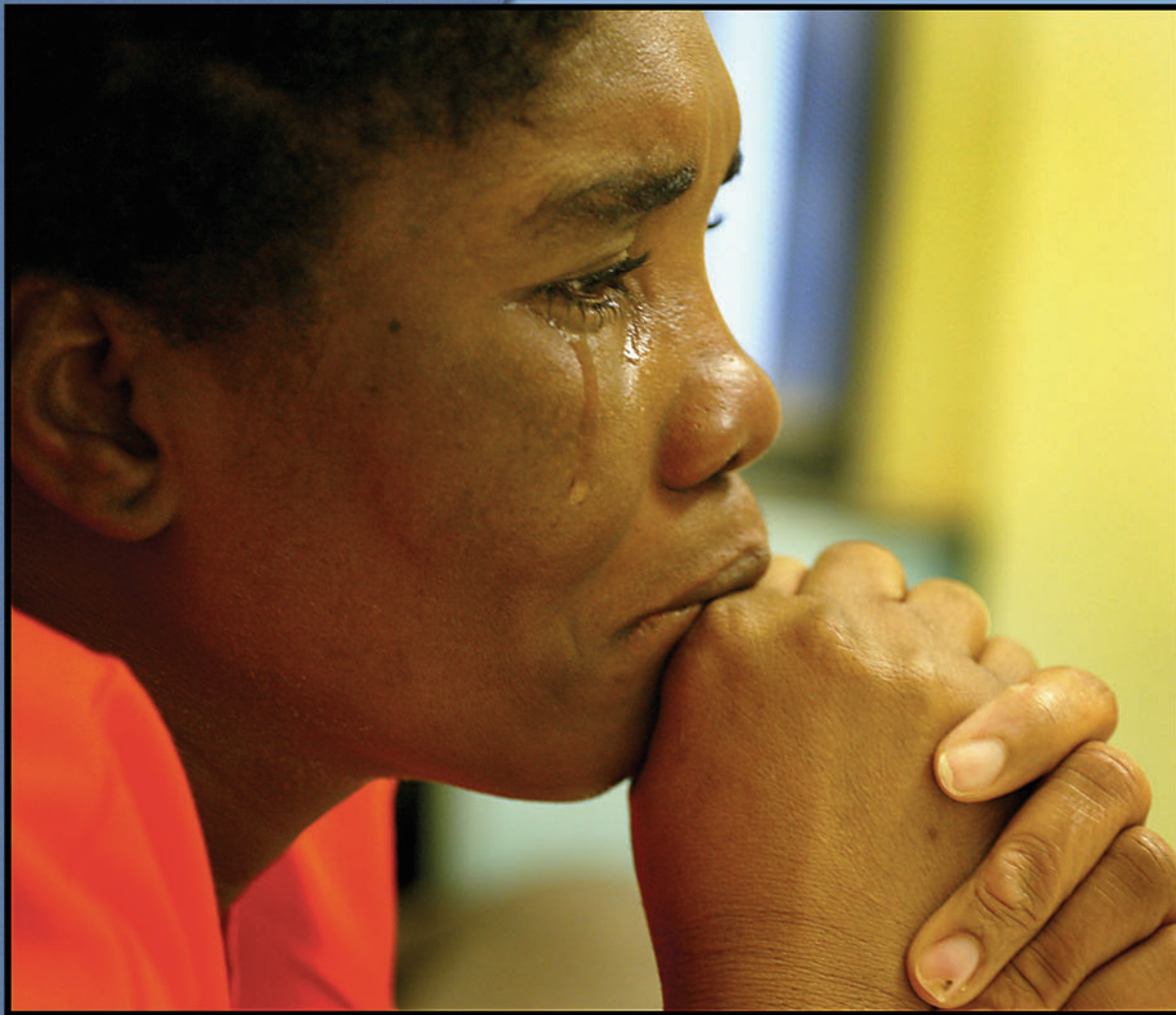


# Securing Our Borders:



## Post 9/11 Scapegoating of Immigrants

FIAC

FLORIDA  
IMMIGRANT  
ADVOCACY  
CENTER

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# I Executive Summary

*"Many undocumented workers have walked mile after mile, through the heat of the day and the cold of the night.... Workers who seek only to earn a living end up in the shadows of American life—fearful, often abused and exploited. America is a stronger and better nation because of the hard work and the faith and entrepreneurial spirit of immigrants."*

President George W. Bush  
January 2004

For more than two centuries, the United States has provided shelter and refuge to countless victims of persecution, giving hope to millions of people who have had nowhere else to turn. But in the aftermath of September 11, 2001, our government has reversed this proud tradition, sending waves of fear over those in need of protection and shocking those who cherish the principles upon which our country was founded.

"Securing Our Borders: Post-9/11 Scapegoating of Immigrants," demonstrates the extent to which our post 9/11 policies are misaligned, how they have driven us further from our goal of providing national security and how severely they have impacted our community. Individually, each new policy and/or law that the Bush administration applied with the intent of strengthening our borders, controlling the immigration flow and improving our databases is having a devastating effect; collectively their force is overwhelming.

This report is produced by Florida Immigrant Advocacy Center (FIAC), a non-profit legal firm that advocates for the human

rights of all immigrants. FIAC offers direct legal representation in immigration and public benefits law, and also engages in impact advocacy to address broad patterns of abuse.

For the general public, "Securing Our Borders" is a valuable educational tool that illustrates the degree to which our anti-terrorism measures are counter-intuitive. For advocates, lawmakers and other concerned individuals who can lobby for change, this

report provides a comprehensive look at policies and practices that need improvement. Moreover, it provides a platform for thousands of immigrants who have been unable to speak for themselves. Besides offering specific examples of the devastating impact of our policies on individuals and the community, this report also offers recommendations and suggestions for policy changes to ensure that our safety and our basic civil rights remains intact.

As a response to the unprecedented horror of September 11, 2001, and in keeping with the tradition of protecting our nation and its citizens, our government has tightened existing laws and

***"[Immigration officials have] been given far too many mandates in too short a period of time without a lot of resources to do it and without a real strategic vision for how immigration enforcement and anti-terrorism should really work together effectively."***

Doris Meissner, former  
INS Commissioner,  
February 2003



implemented a series of new ones to make certain that such a tragedy never happens again. But in so doing, it has also eroded some of the core principles that provide the foundation for our democracy and way of life. "It is during our most challenging and uncertain moments that our Nation's commitment to due process is most severely tested," said Justice Sandra Day O'Connor. "It would indeed be ironic if, in the name of national defense, we would sanction the subversion of one of those liberties which make the defense of the nation worthwhile."<sup>4</sup>

President Bush's War on Terror has transgressed into a War on Immigrants, including those asylum seekers fleeing terror. Nowhere is this criminalization of immigrants felt more acutely than in Florida, home to the nation's third highest immigration population.

Florida is the nation's testing ground for anti-immigrant measures and enforcement ideas; much of what happens in Florida has a rippling effect nationally. Florida was at the forefront in enacting post 9/11 anti-immigrant measures and was the first state to deputize police to act as immigration officials. Florida changed the procedure for its citizens to acquire driver's licenses, unduly punishing even those immigrants with legal and valid visas. Immigrants, mainly from Central and South America and the Caribbean, found themselves affected by deliberate and random round-ups by police, who turned them over to immigration authorities. Immigrants and advocates in Florida also complain about increased sweeps by Border Patrol agents, who they claim engage in racial profiling. What's more, a Florida Senate panel endorsed a proposal to make it far more difficult for non-citizens to get married.

Asylum seekers across the country, but specifically in Florida, now find themselves entangled in a web of laws, both new and reformed, which greatly reduces their chance of

***"Miami is often the test case for the rest of the country when it comes to immigration and refugee policies, and often what we see beginning in Miami spreads to the rest of the country."***

Wendy Young, Director of Government Relations and U.S. Programs, Women's Commission for Refugee Women and Children, August 2003

securing safe haven. Florida's Haitian population, in particular, was severely impacted when the federal government secretly changed its policy to keep Haitian asylum seekers who arrived in Florida in detention for purposes of "national security." And, if asylum seekers arrive with false documents, the U.S. Attorney's offices in South Florida prosecute, (jeopardizing their ability to gain asylum) so that even those who eventually receive asylum have a criminal record. Miami was also one of three cities nationwide to implement a pilot program of using electronic monitoring devices for asylum seekers. It

also implemented and then modified, by putting on hold, another pilot program, Operation Compliance. This program assigns officers to immigration courts and asylum offices, with the express role of promptly arresting people who emerge from court after losing their civil cases and before they can begin an appeals process.

After September 11, Middle Eastern detainees around the country, including those in Florida, were also subjected to round-ups, special registrations and secret hearings, in addition to prolonged detention at facilities like the federally run Krome Service Processing Center in southwest Miami-Dade County. Additionally, a bill repeatedly introduced in the Florida Legislature in each of the past three years—that has failed to pass—would disallow state scholarship and financial aid for all non-resident university students from countries suspected of harboring terrorists.

These policies have done nothing to advance the War on Terror. They have not yielded a single terrorist in Florida. But they have distressed and unsettled the lives of hundreds of thousands of hard-working, honest immigrants—immigrants who are our friends, our physicians, teachers, gardeners and favorite performers. Furthermore, these ill-conceived policies have increased some

people's suspicion of authority and driven them further underground, which in turn hinders, rather than bolsters, national security.

Various government officials believe that these reforms may be threatening our security. Vincent Cannistraro, former head of counter-terrorism at the CIA, said: "The idea that you stigmatize whole classes of people and profile them because you think it's going to prevent the next terrorist attack is exactly the wrong way to go about it."<sup>5</sup> Then Department of Homeland Security Undersecretary, Asa Hutchinson testified in August 2004 that immigration reform, such as a guest worker program, would allow immigrants to enter and leave the United States lawfully, freeing up the government to direct their attention on those with true intent to do us harm.<sup>6</sup>

FIAC is greatly concerned with the Bush administration's heavy-handed campaign to persuade the public that collecting information and implementing its post 9/11 programs will make our country safe. It is widely accepted that our bureaucracy is already tripping over itself with information it cannot process and is now further encumbered with three new post 9/11 databases that include information on the names, whereabouts, backgrounds, fingerprints and photographs of millions of foreigners, the vast majority of who have nothing to do with terrorism.<sup>7</sup> Moreover, Attorney General John Ashcroft demanded enforcement of an

immigration regulation requiring our 17.8 million non-citizens to report address changes within ten days of moving or face deportation and/or prosecution, an almost impossible logistical task.<sup>8</sup>

Quickly putting restrictive immigration measures in place following terrorist actions is not new. After the 1996 Oklahoma City bombing, the government passed new laws that were intended to make our country safer.<sup>9</sup> The 1996 laws permitted the use of secret

evidence without final charges in deportations, called for the expedited removal and mandatory detention of innocent asylum seekers arriving at ports-of-entry like Miami (except Cubans), mandated the detention and deportation of non-citizens with even very old minor criminal convictions (that were only misdemeanors at the time and not grounds for deportation), restricted immigrants' access to counsel, and barred them from appealing to the courts.<sup>10</sup>

Following the implementation of these laws, the number of persons in Immigration and Naturalization Service (INS) detention more than tripled in a few years; immigration detainees are now the fastest growing prison population in the U.S, costing taxpayers over a million dollars a day.<sup>11</sup> In fiscal year 2003,

the Bureau of Immigration and Customs Enforcement (ICE) detained 231,500 non-citizens nationally.<sup>12</sup> As of March (FY2004), on an average day 22,812 noncitizens are in Department of Homeland Security custody in 900 different sites, even though funding is budgeted for just 19,444 beds.<sup>13</sup> Almost 60 percent are held in more than 200 county or city jails, mixed with people who are serving time for criminal convictions.<sup>14</sup> According to the Executive Office of Immigration Review, approximately 80 percent of immigrants in immigration detention do not have lawyers to represent them.<sup>15</sup> Since 9/11, 57

percent more people were deported in 2004 than in 2000.<sup>16</sup>

Examining what went wrong in implementing the '96 laws seems more appropriate than simply enacting further drastic measures that again target the wrong people. Since 9/11, "[The Justice Department's] guiding principle," said CIA's former head of counter-terrorism, "has been to 'shake the trees and hope that something will fall out.'"<sup>17</sup> Cannistraro also points out that: "Al-Qaeda recruits those who

***"What I see as the problem today is that we're using [the blunt instrument of] immigration policy as a proxy for law enforcement, and it is a poor proxy because it alienates the very communities that we need to depend upon for early warning."***

Vincent Cannistraro,  
Former CIA Chief of  
Counter-terrorism,  
post 9/11

do not typically raise red flags. Its terrorists have overwhelmingly entered the United States in legal status.”<sup>18</sup> Had there been better capability to analyze information already available, plans for 9/11 might have been harder to execute. It was human error — misjudgment, lack of follow-through and understanding, along with an insufficient, overstretched and at times just incompetent staff — that laid the fertile groundwork for a 9/11 infiltration. Adding more policies, such as adding more information to the database, will not by itself protect our nation but may, in the end, cause more harm than good. Had there been better analysis of the information prior to 9/11, we could have detected that:

- In late August 2001, two of the hijackers bought American Airline tickets using their real names, both of which were then on a State Department/INS watch list called TIPOFF. The FBI and the CIA were seeking both as suspected terrorists.<sup>19</sup> Both had their names and numbers listed in the San Diego phone book.
- Two of the hijackers were linked by the same address.
- Identical frequent flyer numbers linked the same number to two of the hijackers.
- Six hijackers had the same phone number.<sup>20</sup>
- There were major gaps in the existing screening process: even though two of the hijackers, including the ringleader, were called in for secondary screening at the airport and also lacked proper, updated documentation, they were nonetheless allowed to board.<sup>21</sup>

A government report released in 2004 said that immigration officials failed to recognize problems with the hijackers’ passport and visa applications.<sup>22</sup> The September 11 Commission said that had immigration officials discovered the visa violations of several of the hijackers, the plot might have been thwarted.<sup>23</sup>

“[B]y just knowing a few [of these

connections], one or two, if you pull the thread, you end up finding 13 of the 19,” said Jeff Jonas, designer of a high-tech information system that helps identify non-obvious relationships.<sup>24</sup> For example, he said, the government knew that two of the hijackers were involved in the Cole bombing and that on August 23, 2001, the CIA told the INS, the FBI and the Coast Guard not to let them in. “The problem is,” Jonas said, “they were already here. So now we’re looking for them, and on August 25th and 27th, they make plane reservations using their real names.”<sup>25</sup> Indeed, on March 11, 2002, six months after the September 11 attacks, a Florida flight school received notice that INS had approved temporary visa extensions for two of the September 11 terrorists.

A February 2, 2005, *Washington Post* article said that DHS remains a second-tier agency in the Bush administration and that ICE has operated under severe financial crisis for more than a year—“to the point that use of agency vehicles and photocopying were at times banned. The problem stems from funding disputes with other DHS agencies.” When asked for examples of DHS’s ineffectiveness, Clark Kent Ervin, DHS’s former inspector general, said: “I don’t know where to start.... I’ve never seen anything like it.” He said a report from his office in January 2005 showed that DHS immigration inspectors had continued to let dozens of people using stolen foreign passports enter the United States, even after other governments had notified the agency of the passport numbers. The report also said that even when immigration officials did realize the passports were stolen, they did not routinely notify sister agencies that track illegal immigrants.

Ironically, just prior to 9/11, tremendous gains had been made in securing support for sound, reasonable immigration reforms at both the state and national levels.<sup>26</sup> This support virtually disappeared overnight after 9/11, replaced by growing public support for increased racial profiling of immigrants.

On December 6, 2001, speaking to the Senate Judiciary Committee, U.S. Attorney

General John Ashcroft defended the government's treatment of detainees, and said that critics of the detention policy were not only wrong, they were aiding terrorists.<sup>27</sup>

The United States takes in about two million people—legal as well as undocumented—each year, including those asking for political asylum, family reunification and work, business, tourist and student visas.<sup>28</sup> While this may sound like an extraordinary number, it is in fact a smaller percentage than in 1990 when approximately 10 million people, or 13 percent of the U.S. population, were foreign born.<sup>29</sup> Almost 70 percent of today's immigrants come from Latin America, Asia and Africa, whereas in the early 1990s, 80 percent came from Europe.<sup>30</sup> "The role of racism in today's debate is inescapable," said Pramila Jayapal, director of the Hate Free Zone Campaign of Washington, "especially when anti-immigrant literature often relies heavily on issues of race."<sup>31</sup>

Florida, with a total statewide population of 17.3 million, is the country's third fastest growing state.<sup>32</sup> It has the third largest share of the 9.3 million of the nation's total immigrant population, about ten percent.<sup>33</sup> Nearly two million Florida residents are children of immigrants.<sup>34</sup> Almost a quarter of the population speaks a language other than English at home.<sup>35</sup>

Immigrant populations in many of Florida's communities have been steadily increasing. South Florida has the highest proportion of immigrants in the country; 51 percent of Miami-Dade County residents are foreign born and immigrants make up 25 percent of Broward County's population.<sup>36</sup> According to the U.S. Census Bureau, for the first time ever, more than half of Broward County's population growth was comprised of foreign born in 2003, as opposed to elsewhere in the United States.<sup>37</sup>

A July 2004 United Nations report noted that the City of Miami has the highest percentage of immigrants of any large city in the

world.<sup>38</sup> The cities of Hialeah and Miami have the highest share of foreign-born residents among the top 100 cities in the country, with 72.1 percent and 59.5 percent respectively.<sup>39</sup> The immigrant population in the metro areas of Fort Lauderdale and Orlando more than doubled between 1990 and 2000;<sup>40</sup> from July 2001 to July 2002 nearly 300,000 immigrants came to Florida.<sup>41</sup>

Our communities derive great benefit from the vital role immigrants play in our lives and we should applaud their contribution to our workforce, economy and security.<sup>42</sup> According to the National Academy of Sciences (NAS), immigrants represent one in eight workers and add \$10 billion to the annual economy.<sup>43</sup> The NAS also found that a typical immigrant and his or her descendants will pay an estimated \$80,000 (in 1996 dollars) more in taxes than they will receive in combined local, state, and federal benefits over their lifetimes.<sup>44</sup> The average immigrant pays more in taxes than the average American-born family.<sup>45</sup>

A report by the Immigration Policy Center says that with current levels of immigration, the U.S. labor force will grow 18.9 percent by 2030, while countries with more restrictive

immigration policies such as Japan, Germany and Italy will see their adult working populations decline by 15 percent or more.<sup>46</sup> "Immigration is the crucial factor in determining whether the United States labor force will experience growth or become stagnant," the report said.<sup>47</sup>

In general, immigrants work hard and perform tasks that most Americans take for granted but will not do themselves, in industries such as agriculture, landscaping, health care, restaurants and hotels.<sup>48</sup> (The average annual salary of a farm-worker's family is just \$7,000 a

year.<sup>49</sup>) Two of Florida's major industries—tourism and agriculture—rely heavily on the low-wage immigrant labor force, and the citrus and decorative plant industries employ

***"What's been happening since September 11 has been quite a devastating setback [for immigrants]. We've gone from a place of promise and strength to one of great vulnerability."***

Taryn Higashi, Program Officer, Ford Foundation, Spring 2002



millions more.

Experts estimate there may be as many as ten million undocumented workers in the country, including an estimated 850,000 who live in the Greater Miami-Dade County area.<sup>50</sup> Almost two-thirds of the undocumented population lives in just eight states: California (24 percent), Texas (14 percent), Florida (9 percent), New York (7 percent), Arizona (5 percent), Illinois (4 percent), New Jersey (4 percent) and North Carolina (3 percent).<sup>51</sup> Virtually all undocumented men today are in the labor force, exceeding that of men who are legal immigrants or who are U.S. citizens (undocumented men are younger and less likely to be disabled, retired or in school).<sup>52</sup>

Federal Reserve Chairman Alan Greenspan has repeatedly said that immigrants play an important role in the tight labor market. He also credited them with helping to power growth while keeping inflation down during the 1990's. A shrinking U.S. labor supply may have serious implications for inflation pressures, Greenspan said, as "there is an effective limit to new hiring, unless immigration is uncapped."<sup>53</sup>

Without an increase in immigration, inflation — and the resulting slowdown of the economy — could threaten the prosperity of all Americans. According to the U.S. Department of Labor, over the next 30 years, 60 million people will retire. By 2010, America will have 168 million jobs and only 158 million Americans to fill them.<sup>54</sup>

A study released on February 16, 2005, said that immigrants are crucial in helping to strengthen our government's Social Security system.<sup>55</sup> The

***"There's no more important social policy area than immigration because if that is done badly, it affects every other social policy. It's the DNA of social policies."***

Demetrios G. Papademetriou, President and Board Member, Migration Policy Institute, February 2005

National Foundation for American Policy has concluded that maintaining or increasing the current levels of legal immigrants would provide \$611 billion to the Social Security system over the next 75 years. Conversely, placing a moratorium on legal immigration would lead to a loss of revenue that could only be compensated for by significantly increasing Social Security taxes over the next several years.<sup>56</sup>

The Greater Miami Chamber of Commerce has expressed its concern over the threat to the economic growth of its com-

munity due to post 9/11 policies toward immigrants. Post 9/11, Florida's tourism industry took a huge hit, leading to thousands of layoffs and a jump in unemployment from 4.3 percent to 6 percent.<sup>57</sup>

The vast majority of immigrants is not, as those who lobby for tighter reforms may have one believe, a security risk.<sup>58</sup> Over 60,000 immigrants, many from Florida, have served in active U.S. military duty and nearly five percent of all enlisted personnel on active duty in the U.S. Armed Forces are immigrants.<sup>59</sup> Since 9/11, more than 38,000 "non-citizens" have served in the U.S. military, and thousands more are in the reserves, standing by to be called up for active duty.<sup>60</sup> More than one out of every five Medal of Honor recipients has been an immigrant.<sup>61</sup> Approximately 7,000 foreign nationals serve in the U.S. Marines alone.<sup>62</sup>

A poll conducted two days before President Bush was sworn in for a second term showed that 54 percent of Americans disapprove of the President's handling of immigration, but they do support his immigration reform proposal by a nearly 2-1 margin.<sup>63</sup>

***"While the Chamber has always supported the Federal Government's efforts in improving homeland security, it opposes unreasonable immigration policies and procedures that might jeopardize economic stability, impede the efficient movement of people and goods, and negatively impact our active and vital immigrant community."***

Greater Miami Chamber of Commerce, April 2005



President Bush has publicly called for an end to our “broken immigration system.”<sup>64</sup> In a January 7, 2004 speech, he said: “We see millions of hard-working men and women condemned to fear and insecurity.... The system is not working. Our nation needs an immigration system that ...reflects the American Dream.” At a press conference on January 26, 2005, President Bush said of his guestworker proposal: “Family values do not stop at the Rio Grande River. A program that enables people to come into our country in a legal way to work for a period of time for jobs that Americans won’t do will help make it easier for us to secure our borders.”<sup>65</sup>

But the reality is that President Bush has blocked sensible reform measures, such as the DREAM Act and the AgJOBS bill, that have a great deal of bipartisan support.<sup>66</sup> “[The Bush Administration has] made this decorative proposal which they’re able to trot out when speaking to Latino audiences. So in a sense they’re getting the best of both worlds. They’re not jeopardizing their political base and at the same time they can appeal to Latinos,” said Robert Leiken, director of the Immigration and National Security Program at the Nixon Center.<sup>67</sup>

The President did, however, in his February 2005 State of the Union Address, again express his commitment to reforming our immigration policies.<sup>68</sup> Still, there is deep division within Congress, and the strongest opposition to reform comes from House Republicans. “In our party, this is a deep division that is growing deeper every minute,” says Representative Tom Tancredo, (R-CO).<sup>69</sup> He heads a group of 70 lawmakers who are against easing immigration laws. He said Bush’s guest-worker proposal, which will offer millions of immigrants a chance to work here legally, is a “pig with lipstick” and will not pass.<sup>70</sup> Tancredo has suggested that President Bush is calling for

better treatment of immigrants simply to gain the Hispanic vote for a 2008 presidential bid by the President’s brother, Florida Governor Jeb Bush.<sup>71</sup>

And according to a recent poll conducted by the *South Florida Sun-Sentinel* and *Florida Times-Union*, two-thirds of likely voters in Florida would oppose the plan, too.<sup>72</sup> Hispanics, who made up 15 percent of the respondents, were no more supportive of pro-immigration changes than other groups polled; only two in ten favored a law allowing undocumented immigrants to work legally in the country.<sup>73</sup> (Only two in ten favored issuing driver’s licenses to undocumented immigrants,

and only 38 percent of Hispanics who are likely voters said they thought immigration helped the United States.<sup>74</sup>)

Immigration reform cannot be executed in a vacuum. Reforms must include policies that consider the market needs for laborers, immigrants or otherwise, and ensure that all workers benefit from fair wages and good working conditions. Comprehensive immigration reform that permits government officials to track the whereabouts of immigrants, rather than drive them underground, will better protect our borders while undermining the power of smugglers who exploit the immigrant community.

The current debate over immigration policies has polarized our nation. A new Florida anti-immigrant group, Floridians for Immigration Enforcement, is linked to a host of national anti-immigrant groups, including the most prominent, the Federation for American Immigration Reform (FAIR). Its new website strongly opposes several measures that receive widespread bi-partisan support in Congress.<sup>75</sup> FAIR tried to play the anti-immigrant card for candidates in the 2004 elections whom they said would be punished

***“America’s immigration system is also outdated – unsuited to the needs of our economy and to the values of our country. We should not be content with the laws that punish hardworking people who want only to provide for their families, and deny businesses willing workers, and invite chaos at our border...”***

President George W. Bush,  
State of the Union,  
February 2005

at the polls for their pro-immigrant views.<sup>76</sup> In contrast, the *Wall Street Journal* calls for open borders, primarily for economic reasons.<sup>77</sup>

FAIR takes an active role in local issues, too. In Jupiter, Florida, there has been a heated debate about the large and growing number of undocumented immigrants who line the streets each day looking for work. At the heart of the controversy is \$200,000 that has been set aside by the city to create a Neighborhood Resource Center. The proposal has so angered some townspeople that they have enlisted the support of FAIR lawyers, who are aggressively lobbying Jupiter town leaders by arguing that the creation of the center would make them guilty of a felony, a charge local attorney Thomas Baird called “absurd.”<sup>78</sup>

What is happening here in Florida and around the country cannot help but adversely affect the general population. Profiling, discrimination, targeting and branding is evident from airport terminals to bus stations. Gloria Garcia was a passenger on a Greyhound bus traveling from St. Augustine to Ft. Lauderdale in the fall of 2003. She was shocked when a Homeland Security Officer boarded her bus and began checking people’s papers.<sup>79</sup> “The bus had about 95 percent Blacks, four percent Latinos and one percent Whites. Now guess where he directed his attention? To Latinos and Blacks that look Haitian. Everyone was speechless,” Garcia said, adding that the DHS officer removed a Haitian man from the bus.

*“The people were stunned. Imagine this is going on all over this great land—how many hundreds are being arrested like that, without knowledge of their families. I know that in the fifties during the “Red Scare” this was going on and up to the late sixties Blacks were still sent to the back of the bus. But now, in 2003? Yes, security is important, but at what price and at whose expense?”<sup>80</sup>*

***“President Bush has said that he wants immigration reform but his actions don’t match his words. Worse, while the president woos Hispanic voters on this issue, the Senate GOP leadership is blocking widely supported congressional legislation that would deliver that reform.”***

Editorial, *The Miami Herald*, July 2004

Drastic anti-immigrant measures targeting immigrants and asylum seekers nearly killed the National Intelligence Reform Act of 2004, H.R. 10, S.2845,<sup>81</sup> which was approved by the House of Representatives on December 7, 2004, and in the Senate on December 8 before being passed on to President Bush for his signature. The primary focus of both bills was reorganization and reform of our nation’s intelligence infrastructure, but provisions related to border security and immigration were included in each package, including adding at least 8,000 detention beds in each of fiscal years 2006-2020.<sup>82</sup>

Only eight Republicans voted against the House Bill, including Florida’s Ileana Ros-Lehtinen, Mario Diaz-Balart and Lincoln Diaz-Balart. They voted against the bill because of the immigration provisions, saying they would penalize immigrants without improving security.<sup>83</sup> Florida House Democrats who voted against the bill included Debbie Wasserman-Schultz, Alcee Hastings and Kendrick Meek. The *Miami Herald* agreed with the bill’s critics who said: “instead of focusing on the nuts and bolts of intelligence reform, legislators are debating wholly extraneous issues that will contribute little or nothing to making our country safer.”<sup>84</sup>

On January 27 House Judiciary Committee Chairman F. James Sensenbrenner (R-WI) introduced the REAL ID Act of 2005 (H.R. 418) a bill with 120 sponsors signed by the President<sup>85</sup> that “purports to enhance security through already-failed immigrant proposals.”<sup>86</sup> Included in the REAL ID Act, which passed the House of Representatives on February 10, 2005, were provisions that were taken out of H.R. 10 that FIAC believes will not make us safer but will make it more difficult for immigrants to obtain driver’s licenses, and for those fleeing persecution to obtain protection in the United States.<sup>87</sup> Even the 9/11 Commission has recognized that Sensenbrenner’s new provision

on driver's licenses would not have prevented the hijackers from obtaining licenses.<sup>88</sup>

According to Jeanne Butterfield, Executive Director of American Immigration Lawyers Association (AILA): "Congress, when it passed the Intelligence Reform and Terrorism Prevention Act of 2004, recognized that provisions broadly and unfairly targeting all immigrants do nothing to contribute to our nation's security. Yet the ink is barely dry on the intelligence reform legislation and we are already seeing a fresh push to pass these discredited measures under the guise of national security."<sup>89</sup>

While FIAC unequivocally supports laws and restrictions that make our country more secure, it takes exception to those programs and rules that misuse our funds and misdirect our attention by criminalizing bona fide asylum seekers and those accused of civil immigration violations. The current response to terrorism creates a false sense of security and is a waste of U.S. taxpayers' money. Sensitive to the variety of security measures, their complexities and impact on the community, FIAC has taken a leading role in educating the public, challenging the government and defending the rights of immigrant victims.

***"Our borders and immigration system, including law enforcement, ought to send a message of welcome, tolerance and justice to members of immigrant communities."***

9/11 Commission, 2004

FIAC reaches out to the public in a variety of ways. It writes reports documenting the mistreatment of immigrants. It challenges government abuses in court and testifies in

Congress. It works in conjunction with traditional civil rights organizations as well as with grassroots organizations, and local, state and national government officials to affect positive change in our immigration policies. It has a multi-cultural and multilingual staff that works to successfully build alliances between immigrant and nonimmigrant groups, including the business community.

FIAC is instrumental in shaping and implementing policies that protect our borders while safeguarding our basic civil and constitutional rights. It puts a face on the injustices against immigrants being committed in the name of national security through reports, action alerts and conferences. It develops communications plans to enable the media to carry out more objective inquiries into immigrant and refugee issues. FIAC, like most other immigrant advocacy organizations, has seen its workload skyrocket since 9/11, its obstacles increased, and its mission become ever more important and relevant.

<sup>4</sup> Justice Sandra Day O'Connor, June 2004.

<sup>5</sup> Joe Feuerherd, "Critics say immigration tactics threaten security," *National Catholic Reporter*, March 28, 2003.

<sup>6</sup> "Legalization Implementing the 9/11 Recommendations: Need to Get it Right," *American Immigration Lawyers Association Dispatch*, November 2004.

<sup>7</sup> Alfonso Chardy, "Task force targets possible terrorists," *The Miami Herald*, October 27, 2004. In 2002, the government launched National Security Entry Exit Registration System (NSEERS), an accounting of nationals from Middle Eastern and South Asian countries; Student Exchange Visitor Information System (SEVIS) to track foreign students, and in January 2004, U.S. Visitor and Immigrant Status Indicator Technology (USVISIT) to fingerprint and photograph foreign visitors with visas and non-visa visitors from 27 countries.

<sup>8</sup> Department of Justice Fact Sheet, "Obligation of non-citizens to provide current address to INS," July 18, 2002. [www.usdoj.gov](http://www.usdoj.gov); Max Bixler, "Minor immigration slip becomes costly," *Atlantic Journal-Constitution*, July 10, 2002.

<sup>9</sup> Doris Meissner, former INS Commissioner, criticized the '96 laws for going too far, citing an increasing number of legal permanent residents convicted of non-violent offenses, some decades ago, who paid their debt to society, made substantial contributions to our community and do not pose a danger to the community. Doris Meissner, Op-ed, *The Miami Herald*, March 2, 1999.



- <sup>10</sup> Sam Skolnik, "New Overcrowding Crisis Besets INS," *Lexis-Nexis Communication Center, Legal Times*, week of October 5, 1998; Robert Bryce, "Immigration prisoners with nowhere to go fill U.S. jails," *Christian Science Monitor*, October 7, 1998; Andres Viglucci, "Court upholds 'tough' INS provision," *The Miami Herald*, December 18, 1998. See e.g., Frank Davies, "Immigration agency hard-pressed to meet deportation goal," *The Miami Herald*, February 26, 1999; Martin Merzer, "Secret evidence in jailing 'tainted'," *The Miami Herald*, June 1, 2000; "A Step Toward Justice," Editorial, *St. Petersburg Times*, June 3, 2000; Mary Jo Melone, "No Secret to why he is jailed for so long," *St. Petersburg Times*, June 4, 2000; Carl Hiaasen, "Old conviction earns woman deportation," *The Miami Herald*, April 4, 2004. Cheryl Little and Joan Friedland, "Florida County Jails: INS's Secret Detention World," November 1997.
- <sup>11</sup> Lutheran Immigration Refugee Service (LIRS) Fact Sheet, "Immigration Detention in the United States," updated August 18, 2003. See also *Associated Press*, "Number of immigrants detained in U.S. reaches 60-year high," *cnn.com*, September 12, 2000.
- <sup>12</sup> [www.ice.gov/graphics/news/factsheets/dro050404.htm](http://www.ice.gov/graphics/news/factsheets/dro050404.htm).
- <sup>13</sup> CRS Report for Congress: Immigration Related Detention: Current Legislative Issues, April 28, 2004. See also *Associated Press*, "Number of immigrants detained in U.S. reaches 60-year high," *cnn.com*, September 12, 2000.
- <sup>14</sup> Lutheran Immigration and Refugee Service (LIRS) Fact Sheet "Immigration Detention in the United States," updated August 18, 2003.
- <sup>15</sup> Ibid. According to Miami ICE officials, there are 1,400 detention beds in Florida. Detainees are held in six facilities: Krome Service Processing Center, Clay County jail, Monroe County jail (Key West), Broward County jail, Bradenton County jail, Palmetto County jail and Wakula County jail.
- <sup>16</sup> Alex Kotlowitz, "The Politics of Ibrahim Parlak," *The New York Times*, March 20, 2005.
- <sup>17</sup> Donald Kerwin, "Undermining Antiterrorism," *America Magazine*, June 23, 2003.
- <sup>18</sup> Ibid.
- <sup>19</sup> Two of the attackers – Nawaf Alhazmi, and Khalid al-Midhar – were already on government watch lists; they used their real names to make plane reservations just weeks before September 11.
- <sup>20</sup> Mohammed Atta made his plane reservation using a number that tied him to five more of the hijackers. "Nowhere to Hide Inventor Jeff Jonas," *ABC News Transcripts*, January 20, 2005.
- <sup>21</sup> Ringleader Mohammed Atta overstayed his visa on his first trip to the U.S., and then he and fellow hijacker Marwan al Shehh violated their aviation student visa applications by leaving the country while the petitions were still pending. Alfonso Chardy, "Police not screening for illegal foreigners," *The Miami Herald*, January 21, 2003.
- <sup>22</sup> *Broadcast News*, August 23, 2004.
- <sup>23</sup> Alfonso Chardy, "Task force targets possible terrorists," *The Miami Herald*, October 27, 2004.
- <sup>24</sup> "Nowhere to Hide Inventor Jeff Jonas," *ABC News Transcripts*, January 20, 2005.
- <sup>25</sup> Ibid.
- <sup>26</sup> Mexico, which just a week before 9/11 looked as though it was going to benefit from a warm national immigration climate forged by Mexican President Vicente Fox, suddenly found that its millions of undocumented workers who were hoping to obtain temporary work visas and earn legalized status were marginalized. Three years later, they are still waiting for a change in U.S. policy. Hundreds of immigrants from across the region gathered in Miami shortly before September 11, 2001, to welcome President Vicente Fox as he entered Coral Gables' Biltmore Hotel.
- <sup>27</sup> Ibid.
- <sup>28</sup> Mireidy Fernandez, "Proposed bill would allow local police to deport illegal aliens," *Naples Daily News*, July 22, 2003.
- <sup>29</sup> Pramila Jayapal, "The Mother of Exiles," *Yes*, Summer 2004.
- <sup>30</sup> Ibid.
- <sup>31</sup> Ibid.
- <sup>32</sup> Aly Sujo, "Population Up, Nation could be one billion in U.S. by 2100," *The New York Post*, December 29, 2004.
- <sup>33</sup> Steven A. Camarota, "Immigrants in the United States –2000 Center for Immigration Studies," Center for Immigration Studies, January 2001; [www.cis.org/articles/2001/back101.html](http://www.cis.org/articles/2001/back101.html).
- <sup>34</sup> Table 4-1A, Nativity and Parentage of the Population for Regions, Divisions, and States: 2000 Current Population Survey, U.S. Census Bureau.
- <sup>35</sup> U.S. Census, April 1, 2000.
- <sup>36</sup> Jacob Goldstein, "Immigrants fatten up on U.S. life," *The Miami Herald*, December 15, 2004.
- <sup>37</sup> Natalie McNeal, "Refugees follow friends, family to Broward," *The Miami Herald*, December 26, 2004.
- <sup>38</sup> Tim Henderson, "UN: Miami has the highest percentage of immigrants," *The Miami Herald*, July 26, 2004. The article also says many of the United Nation's worldwide statistics are only for cities with a population of more than 750,000. In 2003, Miami had a population of 373,000, so if there were a foreign city the size of Miami with more immigrants this study would not detect that.
- <sup>39</sup> [www.census.gov/Press-Release/www/releases/archives/census\\_2000/001623.html](http://www.census.gov/Press-Release/www/releases/archives/census_2000/001623.html).
- <sup>40</sup> Audrey Singer, "The Rise of New Immigrant Gateways," The Brookings Institution, February 2004.

<sup>41</sup> U.S. Census Population Estimates, Florida Estimated Components of County Population.

<sup>42</sup> It has also been reported that immigrants pay over \$70 billion in taxes and receive just five billion in welfare benefits and 11.5 billion in education benefits. Pramila Jayapal, "The Mother of Exiles," *Yes*, Summer 2004.

<sup>43</sup> Patricia Maldonado, Maria Rodriguez, Priya Sampath and Elizabeth Tracy, "Immigration and Jobs in our Community," Human Services Coalition, 2004.

<sup>44</sup> James P. Smith and Barry Edmonston, "The New Americans: Economic, Demographic, and Fiscal Effects of Immigration," National Research Council, Washington, D.C.: National Academies Press, p. 337, 1997.

<sup>45</sup> Lauren Mutti, "Immigrants, Welfare and Work," National Center for Policy Analysis, No 400, June 24, 2002.

<sup>46</sup> "The Global Battle for Talent and People," Immigration Policy Center, Volume 2, Issue 2, September 2003.

<sup>47</sup> Ibid.

<sup>48</sup> In a March 30, 2005 Policy Brief, Immigration Policy Center provided factual information to support the view that immigrants create jobs and that unemployed natives and immigrant workers often do not compete for the same jobs. The report also noted that over-reliance on temporary worker programs could prevent the upward mobility of immigrant workers whose earnings eventually equal or surpass those of native workers. "Essential Workers: Immigrants are a Needed Supplement to the Native-Born Labor Force," Immigration Policy Center, March 30, 2005.

<sup>49</sup> Patricia Maldonado, Maria Rodriguez, Priya Sampath and Elizabeth Tracy, "Immigration and Jobs in our Community," Human Services Coalition, 2004.

<sup>50</sup> Jeffrey S. Passel, "Estimates of the Size and Characteristics of the Undocumented Population," Pew Hispanic Center Report, March 21, 2005.

<sup>51</sup> Ibid.

<sup>52</sup> Jeffrey S. Passel, Randolph Capps, Michael E. Fix, "Undocumented Immigrants: Facts and Figures," The Urban Institute, January 12, 2004. <http://www.urban.org/urlprint.cfm?ID=8685>.

<sup>53</sup> <http://www.immigrationforum.org/pubs/articles/economy2001.htm>, November 30, 2001.

<sup>54</sup> U.S. Chamber of Commerce, "Immigration Facts: Essential Workers: Needed Workforce for the Future," January 2004.

<sup>55</sup> Stuart Anderson, "The Contribution of Legal Immigration to the Social Security System," National Foundation for American Policy, February 16, 2005.

<sup>56</sup> Nancy San Martin, "Legal immigrants could add to revenue," *The Miami Herald*, February 17, 2005.

<sup>57</sup> "September 11, One year later, state by state impact for 9/11," *GazetteNET*, September 8, 2002.

<sup>58</sup> On July 4, 2002, President Bush signed an executive order that made non-citizen soldiers serving on or since September 11, 2001, immediately eligible to apply for naturalization. "Bill seeks to eliminate citizenship obstacles for immigrant soldiers," *Associated Press*, March 17, 2003. Subsequently, the Natural Defense Authorization Act for fiscal year 2004 passed, providing favorable treatment under immigration and naturalization laws for those who chose to serve in the military as well as their families. Pub. L. 108-136 (24 Nov. 2003).

<sup>59</sup> U.S. Soldiers from Around the World, Immigration Policy Report: August 2002, updated March 2003; [http://www.aifl.org/ipc/policy\\_reports\\_2003\\_pr001\\_soldier.asp](http://www.aifl.org/ipc/policy_reports_2003_pr001_soldier.asp).

<sup>60</sup> Bob Simon, "The Death of Lance Cpl Gutierrez," *60 Minutes II*, August 20, 2003.

<sup>61</sup> Ibid.

<sup>62</sup> Paul Crespo, "Illegal immigration is a Threat," Op-Ed, *The Miami Herald*, August 20, 2003.

<sup>63</sup> National Poll: Americans Support Jobs, Legal Status for Undocumented Immigrants vs. Deportation, 61-36%, National Immigration Forum, January 27, 2005. The poll of 1,007 adult Americans was conducted January 12-16, 2005 and released by the *Washington Post* January 18. It has a margin of error +/- three percentage points. See also: <http://www.washingtonpost.com/wp-dyn/politics/polls/>.

<sup>64</sup> In a July 10, 2004 speech to the League of United Latin American Citizens President Bush said: "I proposed reforms that will match willing foreign workers with willing American employers when no Americans can be found to fill the jobs; a system that...will increase the number of men and women on the path to American citizenship." More specifically, President Bush's policy included the need to: create a new guest worker program for foreign nationals to work legally in the U.S. and then return home, expand legal immigration numbers to allow some of these workers to permanently remain in the U.S. (taking their place at the "back of the line"), and enhance immigration law enforcement.

<sup>65</sup> "Immigration Priority," Editorial, *The Miami Herald*, January 28, 2005.

<sup>66</sup> In early July 2004, the White House contacted Senate Majority Leader Bill Frist and asked him to ensure that the AgJOBS bill, a bipartisan bill sponsored by Republican Senator Larry Craig of Idaho which would permit some farmworkers to earn legalized status, could not be voted on as an amendment to the class action reform legislation. The President also failed to support the DREAM Act, another bipartisan bill that would allow many immigrant students to go to college or join the military. See e.g., "Deliver immigration reform, not empty words," Editorial, *The Miami Herald*, July 18, 2004; Herald Meyerson, "Bush's Retreat on Immigration Reform," *The Washington Post*, July 21, 2004; "A Stone Walled Migrant Bill," Editorial, *LA Times*, July 26, 2004; David Rogers, "Farmworkers Bill Becomes a Hot Potato," *The Wall Street Journal*, July 14, 2004; "President breaks immigration promise," *The Mercury News*, July 21, 2004.

<sup>67</sup> Robert Leiken, Director of the Immigration and National Security Program at the Nixon Center, September 2004.

<sup>68</sup> President George W. Bush, State of the Union Address, February 2, 2005.

<sup>69</sup> "Bush faces resistance on immigration," *The Associated Press*, December 25, 2004.

<sup>70</sup> Ibid.

<sup>71</sup> Holly Bailey and Daren Briscoe, "Crossing Over: Bush's Other Battle," *Newsweek*, February 7, 2005.

<sup>72</sup> Zach Fridell, "Many respondents believe immigration hurts U.S.," *The Times-Union*, March 5, 2005; Rafael Lorente and Ruth Morris, "Most in State Oppose Immigration Reform," *Fort Lauderdale Sun-Sentinel*, March 5, 2005. The poll was conducted by Maryland-based Research 2000 and surveyed 600 likely voters with a poll margin of error +/- four percentage points.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

<sup>75</sup> [www.flimen.org](http://www.flimen.org).

<sup>76</sup> Jeanne A. Butterfield, "Prospects for Immigration Reform in the 109th Congress," *AILA Dispatch*, January 2005.

<sup>77</sup> [www.ifa.de/ssg/1/pmartin.htm](http://www.ifa.de/ssg/1/pmartin.htm).

<sup>78</sup> Stephen Deere, "Jupiter split on growing population of immigrant day laborers," *South Florida Sun-Sentinel*, December 17, 2004.

<sup>79</sup> E-mail sent to Cheryl Little, Executive Director, FIAC, from Gloria Garcia, September 8, 2003.

<sup>80</sup> Ibid.

<sup>81</sup> These provisions would have accelerated the expedited removal of immigrants without hearings and made it easier to return people to countries where wholesale human rights violations are committed and there is no rule of law. It would also have made it more difficult for asylum seekers to prove their case, prevented States from issuing driver's licenses to undocumented immigrants, and prohibited federal agencies from accepting matricula cards (issued by consulates in the host nations) as valid identification.

<sup>82</sup> 150 Cong. Rec. H11028-29 (daily ed. Dec. 7, 2004); 150 Cong. Rec. S12020 (daily ed. Dec. 8, 2004). Included in this legislation was the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 (S.2536/H.R.5182), which strengthens protections for civil rights and liberties in DHS.

<sup>83</sup> Frank Davies, "Deportation rules stripped from intelligence bill," *The Miami Herald*, November 20, 2004.

<sup>84</sup> "Stop Effort to Enact Anti-Immigrant Wish List," Editorial, *The Miami Herald*, October 5, 2004.

<sup>85</sup> 151 Cong. Rec. H566 (daily ed. Feb. 10, 2005). The REAL ID Act of 2005 passed by a vote of 261-161, along party lines. FIAC opposes Sections 101 and 105 of the Act.

<sup>86</sup> Patrick O'Connor, "Sensenbrenner and Davis bills square off," *The Hill*, February 1, 2005; Dave Montgomery, "Bush backs denial of driver's IDs," *The Miami Herald*, February 10, 2005. Florida co-sponsors of the REAL ID Act of 2005 include Michael Bilirakis (9), Ginny Brown-Waite (5), Ander Crenshaw (4), Tom Feeny (24), Jeff Miller (1), Clay Shaw Jr (22) and Dave Weldon (15). On March 15, 2005, the House of Representatives attached the REAL ID Act to their emergency supplemental appropriations bill to fund relief for Tsunami victims and troops in Iraq. The Senate is scheduled to take up the issue in April 2005.

<sup>87</sup> On the same day that Congressman Sensenbrenner introduced his bill, Government Reform Committee Chairman Tom Davis (R-VA.) announced that he was also going to offer legislation with almost identical standards minus the controversial immigration provisions.

<sup>88</sup> "Urban Legends Should Not Guide Homeland Security Policy," Press Release, National Immigration Forum, January 12, 2005. "Proposals like the Sensenbrenner bill not only impose a lawful presence requirement in 50 states, but also limit the definition of 'Lawful Presence' to certain legal immigrants and exclude all others," the Alabama Latin American Association wrote to Congress in January 2005. "A federal law that creates a lawful presence requirement would require states to rewrite their laws to comply with federal law, reprogram their systems, and train staff to understand immigration documents. Errors will likely result as DMV personnel try to learn to interpret complicated immigration law provisions."

<sup>89</sup> Ibid. Florida co-sponsors of this bill include Michael Bilirakis (9), Ginny Brown-Waite (5), Ander Crenshaw (4), Tom Feeny (24), Jeff Miller (1), E. Clay Shaw Jr. (22), Dave Weldon (15).





## VII Conclusions and Recommendations

*"[FLORIDA]...is now a state where many of the social, political, economic and cultural trends that soon will reshape the country are arriving first... Florida is becoming more like the nation even as the nation is becoming more like Florida, an inevitable result when 89.5 percent of the state's growth is due to migration."*

David M. Shribman, Executive Director, *The Pittsburgh Post-Gazette*, April 2005

Following the tragic events of September 11, 2001, the U.S. government rightly took steps to increase our security. However, some of the measures that the government implemented to fight terrorism, particularly those that targeted immigrants and refugees, were misguided. They have failed to make us safer, undermined our fundamental civil liberties and hurt not only hardworking non-citizens with significant ties to the United States, but also individuals who themselves fled terrorist regimes.

President Bush challenged us to fix our "broken immigration system." His proposal has been criticized by those who believe it is not generous enough and those who believe it is too generous. Still, the President opened the door to the need for a long-overdue, frank discussion on a topic that has polarized our nation. FIAC believes that the President's proposal is incomplete, since its focus is on providing temporary work visas to immigrants, but also applauds it for providing an important opportunity for our nation's lawmakers to seriously consider the need for comprehensive immigration reform.

Past efforts at immigration reform have failed. For example, the Immigration Reform and Control Act of 1986 (IRCA) only took care of those applicants who had continuously resided in the United States prior to July 1,

1982; it did not include the three million unauthorized residents who were here for less than five years prior to IRCA's implementation in 1987. Despite an increase in the demand for foreign workers, those immigrants had no way to legalize their status and as a result went further underground. Laws passed in 1996 with the intent of targeting terrorists and preventing illegal immigration failed to do either, while harming countless immigrants with no ties to terrorism — many of whom were asylum seekers or lawful permanent residents with minor convictions.

The time has come for reality-based immigration reform for the 21st century that helps restore control of our borders, enhances our security and improves our economy. Comprehensive reform must include temporary and permanent legal channels that respond to the demands of the U.S. labor market and must protect the rights, wages and working conditions of both foreign-born and native-born workers.<sup>863</sup>

At least three million (out of 10 million) undocumented migrants — including roughly 850,000 in Florida — have lived in the United States 10 years or more; roughly half are children.<sup>864</sup> And most have what could be considered permanent jobs and qualify for immigration benefits they are unable to receive in a timely manner. (By the end of fiscal year

2003, over 1.2 million green card applications were pending).<sup>865</sup>

If past statistics are any indicator, those already in the United States without legal status are not going to leave any time soon, not even with a marked increase in DHS enforcement activities.<sup>866</sup> Between FY 1993 and FY 2004, the border enforcement budget grew from \$740 million to 3.8 billion and the size of the Border Patrol nearly tripled, yet the number of undocumented immigrants doubled during this time.<sup>867</sup> Mexican immigrants, who during the previous century would periodically return home following work in the United States, now simply remain here rather than risk having to again cross the border.

Current immigration policy fosters a shadowy black market, creates an ever growing undocumented population, encourages the widespread use of false documents, permits the exploitation of workers and all too often results in human tragedy (2,000 deaths at U.S. Mexican border in the past five years). While we clearly need to enforce our immigration laws, first we need immigration laws that can reasonably be enforced.

FIAC recognizes that our current immigration system is not meeting either our security or economic needs and that immigration reform can be a valuable tool in the war against terrorism. Comprehensive immigration reform that fixes our broken immigration system and makes immigration legal, safe and orderly, is necessary to enhance our security. Reform that respects the civil rights of immigrants and maintains essential protections and safeguards for refugees and asylum seekers is also necessary to honor our history as a nation of immigrants and refugees.

Any effort to achieve comprehensive immigration reform must be balanced with a commitment to enforcement measures that better protect our borders. We must ensure the careful scrutiny of those who cross our borders. By permitting those who are in the United States without legal documents to embark on a path to legal status and by controlling future immigration through legal channels, enforcement efforts could focus instead on

identifying those with true intent to do us harm.

FIAC firmly believes that it is possible to both protect our country and our American values and principles. We believe that the following recommendations would help us achieve this goal.

### **To The Administration and Congress:**

***Reach Out.*** Immigrants today feel that the welcome mat has been pulled from under them, driving further underground even those eligible for relief from deportation. By reaching out to immigrant communities, we recognize their invaluable contributions and we make our country safer by bringing immigrants out of the shadows, where they are invisible and untraceable.

- Immigration officials and local law enforcement should convey a message of welcome, tolerance and justice to immigrant communities.
- Law enforcement officials should clearly and publicly declare opposition to hate crimes and vigilante groups and vigorously prosecute criminal activity against immigrants.
- Law enforcement should work to build new relationships with Arab and Muslim Americans in order to better understand their communities and gain their trust.

***Reform.*** Comprehensive immigration reform that responds to demands of the U.S. labor market and respects family unity is an essential element in enhancing our national security. Providing hard-working immigrants already in the U.S. the ability to earn legalized status as well as providing sufficient channels for future immigration will enable the U.S. government to far more effectively screen immigrants. Smarter border and interior controls by way of legal migration and regulation will not increase the number of immigrants coming to the United States,

but it will increase the legality of the process. It would also significantly undermine the power of smugglers and unscrupulous employers who exploit immigrants.

- Congress should support an immigration system that is fair, orderly, and safe, that affords hardworking, tax-paying immigrants the opportunity to earn permanent, legalized status in the United States, allows those not currently in the United States to enter and leave lawfully in order to meet the demands of the U.S. labor force, and reduces the extraordinarily long backlogs in family-based immigration.
- Comprehensive immigration reform should respond to the demands of the U.S. labor market while enforcing tough labor laws that guarantee fair wages and good working conditions for all workers, including immigrants.
- Congress should adequately fund immigration programs that enable federal agencies in charge of immigration to function effectively. Adequate funding should include monies for border security initiatives and updated technologies, adequate training of officials with immigration duties, accurate databases and rigorous civil liberty protections.
- Congress and the Administration must direct more money to U.S. Consulates abroad so that these front-line agencies can better screen who enters the United States. According to the 9/11 Commission, the further away from our borders that screening occurs, the more secure we are.
- Congress should design and implement multi-lateral, “smart border” strategies for the sharing of intelligence to better regulate the flow of people and better target criminal smugglers.
- Congress should create an independent monitoring mechanism that directly engages immigrant communities in holding DHS accountable for its enforcement and detention policies.

***Refugee Protection.*** Security measures implemented in response to the September 11<sup>th</sup> terrorist attacks must not undermine the principle of refugee protection. However, the Department of Homeland Security (DHS) has adopted a restrictive parole policy for Middle Eastern and Haitian asylum seekers that does just that. Policies that restrict the rights of refugees from a particular region are discriminatory and unfair.

- The mandatory detention and expedited removal of all asylum seekers (except Cubans) who reach our shores by boat is shortsighted and unfair.
- The United States must ensure that all asylum seekers have a full and equal opportunity to pursue their claims. This principle must apply to all groups, regardless of national origin, religion, race, or ethnicity.
- DHS should make essential improvements and implement quality control measures to ensure that asylum seekers are not turned away in error under the expedited removal process and to make clear that airport statements are not official transcripts.
- Border Patrol agents, who do not receive training regarding basic human rights conditions in countries from which refugees flee, should not have the authority to expeditiously remove asylum seekers who attempt to enter the United States.
- DHS should not detain asylum seekers in jail-like facilities.
- DHS should develop and rigorously apply clear criteria to distinguish legitimate asylum seekers from those individuals seeking to enter the United States for other reasons. Such criteria must be applied in a transparent manner and any asylum seeker who is denied parole must be given a full opportunity to appeal the denial.
- DHS should promulgate regulations to ensure that asylum seekers who meet the relevant parole standards, including proof of identity and not a security risk, are released



from detention.

- DHS must take steps to ensure that asylum seekers from all regions of the world are able to access the legal services necessary to pursue their asylum claims. Such legal services have been particularly lacking for asylum seekers from the Middle East and Haiti.
- DHS should work with the Executive Office for Immigration Review to expand legal orientation programs, Know-Your-Rights presentations and other access to counsel.
- DHS should create an office, headed by a high-level official, to address and coordinate asylum issues.

***Families and Children.*** Family members who arrive in the United States together are often separated in detention, violating the principle of family unity and causing family members severe trauma. Because DHS operates only one family shelter facility nationwide, there is an insufficient number of bed spaces to accommodate the number of families detained. Children are often unable to show proof of age and even when they do the government sides with what many argue are faulty techniques that disprove they are minors.

- Families should be released from detention whenever possible.
- When detention is absolutely necessary, family members should remain together.
- Unaccompanied minors should not be in detention. Dental and X-ray exams should not be used as the sole means to determine a young person's age; other evidence should also be considered and the benefit of the doubt be given to the child.
- DHS should discontinue the use of hotels for housing children and families and provide appropriate facilities for families that allow for normal family interaction.
- DHS should overhaul its detention policies for children and ensure that the best interests

of children are paramount when placement decisions are made. Such placements must preserve the principle of family unity and ensure that children have full access to legal services, education, physical and mental health care, and recreation.

***A National Problem.*** Immigration officials across the country have failed to meet the needs of asylum seekers, frequently detaining them unnecessarily and subjecting them to poor living conditions (problems in the Miami District have been particularly chronic and widespread). These problems are attributable to DHS's failure to centralize and monitor its detention program. Too much detention authority is delegated to district offices.

- DHS must ensure full compliance with its detention standards at all facilities housing immigration detainees. DHS should incorporate these standards, which are currently non-binding, into regulation, to ensure their implementation.
- At a minimum, DHS must implement its interim regulation clarifying that high-level immigration officials have the authority to override district decisions denying parole to asylum seekers.
- DHS headquarters must retain management of and vigorously exercise oversight over detention centers.

***Closed Hearings.*** Secret, closed hearings with little or no judicial oversight undermine our basic constitutional rights.

- All immigrants arrested by DHS should be afforded basic due process.
- DHS should reaffirm that immigration proceedings are presumptively open to the public. There should only be limited exceptions for discrete portions of hearings to preserve the confidentiality of asylum applications, or when necessary to protect national

security by preventing the disclosure of classified information or the identity of a confidential informant. Decisions to close any immigration-related hearing, or any portion thereof, should only be made on a case-by-case basis by a judge.

- Detentions for immigration violations should have reasonable time limits, to be extended only in exceptional cases, on a case-by-case basis and with judicial review.
- Closed immigration hearings and the use of secret information to detain and deport individuals should not occur without judicial oversight.
- DHS should establish a firm requirement that a non-citizen be charged within 48 hours of his arrest or detention. Where a charge cannot be levied within the 48 hour period, the non-citizen should be brought before a judge for determination of whether there exists a legitimate exception for limited continued detention without charge.
- DHS should prohibit blanket orders of detention or removal or arbitrary extensions of the removal period. If DHS or any other agency seeks the detention of a non-citizen under the immigration laws based upon possible associations with terrorism, it must follow those procedures set forth in the Patriot Act or present evidence to the judge establishing either danger of flight or danger to the community specific to that individual.

***Shared Responsibility.*** Immigration detention has grown too quickly for those in charge to exercise adequate control and oversight. While immigration officials have often interpreted their detention authority under U.S. immigration and asylum law in the harshest manner possible, Congress also shares responsibility for a detention policy that is overly broad and inhumane and represents an extraordinary expense to U.S. taxpayers.

- Congress should redress the detention provisions of the Illegal Immigration Reform

and Immigration Responsibility Act of 1996 and restore a state of rationality and respect for human rights to U.S. detention policy.

- Congress should statutorily mandate a parole policy for asylum seekers to ensure that U.S. detention policy complies with international law and demonstrates a basic sense of compassion toward individuals forced to flee their homelands to escape human rights abuses.
- Congress should shift the authority to make parole decisions from the immigration districts to an objective decision-making body, such as the Justice Department's Asylum Corps.
- Congress should mandate the development of regulations to address conditions of detention.
- Congress should redress their authorization of 40,000 additional new detention beds.

***Effective Enforcement.*** Some current enforcement activities do little to combat terrorism, yet cause great harm to tens of thousands of innocent immigrants. All too often, flawed immigration records result in wrongful arrests. Heavy-handed measures such as the Special Registration Program, Operation Liberty Shield, Operation Compliance, Operation Endgame and the proposed CLEAR Act drain precious resources by targeting the wrong people.

- DHS should stop the expansion of immigration detention, including measures such as Operation Liberty Shield, Operation Endgame and Operation Compliance.
- Groups should not be singled out for special discriminatory treatment based solely on their national origin.
- Before implementing law enforcement programs targeting immigrants, such as the Special Registration Program, the public must be afforded a meaningful opportunity to comment.

- Details of enforcement programs such as the Special Registration Program need to be clearly explained to participants and uniformly applied. Adequate written and oral translation services must be provided to participants at DHS offices and immigrants being questioned at those locations should be granted the right to an attorney.
- Border Patrol should never engage in the racial profiling of immigrants and should ensure that all immigrants in their custody are afforded due process, including adequate translation of any documents they are asked to sign.
- The burden to apprehend and arrest immigrants for civil immigration violations should not shift from immigration officials to state and local police who are already overworked and without adequate resources.
- The federal government should not require state and local police to enforce federal immigration laws.
- The United States government should retain exclusive federal jurisdiction over civil immigration matters.
- Lawmakers at all levels should end all policies that unfairly punish and criminalize immigrants for civil law violations.
- Immigrants targeted in immigration sweeps and detained for civil immigration violations should be afforded due process and granted the right to an attorney and a fair opportunity to challenge their removal.
- DHS should have the necessary tools and funding to carry out adjudications, to properly protect our borders, to staff and train all officials who carry out U.S. immigration law.
- DHS should make it a priority to ensure accurate, updated databases and should have the necessary resources to do so.

## **To State and Local Officials in Florida:**

***Deputizing Florida Police to Act as Immigration Agents.*** The federally-approved deputization of FDLE Cross-Designated Officers to act as immigration agents in select cases as an anti-terrorism measure is fundamentally flawed. Officers with only a token six-week training period are ill-prepared to understand the complexities of immigration law. This leads to their pursuing immigrants with no connection to terrorism. Also, blurring the distinction of a policeman's role further alienates and isolates Florida's immigrant community, which risks results that run contrary to those the government hoped such a program would accomplish.

- FDLE's Cross-Designated officers should stop pursuing special investigations unrelated to terrorism.
- Cross-designated Officers should be adequately trained to properly understand the nuances and complexities of complicated immigration laws.
- FDLE should clearly and publicly implement fair grievance procedures so that those who believe their rights have been violated can register a complaint.

***Police Cooperation with Immigration Officials.*** Some local police in Florida are routinely turning over to the Border Patrol immigrants they suspect of being in the United States unlawfully. This practice, based on racial profiling, is driving immigrants further underground, tearing families apart, and causing far more harm than the alleged infractions they are intended to address. This practice has drawn sharp opposition from many police departments, which fear irreparable damage to the delicate relationship between police and immigrant communities and the undermining of effective law enforcement.

- Florida police should not apprehend and arrest immigrants for violations of civil immigration law.
- Florida police should not engage in racial profiling.

### ***Detention and Legal Representation.***

The Miami District of ICE continues to utilize detention facilities that are grossly inadequate for the care and housing of asylum seekers, including women and children.

- DHS should work with local and national social service agencies to implement a supervised release program and to open shelter care facilities that can accommodate the needs of asylum seekers and ensure a humane living environment.
- Florida immigration officials should ensure that legal service providers have full access to their detained clients, in keeping with principles of due process. This includes full cooperation with pro bono programs—such as FIAC—with expertise in asylum and immigration law.
- Miami immigration officials should return to their prior parole policy favoring release of asylum seekers who have established a credible fear of persecution in their home countries, regardless of nationality, race, ethnicity, or religion.

***Driver's Licenses.*** Florida lawmakers should resist driver's license laws that do little to combat terrorism yet cause undue hardship for hundreds of thousands of Florida's immigrants. Public safety is enhanced when all of Florida's resident drivers are tested, know the rules of the road and purchase insurance, allowing Florida DHSMV to live up to its motto of "Making Highways Safe." Public safety is also enhanced when we maximize the number of Florida residents who hold valid, official documentation.

- Florida should enact a sensible driver's license policy that allows residents, regardless of immigration status, to obtain driver's

licenses and state identification cards under a policy that addresses security, fraud prevention, and highway safety.

- Florida should implement anti-fraud measures such as increased penalties for purchasing or selling fraudulent documents.
- Florida Department of Highway Safety and Motor Vehicles should accept available documents – both domestic and foreign – that prove identity and have security features.
- Florida state officials should collaborate with foreign governments to obtain information and training on consular identification cards and birth certificates.
- Sufficient resources are needed to train Florida's Department of Motor vehicle staff so they can more efficiently and effectively provide services to immigrants.

***Electronic Monitoring Devices.*** The use of Electronic Monitoring Devices (EMDs) is a drastic step backward from the release policy that has been routinely applied to the majority of low-risk asylum seekers in Florida. Tethering devices are being used not as an alternative to detention but as an alternative to parole.

- DHS should not use EMDs for low-risk asylum seekers who have not committed a crime and have simply come to the United States in search of protection. Those persons should be paroled. EMDs should only be used for certain categories of persons who are subject to mandatory detention and would otherwise remain in secure custody. Persons who are not mandatorily detained and have minor criminal records should be considered for release under the "Alternatives to Detention" program.
- Miami immigration officials should provide clear written and oral guidelines about the "Alternatives to Detention" program in the participant's native language prior to release.
- Miami officials should document all instances in which it claims participants have violated



the terms of their release. Those accused of violations should be provided a copy of their alleged violations and have a full and fair opportunity to appeal before being re-detained.

- Miami officials should be more flexible regarding restricted hours away from home and should make exceptions for bona fide emergencies such as funerals.

***False Documents.*** It is well documented that obtaining false documents is often an asylum seekers only means of escape. The policy of arresting on federal charges such

immigrants, as has been implemented by the Miami U.S. Attorney's office, violates the spirit of our country's asylum laws and is a waste of resources.

- Asylum seekers who arrive with false documents but who are able to establish a "credible fear" of persecution upon return to their homelands should not be criminally charged.
- Criminal prosecution should be reserved for terrorists, smugglers and others intending to do us harm, not genuine refugees and asylum seekers.

## The America I Believe In

by Colin Powell



Nubar Alexanian

Colin Powell spent 35 years in the military, rising from ROTC in college to become a four-star general and chairman of the Joint Chiefs of Staff during the 1991 Gulf War. He has worked in the administrations of six presidents including serving as secretary of state from 2001 to 2005.

*"I believe that our greatest strength in dealing with the world is the openness of our society and the welcoming nature of our people."*

Morning Edition, April 11, 2005 –

I believe in America and I believe in our people.

Later this month, I will be participating in a ceremony at Ellis Island where I will receive copies of the ship manifest and the immigration documents that record the arrival in America of my mother, Maud Ariel McKoy, from Jamaica aboard the motor ship Turialba in 1923. My father, Luther Powell, had arrived three years earlier at the Port of Philadelphia.

They met in New York City, married, became Americans and raised a family. By their hard work and their love for this country, they enriched this nation and helped it grow and thrive. They instilled in their children and grandchildren that same love of country and a spirit of optimism.

My family's story is a common one that has been told by millions of Americans. We are a land of immigrants: A nation that has been touched by every nation and we, in turn, touch every nation. And we are touched not just by immigrants but by the visitors who come to America and return home to tell of their experiences.

I believe that our greatest strength in dealing with the world is the openness of our society and the welcoming nature of our people. A good stay in our country is the best public diplomacy tool we have.

After 9/11 we realized that our country's openness was also its vulnerability. We needed to protect ourselves by knowing who was coming into the country, for what purpose and to know when they left. This was entirely appropriate and reasonable. Unfortunately, to many foreigners we gave the impression that we were no longer a welcoming nation. They started to go to schools and hospitals in other countries, and frankly, they started to take their business elsewhere. We can't allow that to happen. Our attitude has to be, we are glad you are here. We must be careful, but we must not be afraid.

As I traveled the world as secretary of state, I encountered anti-American sentiment. But I also encountered an underlying respect and affection for America. People still want to come here. Refugees who have no home at all know that America is their land of dreams. Even with added scrutiny, people line up at our embassies to apply to come here.

You see, I believe that the America of 2005 is the same America that brought Maud Ariel McKoy and Luther Powell to these shores, and so many millions of others. An America that each day gives new immigrants the same gift that my parents received. An America that lives by a

Constitution that inspires freedom and democracy around the world. An America with a big, open, charitable heart that reaches out to people in need around the world. An America that sometimes seems confused and is always noisy. That noise has a name, it's called democracy and we use it to work through our confusion.

An America that is still the beacon of light to the darkest corner of the world.

Last year I met with a group of Brazilian exchange students who had spent a few weeks in America. I asked them to tell me about their experience here. One young girl told me about the night the 12 students went to a fast food restaurant in Chicago. They ate and then realized they did not have enough money to pay the bill. They were way short. Frightened, they finally told the waitress of their problem. She went away and she came back in a little while saying, "I talked to the manager and he said, 'It's ok.'" The students were still concerned because they thought the waitress might have to pay for it out of her salary. She smiled and she said, "No, the manager said he is glad you are here in the United States. He hopes you are having a good time, he hopes you are learning all about us. He said it's on him."

It is a story that those young Brazilian kids have told over and over about America. That's the America I believe in, that's the America the world wants to believe in.

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<sup>863</sup> According to the Pew Hispanic Center, in 2001 undocumented workers comprised about 58 percent of the U.S. labor force in agriculture, 24 percent in private household services, 17 percent in business services, 9 percent in restaurants and 6 percent in construction. Hundreds of thousands of U.S. jobs are sustained through the purchasing power of undocumented immigrants. For a comprehensive review of U.S. policies regulating immigration to the United States, see generally Walter A. Ewing, Ph.D., "From Denial to Acceptance: Effectively Regulating Immigration to the United States," *Immigration Policy in Focus*, Volume 3, Issue 5, November 2004.

<sup>864</sup> Office of Policy and Planning, U.S. Immigration and Naturalization Service, 2003. For a more comprehensive look at our country's undocumented population see Jeffrey S. Passel, "Estimates of the Size and Characteristics of the Undocumented Population," Pew Hispanic Center Report, March 21, 2005.

<sup>865</sup> Testimony of Demetrios G. Papademetriou, Senate Hearing on "Evaluating a Temporary Guest Worker Proposal," February 12, 2004.

<sup>866</sup> Even if two-thirds of this population participated in President Bush's guestworker program; even if all the program's participants left within six years; even if DHS could remove 500 unauthorized residents a day; and even if not one new immigrant arrived illegally for the next two decades—it would still take nearly 20 years and billions of dollars to deport the remaining 3.5 million. Testimony of Dr. Demetrios G. Papademetriou, Senate Hearing on "Evaluating a Temporary Guest Worker Proposal," February 12, 2004.

<sup>867</sup> Walter A. Ewing, Ph.D., "From Denial to Acceptance: Effectively Regulating Immigration to the United States," *Immigration Policy in Focus*, Volume 3, Issue 5, November 2004.