The Future of Immigration

"Let us not be frozen in the ice of our own indifference. Let us act. Let us govern."

- Senator Robert Menendez
September 1, 2021

Dear Friends,

Please accept my warmest congratulations on the publication of *The Future of Immigration*. I commend former New Jersey Governor Jim McGreevey and Reverend Flores for their authorship of this important report as well as their longstanding commitment to immigration reform in New Jersey and beyond. Their fierce advocacy is critical in our collective fight for a fair and just immigration system.

I also want to pay particular recognition to the New Jersey Reentry Corporation (NJRC)’s tireless work in spearheading Espíritu Latino, an initiative to assist more members of the Hispanic community in successfully reintegrating into society after time spent in the prison system. We must continue to support all of our immigrant brothers and sisters working and raising families in our communities.

I believe we have a moral and economic imperative to pass meaningful immigration reform and provide pathways to citizenship and much-needed relief to immigrant families and communities across the country. That is why on February 22, 2021, I introduced the U.S. Citizenship Act of 2021 alongside 25 of my Senate colleagues.

The U.S. Citizenship Act of 2021 would create an earned pathway to citizenship for all 11 million undocumented immigrants. More specifically, the bill provides Dreamers, TPS holders, and farmworkers with an expedited three-year path to citizenship, and gives all other undocumented immigrants who pass background checks and pay taxes with an eight-year path to citizenship without fear of deportation. The bill would also reform the family-based immigration system, increase support for asylum seekers and other vulnerable populations, and protect immigrant workers from exploitation. President Biden’s bold, inclusive, and humane framework for immigration reform would fundamentally transform our immigration system.

As the son of Cuban immigrants, I have dedicated much of my career in Congress, both in the House and the Senate, fighting for the dignity of immigrant families in New Jersey and all across America. Now, more than ever, we must enact bold immigration reform that addresses root causes of migration, safeguards our country’s national security, and leaves no one behind. I am grateful that I stand alongside countless powerful advocates who will continue to fight for immigrants across this country. Please accept my deepest gratitude for all your hard work and invaluable contributions to our community.

Sincerely,

Robert Menendez
United States Senator
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acknowledgments</td>
<td>5</td>
</tr>
<tr>
<td>Introduction</td>
<td>6</td>
</tr>
<tr>
<td>Workplace Training and Employment</td>
<td>8</td>
</tr>
<tr>
<td>Healthcare</td>
<td>19</td>
</tr>
<tr>
<td>Criminal Justice</td>
<td>30</td>
</tr>
<tr>
<td>Deportation</td>
<td>40</td>
</tr>
<tr>
<td>Policing</td>
<td>45</td>
</tr>
<tr>
<td>Interviews</td>
<td>52</td>
</tr>
<tr>
<td>Why Immigrate to America? Push and Pull Factors</td>
<td>66</td>
</tr>
<tr>
<td>Espiritu Latino</td>
<td>67</td>
</tr>
<tr>
<td>Conclusion</td>
<td>69</td>
</tr>
<tr>
<td>Work cited</td>
<td>70</td>
</tr>
</tbody>
</table>

- Michael Wildes, Wildes and Weinberg, P.C. ........................................... 52
- Michael Noriega, Esq., Bramnick, Rodriguez, Grabas, Arnold & Mangan, LLC . 58
- Professor Lori Nessel, Seton Hall University School of Law, .................. 61
- Director Rosa Santana, Brooklyn Community Bail Fund ............................ 64
The academic and research articles presented are the work of the authors cited. The Coalition provides full attribution. While the Coalition embraces many of the values and policy positions enshrined, the research, work product, and writing is wholly that of the authors. Recommended actions are a “Call to Action” for the clergy and affiliated members of the New Jersey Coalition of Latino Pastors and Ministers.
The history of the United States has been blessed with many basic narrative themes of which immigration is a significant part of the American experience. With one of the most diverse populations in the world, immigration and by definition the “melting pot” has contributed to the self-understanding of the American public.

New Jersey is perhaps among those states most emblematic of the nation’s diversity and the fullness of the immigrant experience. It is estimated that nearly one-fourth of the state’s population is foreign-born, while one in six residents is native-born with at least one immigrant parent (Immigrants in New Jersey 2020). The diversity of the immigrant experience and the strength of Latino representation in New Jersey is embodied in those five nations with the most significant populations of immigrants, namely: India with 13 percent of immigrants, the Dominican Republic with 10 percent of immigrants, Mexico with 5 percent of immigrants, Ecuador with 4 percent of immigrants, and the Philippines with 4 percent of immigrants (Immigrants in New Jersey 2020). Indeed, as reflected in the most recent national census, Latinos are among the fastest growing population of the national and state population.

While recognizing the scope and depth of the immigrant experience in the United States, it is noteworthy to reaffirm the reality of those challenges confronting the immigrant. Seemingly from the earliest of colonial times until merely days ago, the nativist influences of the “Know Nothings” seems to have an evidently permanent place within the American political and
cultural framework. Whether based on race, ethnicity, religion, language, or culture, there have been consistently those native influences, which have rejected the dynamism of the American immigrant experience.

The barriers, challenges, and issues raised in this treatise highlight the practical need to grapple with services, which while readily available to citizens remain all too elusive if not unobtainable for the immigrant. The sad reality of not being able to access critically-needed services and those benefits, which contribute to upward mobility, such as technical and academic education serve to curtail the ability of the immigrant to fully realize one’s unique potential for the benefit of one’s self as well as the community and nation.

National leaders, such as Senator Menendez, have spoken clearly and thoughtfully as to the need to enshrine the opportunity and promise that America once held for many of our grandparents for the present generation of would-be immigrants. While nativist influences are ever present, the contributions of immigrants to this nation have been a far more substantive and robust narrative in the life of the nation.
Immigrants make up 13.5 percent of the U.S. population and 17 percent of the U.S. workforce, according to Census Bureau Data. Foreign-trained workers and U.S.-trained immigrants are filling key niches in the U.S. labor force, alleviating shortages in certain sectors such as health care, where one in six health care professionals overall is foreign-born. Nearly 28 percent of physicians and surgeons and 24 percent of direct-care workers such as nursing, psychiatric, and home health aides are foreign-born.

Certain occupations are estimated to be growth areas for the U.S. economy, partly as people retire from the workforce and require more health care and other services. Health care occupations, for example, are estimated to account for nearly one-fourth of newly created jobs in the U.S.

Immigrant professionals often face difficulty in obtaining recognition for foreign education or credentials, frequently requiring them to obtain an occupational license in the U.S. state in which they live and wish to work. This can leave immigrant professionals underemployed or unemployed.

The federal government sets the conditions for immigrants to live and work in the United States and issues visas for both permanent and temporary employment. Employers may sponsor those with special skills for permanent residence. Foreign workers may also apply for temporary employment-based visas, for example, the H-1B visa for specialty occupations (e.g., high tech) or the J-1 physician visa. State governments retain the power to establish regulations for the practice of a profession or occupation, which can include a system of licensing.

This brief is focused on immigrant professionals who are authorized to work by the federal government and highlights innovative state approaches to overcoming employment barriers, particularly in licensing and credentialing.
DEMOGRAPHIC AND ECONOMIC INFORMATION

- Immigrants comprise about 13% of the U.S. population.
  - Of Those:
    - Almost one-half are naturalized citizens
    - 30% are legal noncitizens
    - 20% are unauthorized immigrants

- Immigrants comprise about 17% of the U.S. workforce.
  - Of Those:
    - 57% are naturalized citizens
    - 24% are legal permanent residents
    - 8% have temporary visas
    - 11% are unauthorized

Of the 45.6 million college graduates in the U.S. labor force, 7.6 million are foreign-born. Of those, 25 percent were in low-skilled jobs or unemployed.

**Immigrants in the Civilian Labor Force, 2016**

- Source: Migration Policy Institute

Legend:
- Less than 5%
- 5%-10%
- 10%-15%
- 15%-20%
- More than 20%
Lawful permanent residents ("green card holders") are granted admission for permanent residence to the U.S. based on family relation or job skill. A worldwide limit of 675,000 visas is allowed annually for family (480,000), employment (140,000) and diversity visas (55,000). All applicants must meet U.S. admission requirements. The U.S. also accepts refugees for resettlement, who must apply for permanent resident status after 12 months.

WHAT IS AN OCCUPATIONAL LICENSE?

An occupational license is a credential that government—most often states—requires a worker to hold in certain occupations. Aspiring workers must meet state-specific educational, training, testing and other requirements to practice in a licensed profession. Occupational licenses are mandatory in the relevant jurisdiction, intended to set professional standards and ensure safety and quality of work and are time-limited. Violation of the terms of the license can result in legal action.

In 2016, almost 1.2 million foreign nationals were admitted to the U.S. as lawful permanent residents. The visa allocation was approximately 68 percent for family visas, 12 percent for employment visas, 10 percent for humanitarian reasons (refugees), 4 percent for diversity visas and 6 percent other (parolees and asylees).

Employers may petition to bring individuals with special skills into the U.S. at a yearly limit of 140,000. There are five preferences for permanent employment visas:

- 40,000 visas for priority workers with "extraordinary" or "outstanding" ability in certain fields (arts, science, education, business or athletics).
- 40,000 visas for persons with advanced degrees or "exceptional" abilities in sciences, art or business.
- 40,000 visas for skilled workers in fields with labor shortages.
- 10,000 visas for "special" immigrants, including religious workers.
- 10,000 visas for investors.

Temporary immigrants, known as "nonimmigrants" in U.S. law, are those allowed to enter the U.S. for a specific purpose and for a temporary or limited period and, unless specifically authorized, are not permitted to work in the United States. Nonimmigrant visas are issued for 87 subcategories within 24 major categories, including short-term visitors (tourists), students, business visitors, diplomats, and temporary agricultural and nonagricultural workers.

In 2016, the U.S. Department of State issued 10.4 million nonimmigrant visas: The largest
groups included 8 million tourism and business visas, 883,000 for temporary workers, 513,000 for students, and 380,000 for cultural exchange visitors.

Examples of visas for temporary skilled workers include:

- H-1B visas are for highly educated professionals to work in specialty occupations, often math, engineering or technology. These visas are capped at 85,000 visas per year. In 2017, the United States Citizenship and Immigration Services (USCIS) received 199,000 applications in the first five days of the filing period. Congress exempted universities, allowing an additional 20,000 visas for those with a U.S. master’s degree or higher. Visas are granted by a computer-generated random selection process, or “lottery” system.

- J-1 physician visas allow nonimmigrants to participate in graduate medical education or training at a U.S. accredited school of medicine or scientific institution, or pursue programs involving observation, consultation, teaching or research (2,832 visas in 2017). J-1 visa holders must return home for two years after completing their program. The Conrad-30 program allows these physicians to stay if they practice medicine in an underserved area for at least three years. State departments of health can sponsor 30 J-1 international medical graduates each year in a federally designated shortage area.

HEALTH CARE EMPLOYMENT AND IMMIGRANTS

Immigrants represent a disproportionate share of health professionals.

- 28 percent of physicians and surgeons.
- 40 percent of medical scientists in manufacturing research and development.
- 22 percent of nursing, psychiatric and home health aides.
- 15 percent of registered nurses.
- 28 percent of in-home care aides.

Registered nursing is one of the top occupations in job growth through 2024. Fifty-five percent of the registered nursing workforce is age 50 or older. The Health Resources and Services Administration predicts more than 1 million registered nurses will reach retirement in the next 10 to 15 years.

- The American Medical Association estimates a physician shortage of 46,000 to 90,000 physicians by 2025.
- By 2020, more than 1.3 million additional direct care workers will be needed.
FROM THE CHICAGO COUNCIL ON GLOBAL AFFAIRS

“Foreign-born healthcare professionals who have completed their training overseas face complicated, inconsistent reaccreditation processes in the United States, leaving many unable to practice in their fields.”

THE LITTLE HOOVER COMMISSION

The Milton Marks “Little Hoover” Commission on California State Government Organization and Economy is an independent state oversight agency with appointments from the governor, the Legislature and the public. Its 2016 report on strategies to ease licensing barriers noted that immigrants may have the skill set but the licensing board may be unable to translate the foreign education and experience to the board’s requirements. The commission has pushed for changes in licensing systems and created models that “get people working,” including a medical service technician-to-registered nurse model and an apprenticeship program.

EFFECTS OF OCCUPATIONAL LICENSING

Nearly 2 million highly skilled immigrants are underemployed or working in low-skilled jobs instead of in their field, estimates the Migration Policy Institute. The “brain waste” results in $40 billion in foregone wages annually and $10 billion in lost federal, state and local tax payments.

Immigrants may lack information about licensing requirements or have limited English language proficiency. State efforts, through licensing, credentialing, and streamlining or clarifying application processes can help immigrant professionals obtain higher income from better-paying jobs, resulting in increased spending and tax revenues.

A survey of 4,000 college educated immigrants by IMPRINT and WES Global Talent Bridge found that the top barriers to practicing their profession were:

- They lacked U.S. work experience (47 percent of respondents).
- The employer didn’t recognize foreign work experience (40 percent).
- The employer did not recognize foreign credentials (35 percent).

This section addresses key barriers faced by skilled immigrants in obtaining licenses and credentials, including lack of recognition of foreign credentials, skill gaps and limited English proficiency.
POLICY BARRIERS TO EMPLOYMENT

LACK OF RECOGNITION FOR FOREIGN CREDENTIALS

Immigrants may face obstacles gaining recognition for foreign education and training. For example, immigrants and refugees fleeing disasters or political instability often lack access to original transcripts and documents. Other foreign-educated immigrants may have transcripts and college degrees that are not recognized or translated properly in the United States if the grading systems are vastly different or misunderstood when judged on an American scale. In many cases, immigrants face a Catch-22: Their experience is not recognized as credit toward a license, but they can’t get a job to gain U.S. experience without a license. This forces immigrants to start over in the American education system before moving into entry-level positions in a field they may have mastered in their country of origin.

LACK OF KNOWLEDGE ABOUT TRAINING

Immigrant professionals often lack information about the requirements to re-enter their careers in the United States. Navigating state licensing can be complex, lengthy and expensive, or require training or supervision that is difficult to obtain. In addition, federally funded career centers and resettlement agencies focus on early employment and not long-term career goals.

SKILL GAPS AND COSTS

Immigrants may have gaps in their training to meet U.S. qualifications and need to upgrade their skills to become competitive. For example, foreign-trained nurses may not meet all the curricula requirements and need to complete additional coursework. Foreign-trained professionals may also face a scarcity of courses in their field. There may not be any stand-alone courses to fill gaps unavailable outside of a degree program, or supervised training may be available only to current students. Work-authorized immigrants who are unable to work in the field for which they are most qualified may be forced to accept lower paid work in non-licensed positions, or repeat their degree and face the financial expense. These foreign-trained professionals may also be the sole earner in families, making a return to school or accepting an unpaid internship impractical.

ENGLISH PROFICIENCY

While most of the 7.6 million foreign-born college graduates in the U.S. are proficient in English, 6 percent reported very low proficiency and 18 percent reported medium level-proficiency. However, even among those who are proficient in English, technical vocabulary in their non-native language may be unfamiliar, making it more difficult to pass licensing. Federal- and
state-funded English language classes do not offer classes at sufficiently advanced levels for immigrant professionals needing help.

POLICY OPTIONS

Occupational shortages across the country have spurred states to develop policies, laws and partnerships to tap the talents of their residents, to the benefit of both native-born and foreign-trained professionals. Examples of some common state approaches to licensing policy that affect immigrants with work authorization include task forces and offices to develop research and policy recommendations; modifying licensing requirements and making licensing more transparent; and addressing skills deficits and improving English language proficiency.

TARGETED APPROACHES

TASK FORCES AND OFFICES TO DEVELOP RESEARCH AND POLICY RECOMMENDATIONS

Each state faces unique workforce and demographic challenges. To account for the specific needs of their populations, some states have created programs or task forces to identify key areas for reform and craft individualized policy recommendations.

• Examples: Minnesota was facing physician shortages, an aging and diverse population, persistent health disparities and rising health care costs. To address these issues, the legislature created a Foreign-Trained Physician Task Force in 2014 to address barriers to practice and assist immigrant international medical graduates in integrating into the Minnesota health care delivery system. Task force recommendations included creating a statewide council; an assessment of readiness; a Minnesota certificate of clinical readiness; apprenticeships; new licensing options; residency positions for immigrants willing to serve in rural areas; and partnerships among state government, physician employers and philanthropy to invest in immigrant physicians and implement the task force recommendations. The law authorized $500,000 in 2016 and in 2017 for the health care access fund and required an annual report on progress and recommendations. In 2015, a budget law appropriated $35,000 to implement a program to assist foreign-born students and groups underrepresented in nursing to succeed in post-secondary nursing programs.

• The Maryland Skilled Immigrants Task Force is composed of public and private workforce development organizations that seek to bring foreign-trained immigrants to the United States to meet local job market demands. The consortium consists of representatives from the Maryland Department of Human Resources, Maryland Department of Labor Licensing and Regulation, community colleges, refugee resettlement agencies, American Job Centers, the Governor’s Office of Community Initiatives and many non-profit organizations that help
integrate immigrants. The consortium believes, “The State of Maryland can lead the way in creating a win-win environment in which immigrants secure jobs matching their professional and educational backgrounds while helping the business community more readily meet its workforce needs.”

- Governors in Illinois, Michigan and North Carolina have created programs such as welcoming centers for employment, training and education, and career re-entry services for foreign-trained professionals to expand and improve their local workforce and economy.

MODIFYING LICENSURE REQUIREMENTS

New Jersey has passed legislation sponsored by Senator Troy Singleton to modify the requirements for licensure. Their goal is to facilitate licensing of foreign-trained professions and/or improve transparency of the licensing process through online guides.

- Other Examples: Utah allows occupational therapists and occupational therapy assistants to be licensed if they meet the licensing requirements; or have been licensed in a foreign country and pass an applicable examination. South Dakota enacted legislation allowing any foreign-trained or other graduate from a dental program not accredited by the American Dental Association Commission on Dental Accreditation to apply for a license to practice as a dentist or dental hygienist.

- The Michigan Department of Licensing and Regulatory Affairs and the Office of New Americans partnered with Upwardly Global to provide online licensing guides for 44 professions. The guides are designed to help skilled immigrants and refugees meet Michigan’s licensing requirements and promote Michigan as a destination for skilled immigrants.

- Maryland is working with WES’s Skilled Immigrant Integration Program to develop tangible licensing or career pathway guides for immigrants and engage local employers. WES offers free, customized technical assistance to three states (Maryland, Michigan and Ohio), five cities (Denver, Louisville, Santa Clara, St. Louis and Boise) and two regions (Twin Falls, Idaho and Salt Lake City, Utah). WES partners include government agencies, employers, community colleges and service providers to create a sustainable platform for collaboration focused on the integration of skilled immigrants.

ADDRESSING SKILL GAPS AND ENGLISH LANGUAGE PROFICIENCY

Federal, state and private resources are available to assist foreign professionals in improving English proficiency and upgrading technical skills to meet state licensing requirements. These programs focus on vocational or workplace English language training, or advanced English as a
Second Language (ESL), which is distinct from ESL for beginners or low literacy levels.

- Examples: The California Workforce Development Board developed a guide on the federal Workforce Innovation and Opportunity Act (WIOA), funding opportunities, best practices and partnerships to better serve English language learners and create career pathways for them. WIOA’s reauthorization in 2014 allowed, for the first time, adult education and language services to be provided to immigrant professionals with foreign-earned degrees and credentials.

- The Michigan Office for New Americans created the Michigan International Talent Solutions Program (MITS) program in 2015 to support skilled immigrants with permanent work authorization to re-enter their professional careers. MITS partnered with Upwardly Global to train international job seekers and connect them with employers, particularly in STEM-related fields. Services include customized individual and online job search training, networking and marketing skills, and interview skills and preparation.

- Washington’s Integrated Basic Education and Skills Training Program (I-BEST) combines job training skills with reading, math and English language.

- Upwardly Global created a partnership with Google and Coursera to make tech training available.

**CONCLUSION**

Changing demographics, driven by retirements from the baby boomer generation and regional or seasonal labor shortages, are motivating states to find ways to expand opportunities and streamline licensing for foreign-trained professionals. These skilled immigrants, with legal residency through family, employment, refugee status or other federal permission, provide an opportunity for states to encourage economic development and stabilize tax revenues. States are looking at models that address underemployment and unemployment by recognizing foreign work experience, supporting U.S. work experience, accepting foreign credentials, addressing skill deficits, and improving English language proficiency.

State efforts include creating taskforces; partnering with non-profit organizations to better support skilled immigrants with licensing, education and skill deficits; and setting aside funding to provide immigrants with more English training.

States can also partner with educational institutions such as community colleges to create programs that allow immigrant professionals to obtain American education experience that can pave a pathway for work opportunities. By creating a local bridge for these populations to
access education and work, they will be able to further integrate themselves into the job market and address underlying shortages that are industry-specific.

States can also initiate partnerships with companies and employers to evaluate and encourage trained immigrant professionals to re-enter their fields as another way to create job pathways. In states that are experiencing job shortages, this would allow immigrant populations to re-establish themselves in their field of expertise while filling occupational shortages. Employers can also be encouraged to provide onsite vocational English and help immigrants upgrade their skills.

As state policymakers assess their changing demographics and local drivers of economic growth, the skills and talents of immigrant professionals residing in the U.S. can provide a piece of the workforce puzzle. Immigrant professionals are filling labor shortages and helping local businesses grow. Creative responses—such as targeted education and training, reducing credentialing and licensing barriers, and partnerships with federal, private-sector and nonprofit partners—can improve family income, local and regional economies, and business development.

*This workforce product was funded by a grant awarded by the U.S. Department of Labor’s Employment and Training Administration. The product was created by the recipient and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This product is copyrighted by the institution that created it.

RECOMMENDED ACTIONS

The first step in assisting immigrants enter into the workforce must be to align the educational experiences in the native country with a relatively high educational attainment in the United States. Universities, community colleges, and technical schools must necessarily provide opportunities to continue academic and technical educational attainment in foreign countries with academic degree and certification requirements in the United States. That is, U.S. training institutions need to evaluate, recognize, and incorporate foreign training within the rubric of domestic certification. All too often, immigrants who have qualifying foreign degrees and are highly skilled in their birthplace are unfortunately compelled to work in environments for which they are significantly overqualified. Often, the academic experience and degree certification in the native land does not mirror the rigorous specified requirements of the degree granting institution. While there are laws and provisions included within such as the
Immigration and Nationality Act, which prohibits employers from denying anyone employment based on their immigration status\(^2\); it is necessary that in the global environment, the U.S. recognizes “global competency” and affords foreign training institutions the appropriate recognition required to yield the highest skill level of skill-based training for the new immigrant.

The second step requires access to technical training to provide immigrants with the skills necessary to compete in the workforce marketplace as well as to be responsive to skill-based needs. It is estimated that the United States requires over one million technically-skilled workers in the coming decade. The advent of technology and computerization has required training as to networking and routing in mechatronics and the manufacturing sectors. The immigrant workforce is ideally positioned to fulfill this manufacturing sector need with proper training. President Biden’s infrastructure legislation provides an opportunity to incorporate new immigrants into workforce development for long-term capital construction projects.

Unfortunately, as an ancillary yet important issue, many immigrant employees are uninsured and, as a result, do not have adequate health coverage or the financial means necessary to secure proper treatment for injuries. Aside from federal questions of status, state law has continued to evolve, particularly as to the workplace, whereby persons regardless of status are understood to be workers or are protected under the laws of the jurisdiction within which they work. Immigrant advocates have justifiably strongly contended that immigration status ought to have no bearing, particularly as to health insurance coverage and the provision of health care for workplace obligations and injuries. This is a tenet, which we strongly support, particularly given the reentry population with which we serve and the sites where these persons work.

---


Why Immigrants Lack Adequate Access to Health Care and Health Insurance
By Leighton Ku

This article is based on Leighton Ku and Demetrios G. Papademetriou’s report for the Independent Task Force on Immigration and America’s Future. The report is part of a volume entitled Securing the Future: U.S. Immigrant Integration Policy, A Reader.*

The high costs of health care and the erosion of health insurance coverage are two important long-term challenges that confront all Americans. These problems are especially acute for immigrants to the United States, who have extremely low rates of health insurance coverage and poor access to health care services.

In fact, almost half of all immigrants — here defined as noncitizen immigrants — are uninsured, a level that is about three times higher than for native-born citizens. Because so many immigrants lack insurance, they face serious barriers to medical care and pay more out-of-pocket when they receive care.

In addition to the obvious health and humanitarian concerns associated with poor health care access, other economic and social reasons cause concern. Unresolved health problems can limit immigrants’ ability to maintain productive employment, particularly given that many work in physically strenuous jobs or in jobs in which there is a high incidence of occupational injuries.

Because so many immigrants lack the protections of health insurance, the cost of even a single hospitalization can drive many into debt and financial insolvency. The Institute of Medicine, a component of the National Academy of Sciences, has estimated that lack of health insurance in the United States costs between $65 and $130 billion per year, due to health impairments and years of productive life lost of all uninsured, not just immigrants.

Immigrants, both legal and unauthorized, often rely on a patchwork system of safety-net clinics and hospitals for free or reduced-price medical care, including state- and county-owned facilities, as well as charitable and religiously affiliated facilities. Their reliance on this system has led many states and communities to be concerned about uncompensated health care costs for uninsured immigrants and the state and local fiscal burdens that result.

This paper summarizes key issues and research concerning immigrants’ access to private health insurance, public health insurance, and to health care in general.
DATA ON IMMIGRANTS’ ACCESS TO HEALTH INSURANCE

U.S. census data show that immigrants are more likely to be uninsured than native-born citizens (see Table 1). Overall, noncitizen immigrants are more than three times as likely to be uninsured (44 percent) as native-born citizens (13 percent). The percent of naturalized citizens who are uninsured (17 percent) is between that of noncitizens and native citizens.

Table 1. Health Insurance Coverage of United States Population, by Immigration Status and Income, 2004

<table>
<thead>
<tr>
<th></th>
<th>Uninsured</th>
<th>Employer-sponsored insurance</th>
<th>Medicaid/SCHIP</th>
<th>Nongroup &amp; other private</th>
<th>Medicare &amp; other public</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ALL INCOMES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S.-born citizens</td>
<td>13.3%</td>
<td>59.1%</td>
<td>13.0%</td>
<td>5.5%</td>
<td>9.1%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Naturalized citizens</td>
<td>17.2%</td>
<td>54.9%</td>
<td>10.3%</td>
<td>5.4%</td>
<td>12.2%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Noncitizen immigrants</td>
<td>44.1%</td>
<td>36.5%</td>
<td>12.6%</td>
<td>4.0%</td>
<td>2.9%</td>
<td>100.0%</td>
</tr>
<tr>
<td><strong>LOW-INCOME (below 200 percent of poverty line)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S.-born citizens</td>
<td>22.6%</td>
<td>24.9%</td>
<td>32.5%</td>
<td>6.4%</td>
<td>13.5%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Naturalized citizens</td>
<td>26.2%</td>
<td>26.4%</td>
<td>23.2%</td>
<td>5.6%</td>
<td>18.7%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Noncitizen immigrants</td>
<td>56.1%</td>
<td>18.1%</td>
<td>19.3%</td>
<td>3.6%</td>
<td>2.9%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Source: Author’s analyses of March 2005 Current Population Survey

Recent immigrants are more likely to be uninsured. Over time, their rates of insurance improve and their incomes grow. This is partly because immigrants tend to find better-quality jobs with time, and partly because both citizens’ and immigrants’ incomes increase with age and greater job experience. The main reason immigrants are less insured than native-born citizens is that, despite their high rates of employment, fewer immigrants have employer-sponsored health insurance.

The discrepancy between immigrants and native-born citizens persists among those with incomes below 200 percent of the poverty line (about $33,000 per year for a family of three in 2006). Among the low-income category, 56 percent of noncitizen immigrants are uninsured versus 23 percent of native-born citizens (see Table 1 and Figure 1).
However, reasons for the insurance gap change when considering the low-income population. The primary reason for the difference in coverage between low-income immigrants and citizens is that fewer immigrants have public coverage, including Medicaid (which serves the poor) and Medicare (which serves the elderly). Low-income immigrants are also less likely to have employer-sponsored coverage and other private coverage, but the gaps are somewhat narrower.

Although census data do not reveal whether immigrants are legal or not, it is important to recognize that these profiles are affected by the types of immigrants living and working in the United States. Analyses by the Pew Hispanic Center indicate that annually, the proportion of immigrants who are unauthorized has grown in recent years, causing the proportion of those legally admitted to fall. Unauthorized immigrants are ineligible for public benefits (except for limited Medicaid coverage for treatment of emergency medical conditions) and have greater difficulty securing private health insurance as well.

**Figure 1. Distribution of Health Insurance for Noncitizen Immigrants and Native-Born Citizens with Incomes Below 200 Percent of Poverty, 2004**

ACCESS TO PRIVATE HEALTH INSURANCE

Employer-sponsored insurance is the mainstay of health coverage for most Americans, but not for immigrants. Analyses of census data have found that a key reason for this lack of coverage is that immigrant workers, particularly Latino immigrants, are less likely to be offered insurance at work than citizen workers.
Job-based health insurance is offered to 87 percent of non-Hispanic white citizen workers, but only to 50 percent of Latino immigrant workers. However, when they are offered health insurance, comparable numbers of white citizens and Latino immigrants accept the offer and take employer-sponsored insurance (87 percent of white citizen workers and 81 percent of Latino immigrant workers).

In most cases, accepting the insurance offer means immigrant employees are also willing to bear a portion of the costs in the form of employee premiums and other cost-sharing mechanisms. The offer and acceptance rates for Latino citizen workers are about the same as those for non-Hispanic white citizens.

Part of the reason immigrants are offered insurance at lower rates is that they frequently work in the types of industries that are less likely to offer health insurance, such as agriculture, construction, food processing, restaurant, hotel, and other service jobs. But more detailed analyses have shown that even after statistically adjusting for differences in job type, salary level, and other factors, immigrants are still less likely to be offered insurance.

In some cases, employers may be able to effectively treat immigrants — even legal immigrants — differently by classifying them as contract, temporary, or part-time workers, so they are not required to offer benefits.

Moreover, rather than directly hiring workers (e.g., farm workers, janitorial staff, etc.), some firms instead pay contractors for labor, knowing that contractors lower their costs by not offering benefits to their employees. A recent report found that, regardless of citizenship, 21 percent of contract, temporary, and part-time workers had health insurance compared with 74 percent of full-time regular workers.

It is not clear whether discrimination is a cause, meaning that within the same company, immigrants are not offered health insurance offered to citizen workers, or whether immigrants tend to work in firms that generally do not offer insurance.

Under federal law, employers are supposed to offer health insurance on equivalent terms to all their workers, but it is plausible that immigrants, particularly unauthorized workers or temporary visa holders, are often not offered health benefits on terms equivalent to other workers.

**ACCESS TO PUBLIC HEALTH INSURANCE**

For most low-income people in the United States, Medicaid is the mainstay of health insurance coverage. But not all immigrants are eligible for Medicaid and its counterpart, the State Children’s Health Insurance Program (SCHIP).
The 1996 welfare reform law prohibited most lawful permanent residents admitted after the law’s enactment from receiving federal Medicaid or SCHIP coverage during their first five years in the United States; similar prohibitions also barred eligibility for other benefits such as food stamps, welfare, and supplemental security income. About 40 percent of all lawful permanent residents in the United States today entered after 1996 and have been subject to this prohibition.

Unauthorized immigrants and temporary visa holders (e.g., those with student or temporary work visas) are not eligible for Medicaid, except for Medicaid coverage of emergency room services. Elderly immigrants, though often ineligible for Medicare because they did not work in the United States for a sufficient number of years to qualify for it or Social Security, may still be eligible for Medicaid if they are poor enough and meet other criteria.

Beginning in the late 1990s, the federal eligibility prohibition — combined with fears in the immigrant community that getting Medicaid or SCHIP could harm an immigrant’s chance of getting lawful residence, remaining in the United States, or becoming naturalized — discouraged participation even among those eligible for public benefits. The federal government subsequently clarified that getting Medicaid or SCHIP benefits would not make an immigrant ineligible for permanent residency.

Nonetheless, since welfare reform’s 1996 enactment, low-income immigrants have lost Medicaid coverage and are more likely to be uninsured. A number of states opted to cover some of these immigrants, particularly children or pregnant women, using state funds.

Federal legislation that passed in early February 2006 adds a new requirement that American citizens applying for or already enrolled in Medicaid must submit proof of citizenship, such as a U.S. passport or birth certificate. This provision would not apply to immigrants applying for Medicaid, who must already submit documentation of their legal status. Although the legislation is aimed at citizens, it could have repercussions for immigrants as well if it leads many in the immigrant community (and some caseworkers) to believe they must also show proof of citizenship to obtain coverage.

Beyond the adult immigrant population, gaps in insurance coverage between immigrant children and citizen children widened over the past decade (see Figure 2). After the 1996 immigrant prohibitions, more immigrant children became uninsured.
In contrast, the enactment of SCHIP in 1997 and subsequent state efforts to expand children’s coverage with SCHIP and Medicaid led to higher insurance coverage of citizen children. As a result, the percentage of low-income children in native-born families who were uninsured fell from 19 percent in 1995 to 16 percent in 2004. Immigrant children did not benefit from these expansions, however, largely because they could not participate in them; the percent of low-income immigrant children who were uninsured climbed from 44 percent in 1995 to 49 percent in 2004.

Initially, even though U.S.-born children were eligible, families with such children dropped out of Medicaid and SCHIP due to their fears about welfare reform. But as Figure 2 shows, this problem has eased thanks in large measure to substantial outreach and educational efforts on the part of state and local governments and community-based organizations. Consequently, the coverage of children in mixed-status families has improved, even though they are still more likely to be uninsured than children with native-born parents.

THE ROLE OF IMMIGRANT SPONSORS

The 1996 prohibition on Medicaid and SCHIP coverage was based on some legislators’ belief that sponsors of immigrants ought to be responsible for their health insurance coverage. Since 1997, those who sponsor immigrants must agree to be responsible for them and are informed that they may be held liable for the costs of public assistance, like Medicaid or SCHIP, if the sponsored immigrants receive benefits. Expectations that most recent immigrants could
get private insurance from employers or that their sponsors would step in to provide other private coverage have proven to be unrealistic.

While sponsors may be able to provide financial support in some areas, it can be quite difficult for sponsors to afford health insurance for the immigrants they have sponsored. In 2005, the price of an average, employer-sponsored health insurance policy for a family was over $10,000; for an individual, the cost of such a policy was over $4,000. The prices can be even higher when insurance must be purchased on a nongroup basis, as would be required for those who are not in the sponsors’ immediate families.

Many Americans are themselves uninsured, and sponsors with low- and middle-incomes usually cannot afford the health insurance of those they sponsor. The prohibition on Medicaid coverage for legal immigrants during their first several years in the United States effectively means that a large number of immigrants are uninsured, even if they are working and have serious health needs.

ACCESS TO HEALTH CARE

Because immigrants are so often uninsured, out-of-pocket health care costs are higher than those paid by the insured, making immigrants less able to pay for the care they need. Other factors, like language barriers, also impair immigrants’ access to and the quality of medical care they receive. The net result is that immigrants are much less likely to use primary and preventive medical services, hospital services, emergency medical services, and dental care than are citizens, even after controlling for the effects of race/ethnicity, income, insurance status, and health status.

Low-income immigrant adults are twice as likely as low-income, native-born citizen adults to report that they have no regular source of health care according to a study published in 2001 by Leighton Ku and Sheetal Matani. Similarly, low-income immigrant children are four times more likely to lack a usual source of care as low-income children with native-born citizen parents.

A report by the U.S. Department of Health and Human Services recently concluded that racial/ethnic disparities in health care are gradually narrowing between African Americans and white Americans but are widening between Latinos and non-Hispanic white Americans. The poor health care access of immigrant Latinos is a major reason for this widening gap in medical care.

What little is known about the health care access of unauthorized immigrants suggests that it is particularly poor. One broad survey of California farm workers by researcher Don Villarejo and published in 2000 found that only one-sixth were offered employer-sponsored
health insurance, and one-third of those receiving offers of coverage said they could not afford the insurance offered. Half of the males and one-third of the females had not seen a physician in the past two years, even though many had occupational illnesses or chronic health problems like high blood pressure and anemia.

Sociologist Abel Valenzuela and a team of researchers found a high level of occupational injuries in their 2003-2004 national survey of day laborers, who are predominantly unauthorized. One-fifth of day laborers had suffered a work-related injury, but less than half received medical care for that injury.

Because some public health care facilities inquire about immigration status, immigrants believe that seeking treatment at such facilities could lead to problems with immigration officials. Thus, some immigrants turn to black-market sources of health care, such as unlicensed health care providers (e.g., immigrant doctors not licensed to practice in the United States), and may purchase prescription drugs that have been smuggled into the United States.

Some worry that the costs of medical care, especially emergency care, for immigrants is creating excessive financial strain on the nation’s health care system. Yet, a recent study by Dr. Sarita Mohanty, which was based on data from the late 1990s, found that, per capita, medical expenditures for immigrants were about 55 percent lower than those of U.S.-born individuals (see Figure 3). Expenditures for uninsured and publicly insured immigrants were also approximately half those of their U.S.-born counterparts.

Other research, conducted by the Urban Institute and the Center for Studying Health Systems Change and published in 2006, has shown that immigrants are much less likely to use emergency rooms than native-born citizens. Indeed, border areas with high concentrations of immigrants may sustain high uncompensated care costs because so many immigrants are uninsured.
The federal government recently began to reimburse hospitals for uncompensated emergency care costs incurred by uninsured, unauthorized immigrants. In 2005, its first year of operation, the federal government paid $58 million to assist these providers.

A large share of other, uncompensated health care costs is borne by state and local governments or charitable or religious organizations that operate the facilities. And some costs are also indirectly transferred to those with private insurance, who bear somewhat higher health care costs when hospitals or other facilities cross-subsidize their losses from uncompensated care for uninsured people by charging private health insurers more.

**POTENTIAL FOR CHANGE**

The present congressional debate over immigration reform offers the opportunity to improve immigrants’ access to health care, both because it could change the legal status of large numbers of immigrants and because it affords a window for Congress, advocates, and analysts to review other policies concerning the status of immigrants in the United States.

Of course, it is not yet clear what direction immigration reform will take. It is conceivable that a new policy could make health care access more difficult for many immigrants, for example, by further restricting access to public benefits, limiting access to safety-net facilities, or making it illegal for health or social service providers to offer assistance to unauthorized immigrants.
On the other hand, if a new policy provides options for legalized status, it could improve immigrant workers’ employment prospects and thereby raise their opportunities to secure private, employer-sponsored insurance.*

**RECOMMENDED ACTIONS**

While the immigrant community faces several evident barriers regarding the healthcare system. Nearly half of the immigrant population in the U.S. lack any form of healthcare coverage. In the U.S., studies have shown that “non-citizens are significantly more likely than citizens to be uninsured. In 2019, among the non-elderly population, 25% of lawfully present immigrants and more than four in ten (46%) undocumented immigrants were uninsured compared to less than one in ten (9%) citizens” (Health Coverage of Immigrants, 2021).

The scope of health insurance coverage within individual industries and companies, access to adequate capital, immigration status, and limited knowledge as to the health insurance market have detrimentally contributed to the dearth of adequate health care insurance options for working immigrants. The reason why there is a high rate of uninsured immigrants is that they have limited access to many coverage options. Research shows, “Their high uninsured rates reflect limited access to employer-sponsored insurance and eligibility restrictions that bar them from participating in Medicare, Medicaid, the Children’s Health Insurance Program (CHIP), and the Affordable Care Act (ACA) Marketplaces” (Health Coverage of Immigrants, 2021). This limits immigrants from getting workplace insurance, cost-efficient options, and a broader range of primary care options. With many immigrants not receiving affordable healthcare, mistrust and avoidance of the healthcare system begins to develop. Limited access to healthcare also leads to a reduction of immigrants seeking proper treatment and an increase in health issues among the community. The mental and physical well-being of immigrants is thus disregarded.

The fear of medical deportation is also present for those immigrants with status challenges. The term is defined as, “…the physical removal by a non-government entity of an immigrant patient who is critically injured or ill from one country to another without the informed consent of the patient or the patient’s authorized caretaker” (Project reveals ongoing unreported violations of rights with medical deportations, 2021). For this reason, many immigrants are hesitant to seek treatment. Unfortunately, many of those who do seek treatment are then deported to their home country, where they are then improperly treated, leading to a deterioration of health and even death in some cases. Hospital and primary care facilities should be intended for the treatment, not for immigration removal. It is a human right to receive quality health care, regardless of immigrant status.

In the absence of broad accessibility of health care insurance, also providing taxpaying workers with a Taxpayer Identification Number Assignment would be a constructive
incremental step toward addressing the most immediate of health care injuries in the workplace.\textsuperscript{10}
Many Latinos have reported an increase in racism and discrimination since 2016, when Donald J. Trump ran for president. Many Latinos will always remember Trump’s speech announcing that Mexicans are “Bringing drugs. They’re bringing crime. They’re rapists. And some, I assume, are good people”. Now more than ever it is important for Latinos to unite and fight for equality under the law. Unfortunately, discrimination under the law is not a new phenomenon for Latinos. Latinos and African Americans are disproportionately represented in the prison industrial complex and have been greatly affected by mass incarceration. There are upwards of 56.6 million Latinos currently living in the United states, and of those Latinos:

- 56% of Latinos have had contact with the criminal justice system first hand or have a close family member that has
- 44% are more likely to be convicted than whites when convicted of property crimes
- 53% more likely to be convicted than whites for drug crimes
- In cases of robbery, aggravated assault, and simple assault were less likely to result in an arrest when Hispanics were the victims than when white non-Hispanics were the victims
- 31% live below the poverty line compared to 13.5% for the general population
- Have the highest high school dropout rates compared to Whites, Asians and blacks
- Less likely to be released on their own recognizance
- Only 33% were able to post bail when given the option
- Are more likely to have higher bail set
- There is no set standard to track ethnicities present in jails and prisons and therefore no way to calculate the full impact of mass incarceration on Latinos. This survey can be accessed here, and shows what data is collected by states on their jails and prisons. The Sentencing Project may also be accessed here to see incarceration rates for each state throughout the United States
The Californians for Safety and Justice issued a report on the impacts of crime and criminal justice policies on Latinos. This report has a vast amount of statistics on how Latinos are impacted by the criminal justice system and can be accessed here.

The Pew Research Center released a report on Hispanics and the Criminal Justice System. This report outlines confidence in the legal system, confidence of equal treatment by police, and what that means for Latinos. This report can be accessed here.

LULAC’s Stance

The United States the highest incarceration rates of anywhere in the world. Within that system Latinos are approximately 30 percent of the nation’s population but almost sixty percent of prisoners. This means that 1 in 6 male Latinos will be incarcerated at some point in their life. LULAC recognizes that Laws, policies, and practices throughout the criminal justice system, including racial profiling and disproportionate application of mandatory minimums, have resulted in African Americans and Latinos being much more likely to be stopped, arrested, and charged with crimes, as well as more likely to serve longer prison sentences for the same crimes as whites. National LULAC supports all efforts that prove to be effective to:

- reduce mass incarceration
- oppose racism
- reform practices that disproportionately impact communities of color
- create safe environments for all communities
- build trust between law enforcement and the communities they serve and protect

National LULAC works with the Department of Justice, national and local law enforcement organizations, civil rights groups, and communities to develop and promote community policing best practices—including expanded training and outreach programs to promote an inclusive, diverse and effective police force that better reflects the racial, ethnic, and religious communities it serves and protects. LULAC has also been working to dismantle the school-to-prison pipeline.

LULAC’s resolution in support of criminal justice reform can be accessed here.

LATINOS IN THE SCHOOL-TO-PRISON PIPELINE
The school to prison pipeline is a phenomenon in which harsh school discipline policies that include suspensions and expulsions often lead students to drop out of school and ultimately become entangled in the criminal justice system. Schools often enforce race-neutral zero-tolerance policies for all of their students. Despite the race-neutral language used in these policies the U.S. Department of Education reports that 70% of students who fall victims to the school-to-prison pipeline, either by arrests or referrals to law enforcement agencies, have been Latinos. Latinos enter the school-to-prison pipeline at higher rates than their white counterparts. This is detrimental to the advancement of Latino education in the United States. Consequences for entering the school to prison pipeline include:

- Over a third of Latinos fail high school
- Despite the decrease in dropout percentages in recent years, Latinos continue to have the highest dropout rates
- Less than 13% of the Latino population hold advanced degrees

An article explaining the role of bias in the school-to-prison pipeline can be accessed here.

Sage Journals published an article titled: “The Right to Be Literate: Literacy, Education, and the School-to-Prison Pipeline” that discusses Latino youth in the school-to-prison pipeline. This article can be accessed here.

This image was taken from the PBS “Fact Sheet: How Bad Is the School-to-Prison Pipeline?” By Carla Amurao
WHY DOES THIS MATTER?

These harsh school policies leave Latino youth without a high school diploma and with a criminal record. A criminal record prevents an individual from achieving important opportunities such as jobs, financial aid for college/university, and public housing. It is problematic that such a high percentage of Latino youth are affected by the school-to-prison pipeline. Getting involved with your school board and speaking out against the criminalization of our youth can help roll back these harmful policies.

CRIMINALIZATION OF IMMIGRATION

The Obama administration had some of the highest rates of deportations in recent decades but the criminalization of immigration has been on the rise for many years. Policies that focused on simple removal of the country for immigrants has transitioned into making simply being in the United States illegally a crime. Laws such as the Criminal Alien Assistance Funds have made it profitable for private prison corporations to arrest and detain illegal immigrants.

Prisons that arrest and detain illegal immigrants receive compensation “for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for violations of state or local law”. The 2016 SCAAP award details show that the state of California alone received $50,600,084.00 and the state of New York received $13,535,207.00 under the Criminal Alien Assistance Funds. The full report of grant awards given by the Bureau of Justice Assistance U.S. Department of Justice can be accessed here.

WHY DOES THIS MATTER?

Expedited removals of immigrants means that many immigrants will not have a chance to speak to a judge before their removal to plead their case. Expedited removals also mean that families will be separated without much notice. Placing a focus on charging and removing immigrants instead of simply removing them from the country makes it impossible for an immigrant to ever enter legally into the United States or to apply for papers in later years. This is particularly harmful for mixed status families, who have illegal parents but United States citizen children. Deporting the parents will mean these children will end up in foster homes or be taken to a country they have never been in.
This image was taken from the Justice Policy Institute’s publication on “Bail Fail: Why the U.S. Should End the Practice of Using Money for Bail”
Mass incarceration has disproportionately affected African Americans and Latinos in the United States. The United States has the highest rates of incarceration in the World. Of those incarcerated in the United States, 1 in 3 are African American men and 1 in 6 are Latino men compared to 1 in 17 white men. The disproportionate representation of Latinos and African Americans in jail is detrimental for minority progress in the United States. It is crucial that the system aids minorities entering into the criminal justice system. The full report on Criminal Justice Facts can be accessed here.

Bail greatly affects Latino’s ability to operate within the criminal justice system. Bail is set at significantly higher rates for Latinos compared to those of Whites or Asians. And Latinos are less likely to be released on their own recognizance. Rates of bail have been shown to be set at higher rates for Latinos specifically but have also increased overall by $30,000. As a result, of the Latinos that are given the option to post bail, only 33% are able to afford it. Bail that is posted is forfeited by the defendant regardless of what the conviction may be. This means that if someone is wrongly arrested, they may lose $10,000+ to be released from jail and begin preparations for their court trial. It has also been shown that defendants who are held pretrial are more likely to be convicted of a felony. There is no set system for determining bail across the United States, and therefore is just an arbitrary amount set regardless of a person’s financial means. Being held pretrial increases the costs for each defendant. These costs include but are not limited to days of work lost, childcare costs, and strain on family life. These costs along with the desire to avoid dangerous or harmful conditions in jail can lead a defendant to plead guilty in an effort to reduce the cost of being detained even if they are innocent. A study in 2012 found that 50% of defendants that plead guilty were innocent so that they received a lower sentence.

Prior arrests are often used to help determine if a detainee will be released on their own recognizance, but this does not take into consideration if those arrests led to a conviction, why the arrest was made, or how long ago the arrest happened. A full article on the impact of prior arrests on plea bargaining can be accessed here.

As of 2013, Latinos made up 22% of the prison population nationwide wide but only represent 17% of the population compared to Whites who are 77% of the population but only make up 32% of the prison population. The United States jails run on a 91% capacity, and of that 91%, 60% consists of defendants being held until their court hearing.

The Justice Policy Institute published great information in their article “Bail Fail: Why the U.S. should end the practice of using money for bail”.
WHY DOES BAIL MATTER?

An arrest can cause a person to lose wages, lose their job, fail a class, or even leave vulnerable family members uncared for. Defendants can spend months in prison waiting their trial to begin. These defendants are less prepared for their court cases than defendants who are released on their own recognizance. The mental strain of being in jail makes defendants more vulnerable to accepting plea deals, that are not in their best interest. Most Latinos who are caught in the criminal justice system cannot afford proper representation and must rely on overworked public defenders to try their cases.

CURRENT POLICIES

CRIMINALIZATION OF IMMIGRATION:

The targeting of sanctuary cities by the current administration is very harmful to the immigrants present in the United States. Executive order 13768 grants local law enforcement the authority to act as immigration officials in order to expedite the removal of illegal immigrants. It also requires that all counties notify Department of Homeland Security when an illegal immigrant has been arrested, and hold the detainee for 48 hours or until a removal hearing can be arranged. Holding the detainee negatively affects immigrant’s due process rights and only 14% of detainees are able to acquire legal representation. Judges have already made rulings on this executive order and have declared that Executive Order 13768 was executive overreach. Many of these cities have also had raids that have ended in 500 arrests, not all of which consisted of immigrants with a criminal background.
EXECUTIVE ORDER 13768

- All counties must report all illegal immigrants with any chargeable criminal offense regardless of conviction or not
- Grants the power to immigration officers to report an illegal alien if the officer finds the immigrant to pose a threat to public safety or national security
- Calls for an additional hiring of 10,000 immigration officers
- Empowers state and local law enforcement agencies across the country to perform the functions of an immigration officer in the interior of the United States to the maximum extent permitted by law

CRIMINAL JUSTICE REFORM:

On October 4, 2017 the Senate introduced S.1917: Sentencing Reform and Corrections Act of 2017. This bill is a bipartisan effort to create necessary criminal justice reform. This proposed bill:

- Reduces minimum sentencing for three strikes law from a life sentence to 25 years
- Minimum sentencing is reduced for a person who commits a drug violation with a prior conviction for a felony drug offense. The 20 year minimum sentence is reduced to a 15 year minimum sentence. This may be applied retroactively (To cases which have already closed and have applied the 20 year minimum sentence. Cases will be evaluated and if applicable, time will be reduced)
- Made the Fair Sentencing Act of 2010 that reduced the disparity in sentencing between crack and powder cocaine applicable retroactively
- In order to better understand and reduce recidivism (The rates in which a convicted criminal re-offends and goes back to jail) this bill calls for a report to “develop a risk and needs assessment system that will determine the recidivism risk of all federal inmates and classify inmates as having a high, moderate, or low risk of recidivism” These are only a few of the provisions included in the proposed Senate bill. S.1917 was referred to the Committee on the Judiciary. The Committee on the Judiciary’s report can be accessed here.
The House of Representatives Judiciary Committee’s page on their Criminal Justice Reform Initiative can be accessed here.*

**RECOMMENDED ACTIONS**

A common misconception about immigrants is that they are more likely to commit crimes than native-born. This, however, is false. “Immigrants are less likely to commit serious crimes or be behind bars than the native-born, and high rates of immigration are associated with lower rates of violent crime and property crime. This is true for both legal immigrants and the unauthorized, regardless of their country of origin or level of education. In other words, the overwhelming majority of immigrants are not ‘criminals’ by any commonly accepted definition of the term” (Ewing et al., 2015). Even with an abundance of evidence to disprove this false claim about immigrants, the misconception persists. This results in greater mistreatment towards immigrants such as being criminalized, facing harsher punishment, and facing deportation even if it is a minor offense.11

Immigrants may face harsher punishment if they are convicted of a crime. For example, there has been an increase in enforcement at the Mexican-U.S. border recently. Consequence Delivery System (CDS) which was created in 2011;12 CDS illustrates the current treatment of the undocumented community,” (a suite of border and immigration enforcement programs designed to increase the penalties associated with unauthorized migration to convince people not to return (Rosenblum 2013)”, and “CDS does, however, mark a shift from the deterrent strategy that, in the 1990s that relied heavily on the dangers of the natural terrain to dissuade unauthorized border crossers, to one that actively punishes, incarcerates, and criminalizes them” (Martínez et al., 2018). The CDS changed how border patrol is handled by making access stricter and giving harsher punishment to those who entered unauthorized.

As to Detention Centers, the treatment of those held in detention centers has been described as, “Detained immigrants—held under civil, not criminal, authority—are forced to endure a range of hardships, from dirty drinking water to harassment to solitary confinement. Many also receive inadequate medical and mental health care. These conditions can cause severe suffering, long-term physical and emotional damage, and avoidable deaths” (Bakst et al, 2018).

Studies have shown that “Harvard University sociologist Robert Sampson and colleagues have found that “the lower rate of violence among Mexican Americans compared with Whites was explained by a combination of married parents, living in a neighborhood with a high concentration of immigrants, and individual immigrant status” (Sampson et al., 2006). Many
immigrants live in areas with a high immigrant population, usually of similar backgrounds or nationalities. Two other factors Sampson cites are also community-related.¹³
Over the past 25 years, the Latino population in the United States has grown exponentially. The growth of the Latino population and the increased anti-immigration policies and enforcement strategies in recent years make it necessary to better understand Latinos’ fear of deportation and perceptions of law enforcement and the criminal justice system. Historically, police have struggled to develop relationships with communities that have been victims of racial discrimination (Culver, 2004; Davis & Hendricks, 2007). This relationship building has been further stifled by Latinos’ perception of police as both the protector and immigration officer, resulting in a greater fear of deportation in the Latino community (Arbona et al., 2010; Vollmer Hanna & Ortega, 2016).

This perception of law enforcement is not surprising given the fact that law enforcement officers are increasingly tasked with carrying out immigration enforcement. But crime prevention and intervention efforts on the part of local police departments require positive relationships between law enforcement, the criminal system, and local communities (Davis,
Erez, & Avitabile, 2001; Vidales, Day, & Powe, 2009). Crime prevention and intervention rely heavily on the collaboration of the crime victims and reports of community members (Kidd & Chayet, 1984). As such, it is necessary to develop a greater understanding into Latinos’ fear of deportation and how this fear impacts public safety, police-community relations, the reporting of crime (or lack thereof), and overall perspectives of Latinos toward the criminal justice system.

LATINOS IN THE UNITED STATES

The Latino population in the United States has grown exponentially. According to the United States Census Bureau (2012) there are over 50 million Latinos in the United states, comprising 16% of the total US population. Why is this issue important? The growth of Latinos and the increased antiimmigration policies and enforcement strategies in recent years make it necessary to better understand Latinos’ fear of deportation and perceptions of law enforcement and the criminal justice system. Policing immigrants: Fear of deportations and perceptions of law enforcement and criminal justice David Becerra | M Alex Wagaman | David Androff | Jill Messing | Jason Castillo According to the U.S. Census Bureau (2012) there are over 50 million Latinos in the U.S., comprising 16% of the total US population (Ennis, Rios-Vargas, & Albert 2011). Many Latinos experience negative interactions with the police or the criminal justice system, and these interactions affect Latinos’ perceptions. The negative view of both law enforcement and the criminal justice system held by many in the Latino community has been a detriment to the effective crime prevention and intervention efforts. The recent increase in local police being used as immigration officials has exacerbated these negative views.

ANALYSIS

Becerra, Wagaman, Androff, Messing, and Castillo analyzed the increased fear of deportation amongst Latinos in the United States and the effect this increased fear can have on their perceptions of (a) law enforcement and (b) the United States criminal justice system, and (c) willingness to report crimes. The study found that participants who had a greater fear of deportation were less confident that police would not use excessive force, were less confident they would receive fair treatment by police and the courts, and were less likely to report violent crimes.

FINDINGS

The results of the study found that, older participants and participants with United States citizenship had greater confidence that police would not use excessive force. Those participants with more years living in the United States and participants who expressed a greater fear of deportation were less confident that police would not use excessive force on a
suspect. Similarly, participants with a greater fear of deportation had significantly less confidence that police would treat Latinos fairly. The participants who expressed greater fear of deportation also had significantly less confidence that the courts would treat Latinos fairly. Further, when participants were asked about the likelihood of reporting a violent crime to the police, participants who expressed a greater fear of deportation were significantly less willing to report being a victim of a violent crime to the police.

This is in contrast to females and older participants, who were more likely to report being victims of a violent crime to police. The results may be more relevant today with the increase of restrictive immigration policies and enforcement strategies, both a federal and state level. Consistent with previous studies, this study indicates that Latinos are hesitant to report crimes to authorities due to the decreased sense of trust in the criminal justice system and law enforcement. The lack of trust and negative perceptions of civic institutions held by the Latino community is detrimental and leads to a strained relationship between members of the Latino community and law enforcement. Not to mention, the fear of deportation and lack of trust diminishes the capacity of law enforcement to fulfill its public safety mandate.

Implications for Social Work

Based on the findings, social work practitioners should strive to collaborate with all the parties, and ultimately work to strengthen the relationship between law enforcement, the criminal justice system, and the Latino community. The findings suggest that the fear of deportation inhibits a significant number of Latinos from reporting crimes, which is detrimental to community policing and public safety. Social workers can collaborate in the efforts by delivering relevant training to police and criminal justice personnel, addressing the preoccupations and experiences of Latinos, which in return will serve to enhance the cultural competence and training of law enforcement personnel. Additionally, conducting outreach and focusing on educating both documented and undocumented immigrants on how to protect their rights can reduce the fear of deportation and enhance the trust between law enforcement and the Latino community. Social workers can also advocate for immigration reform, which in turn can improve public safety and civic engagement. The health and well-being of Latinos would be enhanced, resulting better and more effective crime prevention and intervention efforts.

The participants Data for the study was drawn from a 2008 survey conducted by the Pew Hispanic Center. • The total sample consisted of 2,015 Latino participants. • Nearly forty-eight percent (47.9%) were males and fifty-two percent (52.1%) were female; all residing in the United States. Summary of Findings The results of the study found that participants who expressed greater fear of deportation also expressed: • less confident that police would not use excessive force on a suspect • less confidence that police would treat Latinos fairly • less
confidence that the courts would treat Latinos fairly • less willing to report being a victim of a violent crime to the police.


RECOMMENDED ACTIONS

In 2017, the Trump Administration created a pilot program to “separating migrant parents from their kids for months prior to the official introduction of zero tolerance, running what a U.S. official called a “pilot program” for widespread prosecutions in Texas, but apparently did not create a clear system for parents to track or reunite with their kids” (Seville & Rappleye, 2018). Approximately 2,342 children were separated from their families as a result of the pilot program. The programs aimed to prosecute immigrants entering the country illegally. If traveling with children, authorities separate families and place the children in federal custody. These programs did not adequately track separated children. Since 2018, zero tolerance policy has separated more than 3,900 children from their families.16

“There have also been reports of neglect and abuse of children at some detention facilities, making them dangerously inadequate for children” (Simha, 2019). The children in the facilities require proper medical attention in conformity with guidelines recommended by the American Medical Association and the American Academy of Pediatrics, which set forth “Providing Care for Immigrant, Migrant, and Border Children,” submitted by the COUNCIL ON COMMUNITY PEDIATRICS.

The article cites, “Recommendations include actions needed within and outside the health care system, including expansion of access to high-quality medical homes with culturally and linguistically effective care as well as education and literacy programs. The statement recognizes the unique and special role that pediatricians can play in the lives of immigrant children and families. Recommendations for policies that support immigrant child health are included.”

suspect. Similarly, participants with a greater fear of deportation had significantly less confidence that police would treat Latinos fairly. The participants who expressed greater fear of deportation also had significantly less confidence that the courts would treat Latinos fairly. Further, when participants were asked about the likelihood of reporting a violent crime to the police, participants who expressed a greater fear of deportation were significantly less willing to report being a victim of a violent crime to the police.

This is in contrast to females and older participants, who were more likely to report being victims of a violent crime to police. The results may be more relevant today with the increase of restrictive immigration policies and enforcement strategies, both a federal and state level. Consistent with previous studies, this study indicates that Latinos are hesitant to report crimes to authorities due to the decreased sense of trust in the criminal justice system and law enforcement. The lack of trust and negative perceptions of civic institutions held by the Latino community is detrimental and leads to a strained relationship between members of the Latino community and law enforcement. Not to mention, the fear of deportation and lack of trust diminishes the capacity of law enforcement to fulfill its public safety mandate.

**Implications for Social Work**

Based on the findings, social work practitioners should strive to collaborate with all the parties, and ultimately work to strengthen the relationship between law enforcement, the
The findings suggest that the fear of deportation inhibits a significant number of Latinos from reporting crimes, which is detrimental to community policing and public safety. Social workers can collaborate in the efforts by delivering relevant training to police and criminal justice personnel, addressing the preoccupations and experiences of Latinos, which in return will serve to enhance the cultural competence and training of law enforcement personnel. Additionally, conducting outreach and focusing on educating both documented and undocumented immigrants on how to protect their rights can reduce the fear of deportation and enhance the trust between law enforcement and the Latino community. Social workers can also advocate for immigration reform, which in turn can improve public safety and civic engagement. The health and well-being of Latinos would be enhanced, resulting better and more effective crime prevention and intervention efforts.

The participants Data for the study was drawn from a 2008 survey conducted by the Pew Hispanic Center. • The total sample consisted of 2,015 Latino participants. • Nearly forty-eight percent (47.9%) were males and fifty-two percent (52.1%) were female; all residing in the United States. Summary of Findings The results of the study found that participants who expressed greater fear of deportation also expressed: • less confident that police would not use excessive force on a suspect • less confidence that police would treat Latinos fairly • less...
President Donald Trump has consistently called for the creation of a “deportation force” to maximize the number of immigrants removed from the country and has proposed a range of efforts that would supercharge the role of state and local law enforcement agencies, or LEAs, in federal immigration enforcement. From signaling plans to aggressively promote the 287(g) program around the country to withholding federal grants from so-called sanctuary jurisdictions, the Trump administration has made clear that it aims to enlist state and local law enforcement in its civil immigration enforcement efforts through both inducement and coercion.

State and local elected officials and LEAs are now, or soon will be, faced with a choice: whether and how to assume a greater role in enforcing federal immigration laws. As this issue brief illustrates, exercising that role could lead to significant financial burdens, increased litigation, and diminished public trust—all at the expense of public safety and the general welfare of all members of U.S. communities.

A BRIEF HISTORY OF THE 287(G) PROGRAM AND SANCTUARY POLICIES

THE 287(G) PROGRAM

Section 287(g) was added to the Immigration and Nationality Act in 1996. It authorizes state, county, and local LEAs to perform federal immigration enforcement duties pursuant to written memorandums of agreement, or MOAs, with U.S. Immigration and Customs Enforcement, or ICE.

Historically, 287(g) agreements have taken three forms: 1) task force agreements that allow local law enforcement officers to perform immigration enforcement functions in their communities; 2) jail enforcement agreements that allow officers to question and screen individuals already being held in jail; and 3) hybrid agreements that combine the features of task force and jail enforcement agreements.

The first 287(g) agreement was signed in 2002, shortly after the September 11 terrorist attacks, and the program grew from there. In 2007, ICE signed 26 new MOAs and added another 28 in 2008; by May 2009, there were 66 active MOAs.

In 2010, the Office of Inspector General at the U.S. Department of Homeland Security, or DHS, identified serious concerns about the program and noted that the lack of training and oversight provided to task force jurisdictions by ICE increased the risk of civil rights violations. Partly in response to this and other developments, the Obama administration phased out the use of task force and hybrid agreements at the end of 2012. The Trump
administration, however, hopes to increase the number of 287(g) agreements signed nationwide, as well as reintroduce the task force and hybrid models.¹⁰

SANCTUARY POLICIES

While there is no one definition, sanctuary jurisdictions generally are those that have adopted resolutions, ordinances, laws, or policies that limit local law enforcement’s involvement in federal immigration enforcement efforts. These policies are intended to facilitate trust and increase public safety by ensuring that one’s immigration status will not affect the ability to, for example, come forward as a witness or victim of a crime. Overall, more than 600 cities and counties and a few states have adopted sanctuary policies.¹¹

The number of sanctuary jurisdictions—particularly those that limit when people may be held in custody based solely upon an ICE detainer or a request to hold someone past the point at which they would ordinarily be released—increased in response to the Secure Communities program. This program was launched under the George W. Bush administration and expanded nationwide under the Obama administration. Through Secure Communities, federal immigration officials received fingerprint information collected during booking by state and local LEAs and shared it with the Federal Bureau of Investigation for use in criminal background checks. With this information, ICE significantly increased its issuance of detainer requests.¹²

Other jurisdictions adopted sanctuary policies to reduce their liability exposure after a series of federal court rulings on ICE detainer requests. These rulings call into question whether depriving people of liberty based on an ICE detainer request violates their constitutional rights to due process and to be free of unlawful seizure.¹³

HOW LOCAL ENTANGLEMENT IN FEDERAL IMMIGRATION ENFORCEMENT HARMs COMMUNITIES

In the coming months, the Trump administration is expected to conduct significant outreach to states and localities to enter into new 287(g) agreements or to add task forces onto existing jail enforcement agreements. The administration is also expected to make some effort to deny federal grants to jurisdictions that the Secretary of DHS—in his discretion—deems to be sanctuary jurisdictions.¹⁴

Such efforts fly in the face of law enforcement best practices, particularly those of community policing. While there is no universal definition of community policing, one common tenet is that “[r]educing crime and disorder requires that the police work cooperatively with people in neighborhoods to (1) identify their concerns, (2) solicit their help, and (3) solve their problems.” Failure to maintain trust and open lines of communication with the public results in
Research shows that the general principles of community policing apply with equal force when looking at effective policing in immigrant communities. A study by the University of Illinois at Chicago found that Latinos, whether citizens or noncitizens, are “less likely to volunteer information about crimes because they fear getting caught in the web of immigration enforcement themselves or bringing unwanted attention to their family or friends.” The study further found that 70 percent of unauthorized immigrants and 44 percent of Latinos are less likely to communicate with law enforcement if they believe officers will question their immigration status or that of people they know. Reviewing several recent instances in which unauthorized immigrants assisted law enforcement as victims or witnesses to crime, Chuck Wexler, executive director of the Police Executive Research Forum, observed: “Had these undocumented people, and countless others in cities across America, not stepped forward to report crime and cooperate with the police, we would have more dangerous offenders committing more crime—and more serious crime—against innocent victims.”

**287(G) AGREEMENTS ARE EXPENSIVE AND LITIGATION-PRONE AND UNDERMINE PUBLIC SAFETY AND COMMUNITY TRUST**

In deciding how to respond to the Trump administration’s 287(g) efforts, jurisdictions need to consider how limited resources and potential increases in racial profiling and litigation will affect their primary mission of ensuring public safety.

**STRAINS ON ALREADY LIMITED RESOURCES**

Under the 287(g) program, participating jurisdictions perform federal immigration enforcement functions largely at their own expense. While ICE may provide some reimbursement for detention costs in some cases, it provides minimal funding for training and information technology equipment and services. Local agencies are entirely responsible for the salaries and benefits of their personnel as well as travel costs, housing, and per diem for required training.

Many jurisdictions that have participated in 287(g) programs have found them to be a raw deal. A 2009 study conducted by the Brookings Institution found that Prince William County, Virginia, had to increase property taxes and pull money from its rainy day fund to implement its 287(g) program. Overall, the program cost the county $6.4 million in its first year and was estimated to cost $26 million over five years. An analysis of North Carolina, the state with the highest nationwide number of 287(g) jurisdictions, found that the program cost Mecklenburg and Alamance counties together more than $10 million in the first year alone. Sheriff Ed Gonzalez in Harris County, Texas, recently terminated his 287(g) agreement to make better use of the $675,000 in associated salary expenses; according to the sheriff, incorporating ICE-trained deputies elsewhere in the jail complex could reduce the $1 million in overtime.
costs the county incurs every two weeks managing the overcrowded facility.22

**INCREASED RACIAL PROFILING AND LITIGATION**

A frequent complaint against jurisdictions operating 287(g) task force agreements was the broad discretion provided to law enforcement to detain and arrest people believed to be in the country unlawfully created opportunities for abuse, especially when not closely monitored. Racial profiling—the practice of targeting a set of individuals based on their race, ethnicity, religion, or national origin—has long been a troubling policing tactic.23 Even with proper training, law enforcement officers, as all humans, are susceptible to relying on racial or ethnic stereotypes. Because racial profiling worsens already strained relationships with communities of color, it also makes it harder for law enforcement to build lasting trust. Mayors and other elected officials, police chiefs, and residents understand that without that trust, public safety is diminished. Perhaps the most prominent case of discriminatory policing by a 287(g) jurisdiction involved the Maricopa County Sheriff’s Office, or MCSO, under Sheriff Joe Arpaio. In 2006, the MCSO entered into an MOA to operate a 287(g) task force, which was scaled back to a jail enforcement agreement in 2009. In 2011, the U.S. Department of Justice found that the MCSO engaged in discriminatory policing practices, leading the DHS to terminate the agreement.24 A federal court later ruled that Maricopa County engaged in unconstitutional racial profiling and pretextual stops.25 In addition, a 2008 Goldwater Institute study found that the MCSO’s significant investment in immigration enforcement efforts detracted from the office’s public safety mission and blew an enormous hole in its budget.26

The MCSO’s unlawful and discriminatory conduct was determined to have been intentional.27 But even without meaning to, any LEA performing immigration enforcement functions with insufficient oversight, training, and guidance is at a heightened risk of making unlawful stops of individuals who look or sound foreign. Such conduct also creates a heightened risk of litigation. Furthermore, it increases the likelihood that people of color will stop communicating and working with their local LEAs to solve crimes.

**SANCTUARY POLICIES REDUCE LITIGATION RISKS AND ARE ASSOCIATED WITH LOWER CRIME RATES**

Faced with the threat of losing important federal funds, some sanctuary jurisdictions may be considering changes to their policies, and other jurisdictions may be reconsidering whether to adopt such policies. In making those choices, jurisdictions should consider the fiscal and public safety costs associated with increased cooperation, as well as the likelihood that the administration will overcome significant legal obstacles to withholding federal funds.
REDUCED LITIGATION RISKS DUE TO UNLAWFUL DETENTION

The proliferation of sanctuary policies limiting when local LEAs can hold people pursuant to ICE detainer requests can be traced, in part, to a growing body of lawsuits that have resulted in court judgments and hefty settlements. Many of these cases have concluded that warrantless ICE detainer requests fail to provide the probable cause required under Fourth Amendment jurisprudence to allow a state or locality to deprive a person of liberty. The city of Allentown, Pennsylvania, and Lehigh County, Pennsylvania, for example, settled with a U.S. citizen who was detained for three days pursuant to a detainer request that ICE mistakenly issued. The lawsuit cost the city $25,000 and the county $95,000. Salt Lake County, Utah, paid $75,000 to settle a case brought by an individual held on an ICE detainer for 46 days after he had posted bail. Clackamas County, Oregon, settled a case for $30,100 brought by a woman detained for two weeks based solely on an ICE detainer request.

In light of the Trump administration’s threat to punish sanctuary jurisdictions by withholding federal funds—discussed in the next section—the constitutional deficiencies with ICE’s current detainer practices place law enforcement agencies in a difficult place. Jurisdictions that respond to the threat by deciding to hold people regularly pursuant to ICE detainers will be more likely to encounter legal challenges. These litigation risks should be taken seriously when jurisdictions determine what detainer policy is in the best interest of public safety and overall resource management.

LOWER CRIME RATES

The Trump administration has attempted to justify a crackdown on sanctuary policies by claiming that such jurisdictions “have caused immeasurable harm to the American people and to the very fabric of our Republic.” Yet research finds that, on average, there are 35.5 fewer crimes per 10,000 people in sanctuary counties than in non-sanctuary counties. According to the Major Cities Chiefs Association, or MCCA, entangling local law enforcement with federal immigration enforcement “would result in increased crime against immigrants and in the broader community, create a class of silent victims and eliminate the potential for assistance from immigrants in solving crimes or preventing future terroristic acts.” The MCCA has consistently cited five major areas of concern with linking local law enforcement with federal immigration enforcement, including undermined community trust, lack of resources, and overly complex and time-consuming training that detracts from the public safety mission.

THREATS TO WITHHOLD FEDERAL FUNDING FROM SANCTUARY CITIES MAY BE LEGALLY IMPERMISSIBLE
President Trump’s January 25 executive order purports to allow the government to withhold federal grant money from sanctuary jurisdictions. It also broadly directs the attorney general to “take appropriate enforcement action” against any entity with a policy that “prevents or hinders the enforcement of [f]ederal law.” However, the administration’s threats to withhold funding from or otherwise punish sanctuary jurisdictions will be constrained by longstanding 10th Amendment jurisprudence that prevents the federal government from commandeering state and local resources. Additionally, Supreme Court precedent under the spending clause limits when, under what circumstances, and to what extent the federal government can impose conditions on the granting of federal funds.

Although the administration has not yet described the specific funds it would seek to withhold, in recent years, congressional Republicans have attempted to pass legislation that would jeopardize several law enforcement, economic development, and community development grant programs. This sledgehammer approach would have broad and dangerous consequences for jurisdictions that are already feeling the pinch of smaller budgets—which in turn would make communities less safe and less prosperous.

CONCLUSION

Today, law enforcement is faced with many challenges that are beyond the scope of their primary duties and functions. Efforts to increase police involvement in federal immigration enforcement illustrate the Trump administration’s disconnect with the real challenges facing local law enforcement. Instead of working to meet these growing challenges, the administration is choosing to add to them by pursuing an agenda guided by anti-immigrant ideologues such as Kris Kobach and Stephen Bannon—not by community priorities, public safety data, or research.

As a candidate and as president, Trump has labeled immigrants as criminals who pose a threat to public safety. These statements fly in the face of a range of evidence that immigrants are actually less likely to commit serious crimes than the U.S.-born and that increases in immigration are associated with decreases in crime. Although the country badly needs a responsible solution to our outdated immigration system, as former Los Angeles Police Chief William Bratton wrote in 2009, “[T]he solution isn’t turning every local police department into an arm of Immigration and Customs Enforcement.” Given the evidence presented in this brief, local law enforcement should think twice about engaging in federal immigration enforcement.

Danyelle Solomon is the Director of Progress 2050 at the Center for American Progress. Tom Jawetz is the Vice President for Immigration Policy at the Center. Sanam Malik is the Research Assistant for Immigration Policy at the Center.*
Managing Partner,
Wildes and Weinberg, P.C.

MAYOR MICHAEL WILDES

Michael Wildes is the managing partner with the leading immigration law firm of Wildes and Weinberg, P.C. He is an adjunct professor at the Benjamin N. Cardozo School of Law in New York and teaches Business Immigration Law and Externship and is part of the Field Clinic Faculty. He is a former federal prosecutor with the United States Attorney’s Office in Brooklyn (1989-1993) and author of Safe Haven in America: Battles to Open the Golden Door (Foreword by Alan Dershowitz). Having represented the United States government in immigration proceedings, Michael Wildes is a frequent participant on professional panels and commentator on network television. He has also testified on Capitol Hill in connection with anti-terrorism legislation.

Mr. Wildes’ boutique law firm specializes exclusively in the practice of U.S. immigration and nationality law. It was established in 1960 by his father, Leon Wildes, whose best-known accomplishment was his successful representation of John Lennon in his widely publicized deportation proceedings. More than fifty years since its inception, the firm continues to serve a distinguished domestic and international clientele and covers all areas of U.S. immigration law. Some of Michael Wildes’ recent clients include First Lady Melania Trump, famed artists Sarah Brightman, Lionel Richie, and Boy George, many of the former Miss Universes, as well as soccer icon Pele, master Chef Jean-Georges, and many other talented artists. Michael Wildes is also the mayor of Englewood, New Jersey, where he resides.17

In an interview done for The Future of Immigration, Mayor Michael Wildes discusses what inspired him to get involved with immigration law. His main inspiration was his father, Leon Wildes. Leon Wildes started the practice over 60 years ago, and watching his work and seeing the difference he made in the world and people’s lives had a major impact on Mayor Wildes.

One of Leon Wildes’ defining cases was representing John Lennon when the Nixon administration sought to have him deported for political reasons. The significance was not just that a member of The Beatles was involved, but this case had implications in public opinion over the Vietnam War, voter suppression, and other lasting effects that are poignant even today. The use of prosecutorial discretion that was uncovered by Leon Wildes and established, in this case, is the basis President Obama used to implement DACA, helping millions of immigrant families. While the firm does represent several well-known entertainers, athletes, politicians, and others, they also represent those with fewer means and of less renown, but whose concerns are just as great. His father taught him to treat all of their clients with the same level of respect and to give the same diligence to any matter they handle. People put their lives in our hands daily and that is a responsibility that we must cherish and honor. Mayor Wildes dedicated most of his life to public service, including serving three terms as the Mayor of Englewood, NJ, and being able to give back to the community during my day job is an outgrowth of that and the spirit that his father instilled in me.

Mayor Wildes has been an immigration lawyer longer than he cares to admit. He has been working at Wildes at Weinberg, P.C., the premier boutique immigration law firm in the country, since 1993, going on 30 years. He has been the Managing Partner for a little over a decade. Before that, he was a Special Assistant U.S. Attorney at the U.S. Attorney’s Office in Brooklyn from 1989 to 1993, focusing on immigration-related issues. All in all, he has been doing immigration work for pretty much his entire legal career and has over 30 years of experience in the field.

In his long career, Mayor Wildes has witnessed an evolution in the legal system. Immigration is a very provocative and divisive topic and unfortunately elected officials or candidates for political office will treat it as a political football used to swing votes rather than considering the real-world impact on the lives of immigrants as well as the rest of the country. There are wide swings of the pendulum depending on the public discourse and who is in office. In my early years in practice, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA) created major changes in the immigration framework, greatly expanding the definition of aggravated felonies, which has either wittingly or unwittingly resulted in severe immigration consequences for some people who have been convicted of relatively minor crimes. In addition, he has seen amnesty policies enacted that have been a great benefit to many previously undocumented immigrants.

There is talk of creating a path for legalization for expanded groups of immigrants if the current Congress can pass a new immigration bill. Of course, more recently, the Trump administration implemented some of the most extreme anti-immigrant policies that Mayor Wildes has ever seen, including the “Muslim Ban,” separating children from families at our southern border, massive changes to the asylum system, and many other mundane but important changes to the system that created many difficulties for many immigrants during
Trump’s tenure. Now, it seems the pendulum is swinging back, and we are starting to appreciate again our status as a country of immigrants, but everything is fickle and uncertain unless accompanied by legislative change, as we’re seeing right now with the threats to the DACA program. “In short, yes”, Mayor Wilde says he “has seen many evolutions, which are continuing to this day”.

In regards to immigration issues faced in the Latino community, Mayor Wildes explains how recently, President Trump put a series of stumbling blocks in front of immigrants from Latin America, including many changes to the asylum system. This was no accident, as Trump famously called Mexicans rapists and murderers, setting a clear tone for how he and his party intended to treat the Latino community. His “wealth tests” also seemed geared towards thwarting immigration from Latin America. In some ways, the proximity of heavily Latino countries to America has made immigration more difficult than those overseas, as they become an easy target for politicians to point to as an imminent “threat.”

As a rule, the U.S. immigration system penalizes anyone who enters the United States “without inspection,” or who tries to do so, by almost always preventing them from adjusting status, oftentimes permanently barring them from immigrating, and frequently stripping them of their due process rights. This tends to have a stronger impact on the Latino community, who often have no choice but to enter “de la Frontera.” Whereas a British national who comes on ESTA or a B-2 visa could overstay their visa by 20 years and then have no problems obtaining a green card without ever departing the United States if they find a spouse, a Mexican citizen who comes across the border undetected and then spends a year in the United States, will likely not be able to adjust status and will require a waiver to ever get a green card, which has a much higher evidentiary threshold and is a much more time consuming, risky, and expensive process.

In addition, due to immigration’s inadmissibility and deportation rules, most people accused of a crime will be looking at potential immigration consequences, if their criminal matters are not handled properly. This often has an impact on the Latino community, who are disproportionately targeted by police, and who often do not fully understand the consequences of relatively minor offenses, due to language barriers and lack of access to decent lawyers due to limited means.

Mayor Wildes deals with just about every type of case under the sun, including provisional 601A waivers, asylum applications, removal defense, marriage-based green card applications, business immigration, and anything else you can think of. He has a very strong reputation in the Latino community due to his service and representation of some very well-known Latino clients, which leads clients to come to me with unique and interesting problems. For instance, he was able to obtain a Parole in Place recently for the father of an armed forces member, enabling them to get a green card without leaving the United States, despite the father having
entered without inspection many years ago.

Wildes and Weinberg P.C. has multiple offices across the U.S. including New York, New Jersey, Miami, and Los Angeles. The law firm’s success rate throughout the country is impeccable. His experience is that even in parts of the country that are less pro-immigrant, thorough preparation and a strong grasp of the facts and the law will help achieve positive results for our clients regardless of the local climate. In the past year, my firm has obtained green cards and another status for people in New York, New Jersey, Los Angeles, Miami, and just about every state in between.

The cases do differ somewhat, as we deal with more Cuban cases in Miami, for instance, and more Hollywood types in Los Angeles, but overall the struggles faced by immigrants throughout the country are often very familiar. There is somewhat less risk in “sanctuary cities,” where ICE has a harder time learning of relevant criminal convictions, but for undocumented immigrants, the landscape is filled with pitfalls and traps, and the problems faced often have a familiar thread running through them.

Additionally, due to the way federal appeals courts are set up, arguments and defenses we can use in some circuits, such as the 9th circuit in California, tend to be more robust than others.

For clients with pending criminal cases in addition to their immigration case, Mayor Wildes explains, any immigrant, even a green card holder, who encounters the criminal justice system needs to make sure they understand the immigration consequences of any potential plea or admission right from the start. Pleading down to a minor misdemeanor that does not require jail time may still make the person permanently inadmissible or deportable from the United States. The factors that are important in criminal and immigration cases are oftentimes completely unaligned. A person convicted of a sexual offense against a minor who does a decade in prison might not be faced with any immigration consequences, while a person convicted of a petty shoplifting offense, or a minor drug conviction may end up being removed from the United States with no option to return. It is imperative to seek advice from a seasoned immigration attorney any time an immigrant has an interaction with the police or the courts.

Wildes and Weinberg, P.C. also handles business immigration. The two main ways that people obtain status in this country are through either family-based or employment-based immigration. There are also many other options, such as diversity, asylum, and investment, but employment and family tend to be the leading case types for most immigration attorneys.

Family reunification often gets favorable treatment in the immigration scheme, but business immigration has a huge advantage of not being as black and white, providing more
opportunity for creativity and nuanced arguments to obtain status for clients in the United States. If a person has no U.S. citizen family members or partners, it will be clear that family-based immigration is unlikely to work. However, with business immigration, we need to analyze the person’s resume, educational credentials, experience, and job offer to understand if there is any path for them to immigrate to the United States. We have obtained work visas and green cards for investors; entrepreneurs; and people with careers ranging from gifted musicians and skilled software developers to and nannies and housekeepers. If a person is only looking at family-based immigration and not employment-based, they are limiting their options and potentially depriving themselves of a strong pathway towards legal immigration.

One thing that troubles Mayor Wildes is when attorneys and others try to take advantage of immigrants, putting their financial interests before the needs of their clients. He sees a lot of “Immigration Centers” in cities with large immigrant populations, where non-lawyers will charge a fee to help fill out citizenship or other paperwork without having a proper background on the process. Even small mistakes on these official documents can have a major impact on someone’s application and may be impossible to undo even for an experienced attorney. Similarly, he sees a lot of attorneys take shortcuts to get their clients to work authorization or temporary status, and then disappear when the situation naturally implodes on itself because they didn’t handle things the proper way or warn clients of potentially adverse outcomes. It devastates him because he knows how trusting immigrants usually are, and they don’t deserve that kind of treatment. No one does.

In terms of actual challenges he faces, it’s just always staying up to date on new laws and making sure to analyze every part of a client’s file to see what options are available to them. Missing even one less obvious point, because it doesn’t come up as often, can lead to poor outcomes when good lawyering could have easily avoided that. That’s one reason why I always schedule hour consultations when he first speaks with clients and make sure that they give him a full debriefing on their background before we first speak. This allows me to ensure that there are no blind spots. He has had so many cases where clients thought all was lost, but one overlooked fact completely changed the picture and gave them a straight shot to a green card, citizenship, or whatever the case may be. Those experiences have stayed with me, and he makes sure not to take anything for granted, in the complex and quickly changing world of immigration law.

As for the goals Mayor Wildes has for the future immigrants and how he intends to pave the way for them, as he has done throughout his career, he intends to fight for immigrants 24/7. That means providing the best possible advocacy to the thousands of clients that are relying on me and my firm on any given day. By teaching the two classes each semester at the Benjamin N. Cardozo School of Law (in Manhattan) and frequently lecturing (in the Tri-states area) to foreign students, he works each week to encourage future lawyers and talent in the immigrant community to discover ways to onboard into our nation’s workforce despite the
political pressures working against them. However, it also means pushing for wholesale changes to the system and utilizing any avenue available to publicly promote fair and progressive policies. As a practitioner for over 30 years, Mayor Wildes knows where the soft spots in the immigration laws are and where improvement is needed. His father and he have both testified before Congress on legislation and immigration programs that impact our clients. By doing so, he continues to try to leverage my platform to create a fairer and more just system for all, and not just those who are lucky enough to have our firm represent them.

Mayor Wildes is not shy about using his position as a Mayor and political acquaintances to advocate for positive change in public discourse as well as within our legal system, and he is a frequent guest contributor asked to speak on immigration matters on major news networks such as CNN, MSNBC, and even going into the lion’s den on Fox News. With only so many hours in the day, he can’t take on all the cases he would like, but by pushing Congress and the President and contributing to the public dialogue in both political and media circles, he can expand my reach and help more immigrants than he can if he is only assisting them one by one in my office. He will keep doing that on behalf of my clients, my constituents, and for the benefit of our Nation.
Michael Noriega was formerly an attorney with the Office of the Public Defender, handling criminal cases ranging from minor drug offenses to murder charges. Often, he was finding that his clients who were not legally present in the country were facing “INS” at the time and he had no idea what that meant for them. It turned out that INS no longer existed and that the Department of Homeland Security was the agency responsible for what was happening to my clients. I began to investigate these situations and determined that there was something I could do to assist them if I understood more about the interplay between criminal law and immigration law. I have been working in that sphere ever since, from about 2006 to the present. In the intervening years, I have learned about affirmative petitions, employment visas and I have expanded my skill set to include all manner of immigration work. I have helped hundreds of families begin their lives in the United States and it has been an exceptionally rewarding career, thus far. He began my investigation into the area in 2006 and began practicing as an immigration lawyer in 2008.

Since Mr. Noriega started working, immigration has been a hot-button topic that always yields the prospect of an “overhaul” within the government. So far, he has waited for that overhaul since 2006 and it has not occurred. There have been many policy changes that have come as the result of the change in administration, but some of the harshest laws and most devastating consequences that exist have not been altered since they went into effect in 1996. Some of the challenges Mr. Noriega faces in his cases include watching families make amazing sacrifices for their families for a better life in this country. He states it, “is an extraordinary thing to behold”. Some of the challenges include trying to help those families
reap the benefits of those sacrifices. One of the broadest misconceptions is that the 12 million undocumented people in the United States simply do not care enough to apply and “correct” their situation. This is simply untrue. The truth of the matter is that the law in its current state holds those here unlawfully hostage in some ways. Once a person is here longer than a year, unlawfully, they are barred from returning to the US for 10 years. So if they have stayed for a year, have established roots, have children, and have a means of adjusting their status legally, they cannot leave the country to accomplish this or they will be banished for 10 years. They are in an impossible situation. Most undocumented people would pay penalties, would wait their turn, and would do everything required of them to eventually obtain some status in this country. They are not generally seeking to evade the laws beyond the initial one they broke to make a better life for their family by entering the United States unlawfully.

Asylum cases pose one of the most misunderstood and complicated areas of immigration law. Individuals who seek asylum must prove a high standard of potential harm, either past or present, on account of race, religion, nationality, political opinion, or membership in a particular social group. The existence of terrible conditions in one’s country or terrible problems in one’s home neighborhood does not afford one the ability to apply for asylum in the US. Most people don’t understand this and launch themselves through the desert seeking a better life in the US without understanding what they will have to prove once they are here. Also, compounding the problem is the fact that there is such a backlog in hearing asylum cases that people who enter seeking asylum are permitted to stay in the country for the years it may take to get their case heard. These folks believe that they are in a safe process and that they will achieve some kind of status at the end of the process, where most will end up with an order of deportation. If they are the unfortunate victims of less than scrupulous people who help them file their asylum claims without explaining the nature of the proof necessary to win, these individuals will spend the next several years comfortably calling the US home while they set up their lives and wait for their asylum case to be approved; which will never occur. Many end up with deportation orders at the end of the asylum process, after they have established themselves in the US with families, children, and employment. A difficult situation to uproot and leave behind. TPS is Temporary Protected Status and does not afford a path to citizenship or lawful permanent residence status. Temporary protected status exists for those situations when a person’s country has been subject to terrible strife in the form of hurricanes, earthquakes, or political unrest. Asylum is a solution to someone’s status that could afford a person lawful status in the country and eventually US citizenship.

Mr. Noriega has practiced in many different areas of the law at this point in my career and few have offered the rewards that immigration law has offered in terms of the ultimate change in someone’s life that a positive outcome brings. There will be generations born in this country within families in which I have played a small role in their history in the US. It is an amazing practice area. The inverse of what he stated, however, is also true. There have been
some devastating situations where families have been torn apart for which he feels responsible. There have been some painful losses where individuals have been deported and separated from their families and there is no more visceral feeling than to watch a family being torn apart. Mr. Noriega believes there is a fundamental problem in the United States that is not being addressed. People come to this country for work, not hand-outs. They are here because there are jobs. There must be an acknowledgment of this problem, as the flood of newcomers will never end if this issue isn’t tackled first. For those that have been here, without committing crimes, who have paid taxes, there should be a line started for them to wait on. They should be permitted to pay fines, penalties and get themselves in line to wait for a process to achieve a green card in the US. They should not be permitted to jump ahead of those that are currently undergoing the process legally from abroad, but they should be permitted to begin the process. Once they demonstrate that they have been here the requisite amount of time, and are willing to prove they have paid their taxes, they are willing to pay penalties, pay for their application fees and prove they have lived a law-abiding life in the country, then they should be permitted to remain in the United States.\textsuperscript{19}
Professor Lori Nessel has always been committed to a career in public interest law. Being an immigration lawyer and professor has been incredibly rewarding because she can help people at a time in their lives when they are quite vulnerable and have often been through very traumatic experiences. There is nothing as rewarding as being able to secure safety for someone who has been through so much. By training law students to do this type of work, or to be committed and zealous advocates and treat their clients with compassion regardless of the field they practice in, she hopes she can have a greater impact.

Professor Nessel believes detention is a major issue in New Jersey. It is great that New Jersey has passed legislation prohibiting new contracts with ICE to detain immigrants but immigrants need to be released from detention rather than transferred to out-of-state facilities. Policy change needs to come at the federal level to end detention.

Professor Nessel has been practicing and teaching immigration law and running Seton Hall Law School’s immigration clinic since 1995. Over the past 26 years, there have been so many changes to immigration law, but she is not sure she would describe it as an evolution. It’s
been more back and forth with some broadening of the laws and then other periods, like during the Trump Administration, when the asylum protection regime was nearly eviscerated, and all immigrants were at dramatically heightened risk of detention and deportation. Immigration law has been aptly referred to as “a window into the national psyche” so it restricts or loosens depending upon the political, economic, and national security mindset of the nation at particular times.

Today, most of Professor Nessel’s clinic’s asylum-seeking clients have fled from domestic violence or gang-based harm in Central America. The fact that so many asylum seekers are detained makes it much more challenging for them to find attorneys, gather evidence, or seek the mental health services that are often needed to recover from past trauma. Under the Trump Administration, the various Attorney Generals had also dramatically restricted the law so that it was nearly impossible to qualify for asylum if the individual fled gender-based, domestic violence, or gang-based harm. Thankfully they are now seeing reversals of some of the most harmful decisions. They are hopeful that more people will be able to gain asylum protection going forward.

When discussing immigration issues at the Mexico-U.S. border, Professor Nessel explains that under the Trump Administration, there was a myriad of unlawful and immoral border enforcement initiatives. These initiatives were aimed at pushing asylum seekers away from the southern border and keeping them invisible. Policies such as the Migrant Protection Protocols (MPP), known as the “Remain in Mexico” policy, pushed tens of thousands of asylum seekers into grave danger in Mexico. The Biden Administration has undone many of the most heinous border enforcement policies, but the Biden Administration continues to use the public health law (Title 42 expulsions) to expel asylum seekers at the border without an opportunity to seek asylum.

Professor Nessel also explains many issues are confronting immigrant workers in the United States, and New Jersey. The labor and employment laws are weak when it comes to protection and unscrupulous employers are all too often able to hire undocumented workers as a source of cheap labor and then claim ignorance of the workers’ immigration status if there is a worksite raid. Meanwhile, the government is increasingly charging undocumented workers with federal crimes before deporting them. This practice leads to mandatory detention for the undocumented workers and then once they plead guilty, bars to returning to the U.S. in the future. There should be greater protections for all workers, regardless of immigration status. There are visas (“U visas”) for victims of violent crime who are willing to assist the government in prosecuting the perpetrator. These visas can be issued to undocumented workers so that they can assist in prosecuting their employers for labor violations. However, there is a cap on the number of U visas per year and the system is extraordinarily backlogged. Congress should increase the cap to make more U visas available. There is also a need for more
employment-based visas for unskilled workers so that these workers are not undocumented and vulnerable to exploitation.

Another area of concern is medical deportation. Medical deportations arise when immigrants, often undocumented, suffer life-threatening injuries. Almost all hospitals are required to accept and treat all patients in an emergency, regardless of immigration status or whether they have health insurance. But once the patient is stabilized, the hospital looks to discharge the patient, and rehabilitation and nursing centers are not required to accept uninsured or undocumented patients. In several cases across the country, hospitals have engaged in de facto deportations by forcibly returning patients to their home countries, without a deportation order or involvement of the Immigration Courts. It is a very troubling situation, as everyone should have the right to life, health, and human dignity. These de facto deportations have resulted in death or severe medical deterioration in many cases. Professor Nessel is not aware, however, of anything being done, and raising public awareness is the first step.

For the future of immigration, New Jersey is making great strides towards providing funding so that no detained immigrants face deportation without a lawyer by their side. Seton Hall Law School’s Immigrants’ Rights/International Human Rights Clinic is taking part in this State-funded program aimed at providing free counsel to detained immigrants. But we need Comprehensive Immigration Reform at the federal level and to have a pathway to citizenship for the sizeable undocumented population. We also need to guarantee basic human rights and dignity for all immigrants.20

20 Nessel, L. (2021, August 1). Personal interview [Email].
Rosa Santana is a Bond Director at the Brooklyn Community Bail Fund. She immigrated to the U.S. from Tegucigalpa, Honduras in 1999. Ms. Santana was brought to the U.S. through a tourist visa. She came to be reunited with my mother who had also immigrated to the U.S. She states, “The most difficult part about leaving her country was leaving my family. Coming to a new country where you don’t know anyone and adapting to a new culture and customs.” Ms. Santana also explains that it was a cultural shock to see huge buildings and how “comfortable” people lived here. It was also hard to understand how privileged people were here and how little they had back home. The most difficult part of coming to the U.S. for her was leaving a big part of my heart in my country. She was able to reunite with my mother, but she was being separated from my father. She has always been very close to her dad and grandparents, being away from them was and continued to be the hardest part.

When Ms. Santana first arrived, she was excited about going to school and meeting students from all parts of the world. She enjoyed learning from other cultures and religions. What surprised her the most was when she started attending school. She attended a public school, but the school provided everything that the student needed. They had free books, lunch, the school had a pool and free extracurricular activities. She couldn’t believe that her mother didn’t have to pay for all those commodities.

When Ms. Santana came to the U.S. in the 90s, however, there were no resources for immigrants. Immigrants were guided by the community, by other people who were here longer than us and knew how things worked. She says migrating can be a traumatizing experience. I found my strength in my family, thinking about creating a better future for them. Thinking about the opportunities that I have here Migration has helped her be more compassionate, it has helped her find ways to help others.
In her own experience, there are many differences in immigration now versus then. When she was undocumented, she didn’t share her status with anybody, she was afraid of being treated differently and that someone was going to call ICE on me. Now there is a big movement that tries to protect the undocumented community, they fight for equality and proper treatment. She does not feel alone anymore.

In regards to challenges, she thinks still need to be addressed Ms. Santana explains, “The immigration system in the United States was created to marginalize black and brown communities. People migrate for a better life; they arrive in the U.S. and are not welcomed and are discriminated against. Seeking asylum is not a crime, people should be able to leave a country because their life is at risk and seek refugee here or any other part of the world”21

---

21 Santana, R. (2021, August 1). Personal interview [Email].
WHY IMMIGRATE TO AMERICA?

PUSH AND PULL FACTORS

Push factors are motivations that lead immigrants to leave their home countries to settle in the United States, such as:

- Poverty – Many immigrants face extreme poverty in their native born nations. These countries grapple with the issues of financial instability, and limited resources such as food, education, and healthcare. Research shows that “…10% of the world’s population, or 734 million people, live in extreme poverty with a daily income of $1.90. While the percentage of people living in extreme poverty has decreased by about 36% since 1990 (1.9 billion people), the present poverty rate remains high” (Krzych, 2020).

- Religious persecution – Many nations have historically chosen to discriminate against persons based upon religious belief, racial and ethnic status, and language affiliation. Such discrete persecution is frequently a cause for emigration.

- Political Oppression - Basic freedoms in the rule of law are not protected or enshrined in many governmental charters. Political oppression may be a cause for emigration.

Pull factors are the motivations that attract immigrants to the United States, such as:

- Higher standard of living - The United States of America has had historically among the highest standards of living in the world with reasonably accessible immigration processes.\(^\text{22}\)

- Better employment opportunities - The diversity of the U.S. economy has provided immigrants with employment opportunities in multiple industry sectors, which necessitate a broad array of skillsets, learning requirements, and abilities.\(^\text{23}\)

- Bill of Rights – While immigrants may confront oppression in home country,\(^\text{24}\) America offers constitutional freedoms, including freedom of religion, speech, and assembly.\(^\text{25}\)

---


On May 5th, 2021, NJRC launched a new initiative called Espiritu Latino. The purpose of this initiative is to help members of the Latin Community who were recently released from prison, jail, and rehab facilities reintegrate into society by providing services to them in their native language.

Espiritu Latino seeks to aid court-involved persons who are foreign-born, speak English as a second language, or face impossible immigration challenges immediately upon release. Through Espiritu Latino, NJRC will offer a bundle of services tailored to the specific needs of the Latino reentry community, including:

- Housing Assistance
- Immigration
- Green Card
- Birth Certificate Retrieval
- Ambassador Facilitation
- Medical Screening
- Licensed Social Worker / Counseling
- High School Diploma / GED
- Taxpayer Identification Number Assignment
- Food and Shelter

Since its launch in May, Espiritu Latino has partnered with over 10 non-profits, legal organizations, and law firms to aid in our mission and provide us with the necessary resources for some of the services we provide. Some of the resources our partners have provided for Espiritu Latino include: financial classes, know your rights classes, and transportation. Please see below for the list of nonprofits that have partnered with Espiritu Latino.47
PARTNERS OF ESPÍRITU LATINO

Immanuel Community Learning Center
The New Jersey Coalition of Latino Pastors and Ministers is committed to serving the immigrant community and providing healthy and productive opportunities for social and economic advancement.

Recognizing the centuries long animosity to the immigrant in certain sectors of the American populace, the Coalition seeks to work with those members of the faith community, business persons, elected officials, and policy officials who embrace the industry and commitment to family endemic to the Latino culture.

As a religious coalition, we are mindful of the exhortation set forth in the Torah, “The foreigner residing among you must be treated as your native-born. Love them as yourself, for you were foreigners in Egypt. I am the Lord your God” (New international version, Leviticus 19:34).

The scriptural passage reminds us we were all once immigrants. In addition to the exhortation of the Prophet Micah, “to do justly, to love mercy, and to walk humbly with thy God” (Micah 6), we are commanded “to love one’s neighbor as oneself” (Mark 12:33). Our next step in this journey is to forge a movement, which enshrines the American immigrant experience as essential to our self-understanding as a people, as a community, and as a nation. It is in strengthening and ennobling the immigrant that we honor the history of this nation in the words of Reverend John Winthrop that America be, “This holy city, this New Jerusalem.”

Winthrop and the American colonialists believed that America was to be a restatement of Matthew 5, verse 14: “Ye are the light of the world.” Let us fulfill a vision and faith in the power of new beginnings within the American Experience.


KFF. (2021, July 16). Health coverage


