



Center for Immigration Studies

“Comprehensive Immigration Reform”

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Chairman Leahy, Ranking Member Grassley, and committee members, thank you for the opportunity to testify today. In recent weeks, the President and a group of your Senate colleagues have put forward very similar plans for “Comprehensive Immigration Reform.” These proposals include the same basic elements: amnesty for most of the more than 11 million illegal immigrants residing in the country; increases in legal immigration; expansion of guestworker programs; and promises of stronger border security and immigration enforcement measures.

These proposals are essentially the same as those offered about five years ago, which failed to pass muster with the American public and with the Congress, with good reason. They adopt the same formula as the failed grand bargain of 1986. This package of reforms would make major changes to our system, reward huge numbers of scofflaws and create new flows of immigration without regard to their effect on U.S. workers, in exchange for unfulfilled promises of enforcement. It is a recipe for failure on a scale even more massive than in 1986.

The IRCA Experience. The Immigration Reform and Control Act of 1986 (IRCA) package – a collection of amnesties coupled with a new prohibition on hiring unauthorized workers – was billed as a solution to the illegal immigration problem. The amnesties were a great success, at least in terms of the numbers who were legalized – about three million people, with admissions continuing to this day.¹

But the program most certainly did not solve the illegal immigration problem. Following IRCA, the size of the stock illegal population rose from about four million in 1986 (pre-amnesty) to about 12 million in 2007, with estimates dropping slightly in 2008 and 2009, and increasing slightly in 2010 and 2011, to roughly 11.5 million estimated today.

¹ David North, “Before Considering Another Amnesty, Look at IRCA’s Lessons,” Center for Immigration Studies, January, 2013, <http://www.cis.org/before-considering-another-amnesty-look-at-ircas-lessons>.

Employer Sanctions Not Enforced. The main reason illegal immigration has continued was because the government was quick to implement the amnesty program, but never followed through with the enforcement of employer sanctions (and only relatively recently has gained operational control of large sections of the southwest border). In fact, it seems that the sanctions were never intended to be allowed to work at all. Congressional drafters created the clumsy I-9 system in which employers are required to ask new hires for documentation, but not expected or required to verify the information (until recent years, when some states and the federal government adopted laws calling for mandatory use of E-Verify for some or all categories of employers). The law allowed for more than a dozen different forms of identification to establish work authorization. As a result, many workers simply began providing false documents, and a booming trade in false identification for employment purposes was born.

Executive branch officials were equally complicit in creating a workplace enforcement system that was built to fail. The INS diverted a significant share of enforcement resources toward an outreach program to inform the nation's employers of the new law and their new responsibilities, performed primarily by the agency's corps of special agents – which meant that the sworn law enforcement officers who were trained and empowered to investigate violations were taken off their beat. In addition, the agency leadership crafted the regulations in such a way as to make it difficult to investigate employers, and so that any sanctions actually imposed would amount to a slap on the wrist, insufficient to deter illegal hiring. The result was that employers failed to take the sanctions seriously and were able to absorb any meager penalties as a cost of doing business.

This fundamental failure of IRCA has not been lost on the public. According to a new poll commissioned by my organization, when asked why there is a large illegal population in the country, voters overwhelming (71 percent) answer that it is because we had not made a real effort to enforce our immigration laws. Only 18 percent think it is because we are not letting in enough immigrants through legal channels.

Massive Fraud and Rubber-Stamping of Applications. Not only was the enforcement end of the grand bargain scuttled, the government also failed to make sure that only qualified applicants would be legalized. IRCA has been called the most massive fraud ever perpetrated on the U.S. government. The fraud in these programs has been well documented (see my colleague David North's summary in "A Bailout for Illegal Immigrants: Lessons from the Implementation of the 1986 IRCA Amnesty").² The largest number of fraudulent applications was in the agricultural workers program. In California, the number of farmworker amnesty applicants was more than twice as large as the entire agricultural workforce at the time. In other parts of the country, applicants often made laughable claims of picking strawberries and watermelons from trees, and failed to identify the plants they allegedly had spent months handling. One of the terrorists in the first World Trade Center bombing of 1993 obtained his green card by claiming to be a farmworker, although he was actually working illegally as a taxi driver.

It is to be expected that any amnesty or similar government benefits program will attract fraudsters. What is most concerning is that the government agency charged with administering the program routinely looked the other way and did little to prevent them from getting legalization and thus a pathway to U.S. citizenship. The agency managers failed to encourage use of even the most rudimentary tools available to check applicants' claims, and frequently overruled the front-line adjudicators who spotted the fraud. For example, there is unpublished INS data from 1989 showing that

² North, at <http://cis.org/irca-amnesty>.

by that date the front line interviewers had recommended more than 880,000 denials. But by the end of the entire program, only about 350,000 denials were reported.

There are some indications that the administration of the latest amnesty, the new Deferred Action for Childhood Arrivals (DACA) program, is being handled with the same indifference to fraud. For example, insiders report that a disproportionate number of the applicants are claiming to be home-schooled, presumably to explain the absence of any documentation of schooling in the United States, which would confirm eligibility. U.S. Citizenship and Immigration Services (USCIS) has yet to report a single denial out of the more than 400,000 applications submitted, while more than 150,000 have been approved. Like INS before it, USCIS has established a generous system for DACA where applicants are presumed to be eligible, claims are rarely verified, and failed applicants get to stay anyway, for all intents and purposes immune from immigration law enforcement.³

Post-IRCA Surge in Legal Immigration. Not only did IRCA fail to solve the illegal immigration problem, it also caused future flows of legal immigration to swell far beyond the numbers initially legalized. This is partly because the family members of legalized immigrants living overseas were not covered by the amnesty; but also because many acquired new spouses who could then be sponsored. The three million original IRCA beneficiaries amounted to the equivalent of five years' worth of legal immigration, under the rules of the time. We estimate that another 740,000 additional immigrants were subsequently sponsored by the original IRCA beneficiaries and were admitted between 1989 and 2012. In addition, these individuals have sponsored additional family members, and almost certainly have hosted family members who have entered illegally.

Because Congress has placed limits on some categories of immigration, the surge in post-IRCA sponsored family immigration caused the immigrant visa waiting lists to get much longer, especially for Mexican applicants, but also for those from other countries. Predictably, this led to calls for reform from immigration advocates, which Congress answered by passing the Immigration Act of 1990. That law raised the limits for spouses and children of green card holders by diverting numbers to that category from the categories for lesser-priority family members, by eliminating the per-country caps for the spouse category, and by adding 55,000 extra green cards for the spouses and children of IRCA immigrants each year for a period of three years. The implementation of IMMACT90 brought immediate relief to the immigrant visa waiting lists. The waits in the spousal category were reduced by several years in a relatively short period of time, although the waiting lists in the lesser priority categories increased significantly over time. In retrospect, it would have been a better idea to transfer all of the numerical allocations from these lesser-priority categories right away. Such a move would have prevented the situation we have now, where some applicants in the sibling category, for example, have been waiting for more than a decade. It would have been more help to the nuclear family members and avoided raising false hopes for migration opportunities among the U.S. citizens sponsoring siblings.

Current System Lacks Control and Integrity.

The federal government, appropriately, allocates a significant share of taxpayer dollars to the immigration agencies that carry out this important work. It is impossible to determine exactly how much the federal government has spent on immigration enforcement over the years, because the

³ For more on the lax administration of DACA, see the Center's collection of articles on this topic: <http://cis.org/AdministrativeAmnesty>.

Department of Homeland Security and its predecessor, INS, have never tracked these activities. In 2012, the Department of Homeland Security (DHS) received about \$20 million to fund Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), and US-VISIT for the missions of immigration and customs enforcement and foreign visitor data collection and analysis. This is about one-half of the amount spent on all other federal law enforcement expenditures (not counting most military and intelligence service law enforcement nor Coast Guard), which totaled about \$39 billion in 2012,⁴ and one-third of total non-military/intelligence/Coast Guard law enforcement.

While outlays for border security and immigration enforcement have reached historic highs, it is important to remember that the immigration enforcement mission was woefully underfunded for decades; meanwhile, the threat from international terrorism and transnational criminal organizations is also greater than ever before. And, as discussed above, illegal immigration has risen steadily since 1986. Some real progress has been made, particularly along the southwest border, as DHS officials have frequently reported.

But our borders are far from secure, and equally important, enforcement of immigration laws in the interior is insufficient, inconsistent, overly surgical, and largely ineffective at preventing the entry, deterring the settlement, and effecting the removal of illegal immigrants, including those who are terrorists, criminals, or otherwise a threat to public safety.

Immigration Enforcement Anemic under the Obama Administration. The Obama administration has touted its enforcement achievements as “smarter” enforcement that focuses on the removal of non-citizens who have been convicted of serious crimes. Certainly there is an ample supply of those. According to the 2011 annual report of the U.S. Sentencing Commission, 10% of murderers, 31% of drug traffickers, 34% of money launderers, 64% of kidnappers, and 28% of food and drug offenders sentenced that year were non-citizens.⁵

Statistics from a variety of sources present a very mixed picture, with many indicators suggesting a significant decline in immigration enforcement activity over the last five years, and others showing only modest increases:

- Border Patrol apprehensions declined 61 percent over the five year period, from 877,000 in 2007 to 340,000 in 2011. Our research shows that new illegal entries have slackened somewhat since 2007, but there are signs that the tide could be shifting again. According to numbers just released by CBP, in 2012 southwest border apprehensions, which the agency

⁴ Figures are taken from official agency budget summaries from the last two years. Other federal law enforcement agency budgets tallied include: FBI, DEA, ATF, US Marshals, Secret Service, Bureau of Prisons, US Attorneys Offices, Transportation Security Administration, Diplomatic Security Service, IRS Criminal Investigation Division, Treasury Inspector General for Tax Administration, US Mint Police, Pentagon Force Protection, DoD OIG, Bureau of Indian Affairs Police, Bureau of Land Management Office of Enforcement and Security, National Park Service Police, Fish & Wildlife Office of Law Enforcement, Forest Service Law Enforcement and Investigations, USDA OIG, NOAA Fisheries Office of Law Enforcement, FDA Office of Criminal Investigations, Education OIG, Veterans Affairs Police, US Capitol Police.

⁵ U.S. Sentencing Commission, 2011 Sourcebook of Federal Sentencing Statistics, http://www.uscc.gov/Data_and_Statistics/Annual_Reports_and_Sourcebooks/2...

has used as an indicator of the number of illegal crossings, went up by nine percent, from 328,000 to 357,000.

- ICE arrests have been trending downward since 2008, from 320,000 that year to just over 300,000 in 2011. The most significant decline in DHS arrests – 70% -- was in the Homeland Security Investigations division, which is responsible for certain interior enforcement: worksite enforcement, transnational gang cases, national security, and certain non-immigration related casework. HSI arrests have declined from 54,000 in 2007 to 16,000 in 2011. This is troubling, since the number of illegal residents has not significantly declined over this period.
- Arrests by ICE’s Enforcement and Removal Operations have held relatively constant over the period, averaging 285,000 per year, with a slight drop in totals over the last two years. This division focuses on removing criminal aliens discovered in jails, referred by local law enforcement, and immigration fugitives.
- Syracuse University’s Transactional Records Access Clearinghouse, which obtains immigration court data from the federal government, reports that since 2009, there has been a significant decline in the number of aliens that ICE has brought to immigration court. The number of immigration court filings has declined 25 percent since last year, and 30 percent since 2009.
- The percentage of aliens ordered deported by immigration judges is the lowest rate since 1998, according to TRAC. Last year, judges ordered removal in 57 percent of the cases, and granted the alien’s request to stay 43 percent of the time.
- It appears that the number of aliens who have failed to abide by deportation orders is rising. In 2012, ICE reported that there were 850,000 aliens present in the country who have been ordered removed or excluded, but who had not departed.⁶ In 2008, DHS said that there were 558,000 “fugitive aliens.”

Obama administration officials have pointed to what they claim is a record number of removals and returns – 409,000 in 2012, out of more than 11 million illegal residents -- as evidence that the government is doing as much immigration enforcement as it can. But as the president has said, these numbers are "actually a little deceptive:"

- The 2012 deportation numbers are not a record, using the current methodology of counting both removals and returns. According to the annual yearbook of immigration statistics, in 1996 removals and returns numbered more than 1.6 million, up from more than 1.3 million in 1995.
- The "dramatic" recent increases in deportations, removals and returns actually occurred between 2005 and 2009; since then, the numbers have flattened out noticeably.⁷

⁶ DHS Office of Inspector General, “Improvements Needed for SAVE to Accurately Determine Immigration Status of Individuals Ordered Deported,” OIG-13-11, December, 2012, http://www.oig.dhs.gov/index.php?option=com_content&view=article&id=64&Itemid=34.

⁷ DHS Immigration Enforcement Actions, 2011, <http://www.dhs.gov/immigration-enforcement-actions-2011>.

- It has been established that recent deportation statistics are heavily padded with cases that were not previously counted as such.⁸

One notable accomplishment has been the implementation of the Secure Communities program, which links FBI and DHS fingerprint databases to enable ICE to more efficiently identify and remove aliens who are arrested by local law enforcement agencies. More than 1.2 million criminal aliens arrested by local police have been identified through the Secure Communities program since 2009. Of these, 247,000 have been removed so far. The Secure Communities program has contributed to ICE's ability to remove more criminal aliens than ever before.

Unfortunately, ICE is now also releasing more criminal aliens than ever before, thanks to the array of policies falling under the umbrella of "prosecutorial discretion," stipulating, essentially, that ICE agents may not arrest or seek to remove illegal aliens unless they have been convicted of at least three misdemeanors, and sometimes not even then, even if these offenses are of a violent or dangerous nature. This "worst of the worst" policy leaves a lot of the worst still living in American communities, in defiance of our laws, and creates too many needless victims. For example, in September, 2011, the Chicago ICE Field Office released Amado Espinoza-Ramirez, an illegal alien who had been charged with 42 counts of child molestation, including incestuous child rape. ICE issued a statement saying the man was not an enforcement priority, reportedly because he had a U.S. citizen child, a category designated for leniency under Obama administration policies.⁹

According to a Congressional Research Service analysis, over a two and one-half year period they studied, ICE released tens of thousands of deportable criminal aliens who had been identified under Secure Communities. Of these, the 26,000 criminal aliens were later re-arrested for 58,000 new crimes within the time frame of the study. The 58,000 new crimes included 59 murders, 21 attempted murders, and more than 5,000 major or violent criminal offenses. In addition, they were charged with more than 6,000 drug violations and more than 8,000 DUI violations.¹⁰

In addition, the Obama administration and its agencies have undertaken aggressive legal action to try to prevent state and local governments from assisting ICE and from deterring illegal settlement. The Department has sued several states, including Arizona and Alabama and also some local law enforcement agencies that have elected to allow their officers to follow the guidelines established by state and federal laws, rather than the Obama administration's more restrictive and selective policies on which illegal aliens to arrest.

At the same time, both Justice and Homeland Security officials have sat on their hands as a number of local governments have adopted policies to actively obstruct ICE's enforcement activities, even against criminal aliens. The most egregious sanctuary policy is in Cook County, Illinois, one of the largest jail systems in the country, and with a significant population of criminal aliens. In September, 2011, the county adopted a policy directing Cook County jail officers to ignore all ICE detainees. The

⁸ Rep. Lamar Smith, <http://www.washingtontimes.com/news/2012/sep/26/obama-puts-illegals-ahlea...>

⁹ Michael Volpe, "ICE admits releasing alleged child rapist," *The Daily Caller*, March 21, 2012, <http://dailycaller.com/2012/03/21/ice-admits-releasing-alleged-child-rapist/>.

¹⁰ Congressional Research Service memorandum to Rep. Lamar Smith, "Analysis of Data Regarding Certain Individuals Identified Through Secure Communities," updated July 27, 2012, linked here: <http://cis.org/vaughan/new-report-obama-catch-and-release-policies-result-more-crimes-more-victims>.

result has been the release of hundreds of criminal aliens, including a large number of felons, back to Chicago-area communities. One of these was Saul Chavez, an illegal alien who ran over and killed Dennis McCann while driving drunk in Chicago in June, 2011, and who had a previous aggravated felony drunk driving conviction.¹¹

Meanwhile, the administration continues to dole out millions of dollars in annual awards, earmarked for the costs of detaining criminal aliens, to Cook County and other local governments that do everything they can to obstruct ICE from doing its job, when it has the ability and the authority to deter such practices by denying the awards.¹²

Similarly, DHS has failed to address the problem of other countries that obstruct immigration law enforcement by refusing to accept back their citizens who have been ordered removed. ICE has identified about two dozen countries that are “recalcitrant” in repatriating their citizens or in issuing travel documents.¹³ Because of a 2001 Supreme Court decision, ICE may not detain removable aliens for longer than six months, except in exceptional circumstances. As a result, more than 12,500 aliens (the majority of whom were likely criminals) have been released from ICE detention. In addition, there are between 100,000 and 200,000 aliens living here who have not been in ICE custody recently, but who have been ordered removed and could not be removed because their home countries refused to take them back.¹⁴ Under current law, DHS may impose visa sanctions on the recalcitrant countries, as has been done successfully before; but chooses not to use this leverage. This adds needlessly to our population of illegal residents, but also exposes everyone to potential harm. ICE does not routinely inform either victims or local law enforcement agencies when it releases such aliens. In one particularly tragic case recounted recently in the *Boston Globe*, illegal alien Huang Chen, convicted of assaulting a woman in 2006, was released by ICE under Zadvydas rules, and remained free to stalk his previous victim until he bludgeoned and slashed her to death in 2010.¹⁵

These and other gaps in our enforcement system need to be fixed before we can contemplate another massive legalization program. This includes finishing the entry-exit system ordered by Congress in 1996, so that DHS knows who is coming and going, and more importantly, who is staying. Little progress has been made since the initial launch of US-VISIT in 2004. Currently, only air and sea passengers receive biometric screening and identity authentication; but the largest number of visitors enters through the land ports, and imposters using someone else’s legally issued documents are a major problem. The biggest problem is abuse of the Border Crossing Cards, which have been issued to more

¹¹ See testimony of Brian McCann before the U.S. House Judiciary Committee, Subcommittee on Immigration Policy and Enforcement, March 7, 2012, http://judiciary.house.gov/hearings/Hearings%202012/hear_03072012_2.html.

¹² See Jessica Vaughan and Russ Doubleday, “Subsidizing Sanctuaries: The State Criminal Alien Assistance Program,” November, 2010, <http://www.cis.org/subsidizing-sanctuaries>.

¹³ Testimony of Gary Mead, Executive Associate Director, ICE Enforcement and Removal Operations, before the House Judiciary Committee, Subcommittee on Immigration Policy and Enforcement, May 24, 2011, <http://www.dhs.gov/news/2011/05/24/statement-gary-mead-executive-associate-director-enforcement-and-removal-operations>.

¹⁴ Jon Feere, “Reining in Zadvydas: New Bill Aimed at Stopping Release of Criminal Aliens,” Center for Immigration Studies, May 2011, <http://www.cis.org/stopping-release-of-criminal-aliens> and Mark Metcalf, “Built to Fail: Deception and Disorder in America’s Immigration Courts,” Center for Immigration Studies, May 2011, <http://cis.org/Immigration-Courts>.

¹⁵ Maria Sacchetti, “Unwanted at home, free to strike again,” *Boston Globe*, December 8, 2012, <http://www.boston.com/news/nation/2012/12/08/secret-criminals-quietly-released-criminals-who-were-supposed-deported-with-deadly-consequences/gA2ALtmA9LMuKUVGnffvAl/story.html>.

than nine million Mexicans, facilitating the illegal settlement of perhaps as many as one million Mexicans.¹⁶

The other very conspicuous void in immigration law enforcement today is workplace enforcement. In early 2009, the Obama administration adopted new policies on worksite enforcement, placing the focus on conducting paperwork audits of more companies while deliberately avoiding contact with illegal workers. In line with ICE's current strategy, the number of I-9 audits increased from 503 to 2,496 from fiscal year 2008 to 2012, the number of final orders to cease violations and pay fines increased from 18 to 385, and the dollar amount of final orders increased from \$675,209 to \$10,463,987.

But every other metric points in the other direction. Administrative arrests have fallen 78% from fiscal year 2008 to fiscal year 2012 (from 5,184 to 1,118); criminal arrests of employers and employees are down 53% (from 1,103 to 520) with criminal arrests of employees down 71% (from 968 to 280) and criminal arrests of employers increasing by 78% (from 135 to 240); criminal indictments have fallen 63% (from 900 to 329); and criminal convictions are down 65% (from 908 to 314). The number of ICE investigative hours devoted to worksite enforcement per quarter fell by 34% from the 3rd quarter of fiscal year 2008 to fiscal year 2010 overall (from 258,306 hours in the 3rd quarter of 2008 to 683,868 hours for all of 2010). This represents a drop from 9.5% of all investigative hours to 6.2%.

In addition, judging from other records I have reviewed that were released through the FOIA process, there is a great deal of inconsistency among ICE investigative field offices in how they go about worksite enforcement. Some offices target employers that are suspected of egregiously hiring large numbers of workers; others tend to select employers where few suspected illegal workers are found in the paperwork, but they can still claim to have completed many audits. Some offices push hard to impose large fines, others prefer to issue mainly warnings, even in cases where large numbers of suspected illegal workers were found on the payroll.

In addition, I have found some inconsistencies in the way ICE apparently is classifying its investigations, which leads me to wonder if they might be manipulating case reporting statistics in order to give an inflated impression of the level of worksite enforcement. Listed under the "Worksite" section of the ICE Newsroom page, I found several press releases about investigations that were clearly criminal in nature, and could not reasonably be classified as "worksite enforcement." So-called "worksite" cases I found included prosecutions of the leaders of a prostitution ring in Florida and the owner of a motel in El Paso used as a drophouse for 5,000 smuggled aliens.

Meanwhile, some of my sources report of another multi-state prostitution ring investigation (reportedly involving underage girls) that was initiated by the Border Patrol and later turned over to ICE was reportedly dropped because it would have led to discoveries of widespread illegal hiring practices at dairy farms in northern Vermont. Tolerance of flagrant illegal hiring practices at a number of large corporate dairy operations, some of which also have a track record of violating environmental and conservation laws, has forced many of the smaller, family-owned dairy farmers out of business, and led to the sacking of the local residents who used to do this work. Displaced workers and their families have abandoned Vermont for other parts of the country, and family farmers, unable and unwilling to compete with the exploitative and illegal practices, end up selling off their holdings to the large farm

¹⁶ Jessica Vaughan, "Border Crossing Chaos," Center for Immigration Studies, March 25, 2009, <http://cis.org/vaughan/PaseoDelNortePartIV>.

owners that have trailers, apartments and old farmhouses now full of illegal workers. Vermont taxpayers cover the cost of the workers' health care and any other needs, since the farm operators do not have the workers "on the books."

The one consistent theme of worksite investigations in recent years seems to be that arrests of workers are to be avoided at all costs. This raises legitimate questions as to the value of an audits-only approach.

Legal Immigration System Has Economic and Fiscal Costs and Lacks Integrity. Obviously many immigrants have enriched our nation and have been a source of strength rather than a burden. America has given opportunities and safe haven to countless individuals over the decades. If properly managed, immigration can serve the national interest and the interests of employers and families alike. But our legal immigration system is not managed properly today. We are admitting more people than we can employ without disadvantaging Americans, we need to re-allocate the quotas so that we can accommodate the highest priority categories, we need to be stricter with the eligibility criteria, and we need to stop tolerating such a high rate of fraud.

Current legal immigration is as high as it has ever been in our history. The government issues about one million green cards annually in the family, employment, humanitarian and lottery categories, more than all other countries combined. In addition, we have guestworker programs that bring in about 700,000 workers a year, including farm workers, factory workers, lifeguards, nannies, ice cream scoopers, fish slimers, crab pickers, lab technicians, physical therapists, nurses, electricians, church secretaries, priests, musicians, baseball players, computer programmers, teachers, college professors, researchers, and doctors, among many others.

Despite its huge size, the legal immigration system is ridiculously oversubscribed, with more than four million eligible people on the waiting list, mostly in the lesser priority family categories. It is weighted in favor of family immigration, with only about 12 percent of green cards issued to new immigrants based on their skills. As a result, while there are great variations according to sending country, our legal immigration system is essentially an unskilled labor importation program that has greatly increased the size of America's low-income population.

The economic and fiscal consequences of admitting so many immigrants who are on average less educated than U.S. workers are significant. Not only does mass immigration displace Americans from job opportunities, it causes wages to stagnate or decline. There is huge supply of potential less-educated workers; more than 25 million native-born Americans aged 18 to 65 with a high school degree or less are unemployed. If there were a labor shortage at the bottom end of the U.S. labor market, then wages, benefits, and employment would all be increasing; instead, unemployment is stubbornly high and wages have declined alarmingly for many U.S. workers, even before the current recession. But hourly wages for male non-high school graduates declined 22 percent from 1979 to 2007, and hourly wages for male high school graduates declined 10 percent from 1979 to 2007.

There is no evidence that immigrants only do jobs Americans don't want. Of the 465 occupations defined by the government, only four are majority immigrant. Many jobs often thought to be majority immigrant are in fact majority native. For example:¹⁷

- Maids and housekeepers: 52 % native-born
- Taxi drivers and chauffeurs: 59 % native-born
- Butchers and meat processors: 64 % native-born
- Construction laborers: 66 % native-born
- Janitors: 73 % native-born.

The nation's leading immigration economist, George Borjas of Harvard, has demonstrated that immigration has had a negative impact on wages, for example, estimating that immigration reduced the wages for natives who had not graduated from high school by 7.4 percent. Borjas also has found that immigration significantly reduced both the wages and employment of less-educated, native-born African Americans.¹⁸

Other research corroborates these findings of displacement and wage depression. A 2006 study by Andrew Sum and his colleagues at Northeastern University found that the arrival of new immigrants (legal and illegal) in a state results in a decline in employment among young native-born workers in that state.¹⁹ Research by my colleague Steven Camarota has examined differences in wages across occupations in which most of the workers have no more than high school education. The findings show that immigration reduced wages for American workers by 10 percent in some occupations.²⁰

Because so many immigrants lack the education and skills needed to be self-sufficient, they tend to make disproportionate use of our social welfare programs. In 2010, 23 percent of immigrants and their children lived in poverty, compared to 13.5 percent of natives. They account for one-fourth of all persons in poverty. In 2010, 36 percent of immigrant-headed households used at least one major welfare program (compared to 23 percent of natives).²¹

Many immigrants make progress over time but, on average, even after 20 years, they do not come close to closing the poverty and welfare gap with natives. Moreover, immigration does not have a noticeable impact on our nation's age structure, and so cannot help address the entitlements or Social Security/Medicare funding crisis.²²

In general, skilled and/or educated immigrants do not impose the same kind of fiscal costs on communities as do those who are less educated. However, if skilled immigrants are concentrated in one

¹⁷ Steven A. Camarota, *Immigrants in the United States: A Profile of America's Foreign Born Population*, Center for Immigration Studies, August, 2012, <http://cis.org/2012-profile-of-americas-foreign-born-population>.

¹⁸ George Borjas, "The Labor Demand Curve is Downward Sloping: Reexamining the Impact of Immigration on the Labor Market," *Quarterly Journal of Economics*, November 2003, pp. 1335-1374, at: <http://ksghome.harvard.edu/~GBorjas/Papers/QJE2003.pdf>; for a less technical version, see www.cis.org/articles/2004/back504.html.

¹⁹ Andrew Sum, Paul Harrington, and Ishwar Khatiwada, *The Impact of New Immigrants on Young Native-Born Workers, 2000-2005*, Center for Immigration Studies, 2006, www.cis.org/articles/2006/back806.html.

²⁰ Steven Camarota, "The Effect of Immigrants on the Earnings of Low-Skilled Native Workers: Evidence from the June 1991 Current Population Survey," *Social Science Quarterly*, Vol. 78, 1997.

²¹ Camarota, *Profile*.

²² *Ibid.*

labor market or occupation, they can displace U.S. workers, as has happened in the technology/engineering sector. Our current admissions system – specifically the labor certification process – does not protect U.S. workers from unfair competition, nor ensure that America is bringing in the kind of workers that are needed, as opposed to simply enabling U.S. employers to bypass U.S. workers.

A growing body of research indicates that while there may be spot shortages of specific skill sets or in specific labor markets, the claims of a general shortage of the so-called STEM workers are exaggerated. Our colleges and universities are turning out more degree holders in these fields than there are job openings, and there is persistent high unemployment in STEM occupations.²³

Some researchers believe we actually have a glut of STEM workers, due in part to the fact that we have admitted so many foreign students seeking degrees in this field, most of whom stay on in some status, often as H-1B workers with the expectation that they will eventually earn permanent residency. In addition, we admit tens of thousands of H-1B and L visa workers from abroad, many of whom join the waiting list for employment-based green cards. The reason we have such a long waiting list for employment green cards is because the flow of H-1B and L workers far exceeds the number of employment visas available (and because most of the demand is concentrated in just a few countries).

There are two problems that plague all of our visa programs, whether temporary or permanent, family or employment or humanitarian: lax enforcement of eligibility standards and rampant fraud. One example of the former is the abandonment of any pretense of insisting that immigrants show that they can support themselves. Despite the law's stipulation that applicants show they are not and will not be a "public charge," adjudicating officers at both USCIS and State Department are directed in the regulations to ignore most kinds of social welfare benefits that applicants may have received. In addition, sponsors who cannot show sufficient income (or sufficient reported income on tax returns) to qualify to sponsor a relative are allowed to submit affidavits of support signed by third parties who pledge to assist if needed. These pledges are never verified, much less enforced if the immigrant ends up needing social services.

Fraud exists in nearly every category of immigration benefits, although some categories are more fraud-prone than others. A number of years ago, USCIS conducted several detailed fraud assessments, and found double digit rates of fraud in the categories they studied, which included religious workers, employment-based immigrants, H-1B, L-1A, asylum and marriage. The adjudicating agencies have improved their fraud investigations and analytical systems significantly. But only rarely do the agencies work with other partner agencies to prosecute fraud or to seek the removal of individuals who commit fraud or are found ineligible for admission. As a result, an untold number of people who do not qualify for residency are allowed to stay anyway.

Finally, in recent years, the immigration agencies have begun stretching the criteria for eligibility in some programs so that unqualified -- and in some cases, potentially dangerous -- individuals have been allowed to stay. For example, according to the law, individuals with Temporary Protected Status (TPS) are ineligible if they are convicted of two or more misdemeanors. Recently, DHS implemented a policy that directs adjudicators to re-classify the misdemeanors as "infractions" so that they can retain

²³ See, for example, Daniel Costa, "Microsoft report distorts reality about computing occupations," Economic Policy Institute, November, 2012, <http://www.epi.org/publication/pm195-stem-labor-shortages-microsoft-report-distorts/>.

their TPS. Most of the beneficiaries of this policy have been individuals convicted of drunk or impaired driving. While only a small number of people in this category have been approved, it is reasonable to ask why the administration would make it a priority to create such a loophole.

“Comprehensive Immigration Reform” Is Not a Solution.

A mass legalization of 11 million (or more) illegal immigrants and expansion of green card and temporary worker admissions, especially when combined with promises of future enforcement, rather than strengthened enforcement, will not cure most of the problems with our immigration system.

On the contrary, the two “comprehensive” proposals would exacerbate our unemployment, inequality and wage stagnation problems by adding large numbers of both heavily-educated and lightly-skilled workers to the labor pool, when there is no evidence of need for either type.

Employers welcome such a situation, but the workers suffer. We know from experience how this will turn out. For example, several years ago, the Hyatt Hotels chain replaced its entire staff of about 90 housekeepers at its three hotels in Boston with new workers hired through a staffing company based in Georgia. The original housekeepers were full-time workers, earning about \$14 per hour, with subsidized health insurance and paid sick and vacation leave. Many of these women had supported their families on these jobs and had worked there for more than a decade. The replacement contract workers were brought in from Georgia (some admitted to being here illegally and using false documents to get hired). They were willing to work for \$8 per hour, without benefits. The original workers were offered the chance to keep their jobs as employees of the staffing company at the lower rate of compensation. Can there be any doubt that this scenario will repeat itself as employers seek to take advantage of new labor streams created by expanded immigration and more guestworker programs?

Lawmakers must also consider the cost of adding millions of newly legalized residents to the public welfare and subsidized healthcare rolls. Currently, illegal residents are not able to access many of the federally-funded programs (except on behalf of U.S.-born children), but will be eligible to do so after an amnesty. Even though most illegal aliens are working, because they tend to be concentrated in relatively low-paying jobs, they and their families can be expected to apply for many welfare programs. This additional cost is likely to run in the tens of billions of dollars per year, and will not be offset by new tax payments, again, due to the fact that many are in low-paying jobs. Barring them from the welfare programs is not a good choice; once we make the decision to admit someone as an immigrant, they should have access to all the same programs as others in similar circumstances.

As discussed earlier, fraud is likely to be an issue in any legalization program, especially if this administration’s handling of DACA is any model. The DACA program is rigged in favor of applicants; adjudicators are unable to verify claims of applicants, there is no interview, and the rules are written so loosely that it is easy to game the system. Because of a strict confidentiality provision, as with IRCA, none of the information on an applicant’s paperwork may be shared or used for enforcement purposes. We can expect more of the same in any legalization program run by the Obama administration. Indeed, in the President’s fact sheet on CIR, it states that those whose applications are denied will get appeals and judicial reviews – not removal.

Most of the enforcement measures that have been proposed are vague, aspirational, costly, and of dubious feasibility. One, the entry-exit system, was first mandated by Congress in 1996; this should not be part of a compromise, it should be completed without further discussion. This is especially important in light of the administration's proposals to expand the Visa Waiver Program. The White House also proposes to implement universal mandatory E-Verify, which is a very good idea, but since the program is already operating effectively, this expansion should not be contingent on the development of a biometric Social Security Card or other biometric enhancements that would be unduly burdensome for employers and workers alike.

What Should Be Done Instead?

In light of the vast disparity of views within Congress on which type of reform to pursue, it seems unrealistic to rush into the huge agenda put forth in the two "comprehensive immigration reform" proposals that have been issued. The most successful attempts at immigration reform in recent decades have been much narrower in scope, including IMMACT 90, IIRAIRA, NACARA, AC-21st Century, LIFE ACT, the 9/11 bill, and many other smaller measures that have been passed since 1990.

Lawmakers should start with areas of reform around which there is already significant consensus and popular support. These include better workplace enforcement and compliance, such as universal mandatory E-Verify; amnesty for illegal aliens brought by their parents at a young age and who grew up here; ending the visa lottery and other programs that do not serve our national interest; completing the entry-exit system; reforming the immigration court system; expanding federal-local law enforcement partnerships; and rebalancing our legal immigration system to admit a larger proportion of immigrants who will be self-sufficient.

But before undertaking any large-scale legalization program, lawmakers must be able to assure the public that the laws we have will actually be enforced, and that such an amnesty will not cause another surge of illegal immigration. The government needs to show meaningful and sustained commitment to attaining operational control of the borders and enforcing immigration laws in the interior in a transparent way, so that all illegal immigrants -- not just those who are convicted criminals and known terrorists -- are potentially held accountable for violating our law and are preventing from gaming our systems. A more detailed laundry list of what meaningful enforcement includes is outlined in our publication "ABCs of Effective Immigration Enforcement," available on our website.²⁴ Progress should be measured not just by enforcement actions like apprehensions and removals, but by our success in reducing the stock of the illegally-resident population as well as the in-flow of new illegal migrants.

Our research indicates that most Americans reject the false choice of either mass deportations or mass legalization. In our latest poll, using neutral language, voters indicated that they preferred that illegal immigrants return home (52%) rather than be given legal status (36%). Further, 69 percent believe that giving legal status to illegal immigrants only encouraged more illegal immigration. These results suggest that enactment of the "comprehensive immigration reform" proposals would be a political mistake as well as a policy mistake. ###

²⁴ Jessica Vaughan, "ABC's of Effective Immigration Enforcement," <http://cis.org/Announcements/Amnesty-Panel-Discussion-01142013>.