROM MEXICO INTO CALIFORNIA?

- The California National Guard is not currently permitted or trained to pursue, apprehend or detain persons in the manner contemplated by this question. In order to do so in a nonemergency situation on State duty requires a change in the law and extensive training. To provide support services requires less. The California National Guard cannot perform arrests in support of law enforcement in a purely federal status under Title 10, USC because of the constraints of Posse Comitatus.

● WOULD YOU BE AVAILABLE TO GIVE TESTIMONY BEFORE THE ASSEMBLY SELECT COMMITTEE ON THIS SUBJECT WITHIN THE NEXT TWO-THREE WEEKS?

- A representative from the Military Department can be made available to testify at the convenience of the Select Committee.

Thank you for your inquiry. If you have any further questions regarding this or any other matter concerning the California National Guard, please have a member of your staff contact me at his or her convenience.

Sincerely,



TANDY K. BOZEMAN  
Major General  
The Adjutant General

## APPENDIX F

### CHRONOLOGY OF EVENTS SELECT COMMITTEE ON STATEWIDE IMMIGRATION IMPACT

#### 1993

- May 6      Select Committee held its first meeting in Chairwoman Grace Napolitano's office to discuss its goals and objectives.
- May 27      Chairwoman Grace Napolitano convened a meeting with representatives from various state agencies to discuss the collection of data relating to legal and illegal immigrants.
- July 7      Chairwoman Grace Napolitano convened a meeting with members of the New California Coalition -- a group of immigrant service providers and human rights organizations, to hear their concerns over the re-emerged anti-immigrant climate in the state.
- August 18      Select Committee met in the Capitol to discuss its plans for public hearings.
- August 27      Select Committee held public hearing in Santa Cruz.
- September 1      Select Committee met in the Capitol to hear testimony from Professor Robert Valdez of UCLA and Andrés Jimenez of the California Policy Seminar, on the available resources in the academic field, which may assist the Select Committee in its fact-finding efforts.
- September 22      Select Committee held public hearing in Los Angeles.
- October 12      Select Committee held public hearing in San Francisco.
- December 3      Select Committee held public hearing in San Bernardino.

#### 1994

- January 12      Select Committee held public hearing in Sacramento.





# **MAKING IMMIGRATION POLICY WORK IN THE UNITED STATES**

## **BY:**

**ASSEMBLYMEMBER RICHARD G. POLANCO**  
**CHAIR, CALIFORNIA LATINO LEGISLATIVE CAUCUS**

**ASSEMBLYMEMBER GRACE NAPOLITANO**  
**VICE-CHAIR, CALIFORNIA LATINO LEGISLATIVE CAUCUS**

## **MEMBERS:**

**SENATOR RUBEN S. AYALA**

**SENATOR CHARLES CALDERON**

**SENATOR ART TORRES**

**ASSEMBLYMEMBER JOE BACA**

**ASSEMBLYMEMBER CRUZ M. BUSTAMANTE**

**ASSEMBLYMEMBER LOUIS CALDERA**

**ASSEMBLYMEMBER MARTHA ESCUTIA**

**ASSEMBLYMEMBER DIANE MARTINEZ**

**ASSEMBLYMEMBER HILDA SOLIS**

## **PRINCIPAL CONSULTANT:**

**VALERIE E. MARTINEZ**

**AUGUST 1993**



## **STIFFER PENALTIES FOR THOSE WHO VIOLATE U.S. IMMIGRATION LAWS**

### **PUNISH SMUGGLERS**

#### **PROBLEM 1**

Because the smuggling of immigrants into this country illegally is profitable and not severely penalized, current deterrents to immigrant smuggling appear to be inadequate.

#### **SOLUTION 1**

The current penalty for smuggling immigrants is either a \$2,000 fine or up to five years in prison. Congress should increase the penalty to a \$10,000 fine and up to 10 years in prison. Still more severe penalties should be imposed on those smugglers who endanger the lives of the people they are transporting — a \$20,000 fine and up to 20 years in prison.

Additionally, federal prosecutors should apply the Racketeer Influenced and Corrupt Practices Act (RICO) to fight immigrant smuggling. Use of RICO would permit the government to utilize potent asset seizure and forfeiture laws.

### **EXTRADITE UNDOCUMENTED FELONS**

#### **PROBLEM 2**

Undocumented criminals prosecuted through our judicial system and incarcerated in our prisons cost U.S. taxpayers millions of dollars per year. In California, Governor Pete Wilson estimates this cost at \$500 million per year.

#### **SOLUTION 2**

The federal government should ensure that undocumented criminals who have been convicted of felonies are extradited and serve their sentences in their countries of origin by implementing existing extradition agreements and negotiating agreements where they do not exist. In cases where felons cannot be extradited, prison terms should be served in federal penitentiaries.

To expedite the extradition of undocumented felons, Congress should consolidate federal criminal trials of undocumented felons with deportation proceedings and give federal judges the authority to rule on deportation matters.

## **STOP VISA ABUSE**

### **PROBLEM 3**

Visa abuse rivals inadequate border enforcement as a major cause of illegal immigration. Officials estimate that as many as 200,000 people per year overstay their visas with the intent of remaining permanently in the U.S.

### **SOLUTION 3**

The U.S. Government must create an effective mechanism for tracking persons who enter the U.S. with visas. Congress should also tighten up the criteria for giving visas to foreign nationals, especially to those who are permitted to enter because they purportedly have special job skills.

## **ENFORCE FEDERAL LABOR STANDARDS**

### **PROBLEM 4**

With unemployment rates soaring and many citizens being forced to apply for federal assistance, too many employers are hiring undocumented workers.

### **SOLUTION 4**

The U.S. Department of Labor should enforce labor laws to ensure employers are upholding wage, labor and workplace safety standards. If held to these standards, employers lose the incentive to hire and exploit undocumented immigrants.

The INS should also be relieved of the responsibility for sanctioning employers who hire illegal immigrants. Congress should transfer that responsibility to the Department of Labor, which has the personnel and financial backing to get the job done.

## **REORGANIZE AND BETTER FINANCE GOVERNMENTAL AGENCIES THAT CONTROL IMMIGRATION**

### **BREAK-UP THE INS**

#### **PROBLEM 1**

General Accounting Office reports indicate that the INS's dual and often contradictory responsibilities — border enforcement and citizenship processing — weaken the agency's ability to perform either task effectively.

#### **SOLUTION 1**

Congress should divide the enforcement and naturalization functions of the INS. Two agencies should be created: a Border Enforcement Agency and a Legalization and Citizenship Agency.

##### **BORDER ENFORCEMENT AGENCY (BEA)**

The Border Patrol should be consolidated with the U.S. Customs Service. Because both of these agencies guard U.S. ports of entry, consolidation of the two would reduce duplication and increase effectiveness.

To ensure increased accountability, training and supervision of border personnel, Congress should require an independent investigation and review of civil rights abuses by Border Patrol and Customs officials.

##### **LEGALIZATION AND CITIZENSHIP AGENCY (LCA)**

This agency should focus solely on the tremendous demand for legalization and citizenship application processing. For example, in California, there are 3.6 million permanent residents eligible for citizenship, and an additional 1.6 million will become eligible in 1994.

The INS has the capacity to process a maximum of 60,000 new citizens per year. Based on current resources, it would take the INS 87 years to process all 5.2 million permanent residents who are eligible for full integration into American society.

### **IMPOSE A BORDER TOLL**

#### **PROBLEM 2**

Funding for border enforcement has not kept pace with the rate of undocumented immigration. Equipment is outdated and agents are under-trained.

At the same time, naturalization efforts have lacked the resources to process the growing number of legal immigrants wanting to become citizens.

## **SOLUTION 2**

Congress should study the economic impact of imposing a \$1 toll on anyone who enters the U.S.

If feasible, Congress should impose the toll on all pedestrians and passengers who arrive by car, ship, ferry, or plane.

Half the toll proceeds should be used to hire more agents and upgrade equipment used to patrol U.S. borders. The other half should be used to promote and process citizenship for legal permanent residents.

The funds should be disbursed to states using the formula currently used to distribute State Legalization Impact Assistance Grants (SLIAG).

## **REFORM FEDERAL IMMIGRATION POLICY**

### **HOLD A SUMMIT ON IMMIGRATION WITH MEXICO**

#### **PROBLEM 1**

Six Mexican states are the primary sources of undocumented immigrants in the United States. The U.S. Government has traditionally approached immigration policies unilaterally, instead of working with Mexico to address the factors that push thousands of Mexican nationals out of their homes and to the U.S. in search of jobs.

#### **SOLUTION 1**

President Clinton should convene a Summit on Immigration with Mexican President Carlos Salinas de Gortari. This Summit should focus on strategies that will stem the flow of undocumented immigration. These strategies should include boosting economic development in those Mexican states that are the sources of a majority of undocumented immigrants.

### **OVERHAUL THE ASYLUM PROCESS**

#### **PROBLEM 2**

There is a growing trend among undocumented immigrants to seek political asylum to avoid deportation. Moreover, under existing law, refugees are eligible for permanent resident status after only one year and can apply immediately for various federal assistance programs, including the Aid to Families with Dependent Children (AFDC) program.

#### **SOLUTION 2**

Congress should overhaul the political asylum process by toughening the criteria for asylum and restricting the benefits available to refugees, while retaining humanitarian standards.

Congress should also make certain that U.S. Customs inspectors and INS officers are not allowed to make deportation decisions in order to ensure separation of police and judicial authority.

### **DISBURSE OUTSTANDING SLIAG FUNDS**

#### **PROBLEM 3**

Federal immigration policies have severely impacted U.S. border states. While some funds have been disbursed by Congress to ease this burden, Congress has failed to disburse a promised final payment of \$812 million to states that absorbed the majority of immigrants legalized through the Immigration Reform and Control Act of 1986 (IRCA), which included the Amnesty program.

### **SOLUTION 3**

Congress should disburse the final \$812 million in the form of State Legalization Impact Assistance Grant (SLIAG) funds, which were designed to cover the costs incurred by states affected by IRCA.

### **EXTEND SLIAG FUNDING THROUGH 1996**

#### **PROBLEM 4**

Resources to help immigrants prepare themselves to contribute as productively as possible to American society are limited.

#### **SOLUTION 4**

Congress should extend SLIAG fund availability to provide educational services to the amnesty population through September 19, 1996. This extension should be implemented in recognition of past reductions and deferrals of SLIAG allocations, as well as the enormous unmet need for educational services.

Further, Congress should maintain the requirement that states use at least 10% of their annual SLIAG allocations for educational services.

### **CREATE LOCAL CITIZENSHIP CENTERS THROUGHOUT STATES WITH LARGE IMMIGRANT POPULATIONS**

#### **PROBLEM 5**

By next year, 5.2 million permanent residents in California will be eligible for citizenship. The current system is unable to handle the demand for citizenship processing, creating a burgeoning population of residents who are not fully integrated into society.

#### **SOLUTION 5**

The U.S. needs to create citizenship centers for newly-legalized permanent residents attempting to naturalize. This would be done by allowing adult schools, community colleges and non-profit community-based organizations to provide services needed for naturalization and citizenship, including citizenship instruction, testing, and English proficiency.

### **CREATE A MORE EQUITABLE REVENUE DISTRIBUTION FORMULA**

#### **PROBLEM 6**

A Los Angeles County report on immigration found that in 1991, immigrants paid more in taxes than they received in public services. However, those moneys were not distributed by the Federal government to the areas where the majority of the service use occurred — at the county level. So at the county level, public services were strained because of this funding imbalance.

**SOLUTION 6**

The U.S. should devise a more equitable formula for distributing revenue so that the counties impacted most by immigrants keep a larger share of the money those immigrants generate.

**PROVIDE ONLY EMERGENCY CARE TO UNDOCUMENTED IMMIGRANTS**

**PROBLEM 7**

Federal and state budget deficits are reducing the resources available for public health programs, particularly for indigent care.

**SOLUTION 7**

Adopt the California standard that limits undocumented immigrants to only preventive, prenatal, and emergency health care.