



The Rights of Immigrants in New Jersey



A Report by the American Civil Liberties Union of New Jersey

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RIGHTS AND RESTRICTIONS: AN OVERVIEW

Why do people come to the United States as immigrants? They come for the same reasons people have come over the centuries, since the Pilgrims landed at Plymouth: to flee political oppression or religious persecution, to live in a free society, to escape personal danger and to provide better futures for their children. Many of us are only one or two generations from immigrants. Think of why your ancestors came to this country and you'll know why so many people are still drawn to the American dream.

Today, the word "immigrant" carries many different meanings. It can mean a citizen who was born abroad, a permanent legal resident or an asylum-seeker. It can mean someone who has

entered the country legally but overstayed a visa, or someone who slipped over the border. When we talk of "immigrants," we sometimes forget that while there are "undocumented" immigrants -- people who are here without legal authorization -- there are many others who have every legal right to live and work here.

“Even U.S. citizens have been wrongfully deported.”

Why do people come or stay here illegally? Illegal immigration has many causes. Some causes originate in other countries -- discrimination, oppression and poverty drive people to leave their homelands. Other causes arise here in the United States, such as our economy's need for low-skilled workers that would otherwise be unmet. The United States has failed to provide ways for

people already here to move toward legal status and citizenship. As a result, the numbers of undocumented immigrants have increased. Regardless of why so many people have come to this country, the reality is that millions of undocumented immigrants live here. Many have lived here for decades, have paid taxes, have had children who are U.S. citizens and contribute productively to their communities. Most immigrants want to be citizens.

The Rights of Immigrants

Throughout its history, the United States has stood as a beacon for people seeking freedom and a new start for themselves and their children. Yet a disturbing parallel history exists as well: singling out and scapegoating new immigrants, especially during times of economic hardship, political turmoil and war. These troubling attitudes reemerged across the country in the aftermath of tragic terrorist attacks of September 11, 2001. New Jersey -- one of the most religiously and ethnically rich states in the nation, as well as the most densely populated -- has been at the fore.

All of us recognize the national security need for the government to monitor our borders. But as our country considers the treatment of immigrants already here, a fundamental principle should guide the process: The power to exclude and deport must be consistent with constitutional norms and exercised fairly and humanely. The principles of freedom, justice and equality have drawn millions to our shores over two centuries, and they should be upheld once people are here.

All immigrants, including undocumented immigrants, have certain inalienable rights. The U.S. Supreme Court has made it clear that the



Photo by Jim Winstead

protections afforded U.S. citizens under the Bill of Rights apply to all people in the United States, regardless of immigration status. Immigrants are entitled to freedom of speech and assembly, freedom of religion and equal protection under the law. They have the right to a hearing that meets due process standardsⁱ before being deported, the right to be free from arbitrary detentionⁱⁱ and the right to be free from discrimination based on race and national origin. Immigrants are also entitled to fair wages and treatment in the workplace, including overtime pay and workers' compensation if injured on the job.

Restrictions on Immigrants' Rights

Over the past dozen years, the United States has enacted laws to broaden the grounds for deporting longtime lawful permanent residents to include minor criminal offenses, to permit the use of secret evidence in deportation hearings against

individuals alleged to threaten national security and to sharply curtail judicial review. The law also now authorizes "expedited removal" for individuals arriving in the United States without proper documentation. This means that people seeking political asylum and fleeing oppression in their home countries can find themselves either immediately deported or incarcerated upon arrival in the United States.

The U.S. Immigration and Custom Enforcement (ICE) detains over 300,000 men, women and children for violating immigration laws each year,ⁱⁱⁱ placing them in jails and detention centers even though immigration violations are civil -- not criminal -- offenses. Ironically, immigrants are not given the same access to legal representation and due process afforded to criminals.

Even U.S. citizens have been wrongfully deported. For example, Pedro Guzman, a mentally impaired U.S. citizen born and raised in California, was illegally deported in 2007 to Mexico after he was arrested and jailed in Los Angeles on misdemeanor charges. Under a pilot program to identify inmates suspected of immigration violations, Los Angeles Sheriff's Department employees turned Guzman over to ICE. A lack of basic due process safeguards led to Guzman's illegal deportation; he wandered the streets of Tijuana for three months, begging for food and eating from trash cans to survive.^{iv}

While immigration enforcement is strictly a federal responsibility, the U.S. government sometimes deputizes state and local police to enforce immigration laws.^v Often untrained for the task, local police have made mistakes, including targeting U.S. citizens in nighttime raids.^{vi} Such actions erode community support and trust of local police.

RIGHTS AND RESTRICTIONS: AN OVERVIEW

A History of Struggle

Economic stress, ethnic animosity and political turmoil have contributed to feelings of hostility toward immigrants for centuries.

1840s – 1850s During the economic depression in this period, mobs hostile to immigrant Irish Catholics burned down a convent in Boston and rioted in Philadelphia. Members of the Know-Nothing movement in the 1850s targeted immigrants and Catholics. In Newark, a religious statue at St. Benedict's Preparatory School still bears the marks of a Know-Nothing attack aimed at German immigrants.^{vii}

1882 – A generation later, Congress passed the first significant law restricting immigration into the United States, the 1882 Chinese Exclusion Act, which suspended Chinese immigration for 10 years and declared the Chinese ineligible for naturalization.

1924 – The Immigration Act of 1924 established quotas based on the 1890 census, severely restricting immigration from Southern and Eastern Europe and effectively quashing immigration from Japan by banning the entrance of aliens ineligible for U.S. citizenship.

1930s – The United States government forced repatriation of Mexicans.

1941 – Following Japan's attack on Pearl Harbor, the U.S. government forced over 120,000 people of Japanese descent into internment camps. Two-thirds of those taken from their homes to be held in desert camps were American citizens.^{viii} The U.S. government tried to justify the internment with espionage concerns, yet not one of those interned was ever charged with spying.

1954 – Mexican immigrants in the Southwest were targeted in the federal "Operation Wetback" program.

1996 – Two statutes -- the Anti-terrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) -- have resulted in harsher treatment of immigrants, including deportation of legal permanent residents for relatively minor criminal offenses.

2001 – The fear and ethnic tension after the September 11 terrorist attacks rekindled a backlash against immigrants. As in earlier periods of anti-immigrant hostility in America, the post-September 11 period has included police roundups and detentions, often driven by racial profiling,^{ix} as principal tactics to enforce immigration laws.

A New Jersey Perspective

New Jersey has the third largest immigrant population in the country, based on the U.S. Census Bureau's 2006 American Community Survey, with approximately 20.1 percent of its inhabitants foreign born.^x In many counties, the proportion of immigrants is even higher; nine New Jersey counties were in the Census Bureau's

ranking of the 100 counties with the highest number of immigrants. Hudson County has the third highest number of immigrants of counties in the United States, with 40.5 percent in 2006.^{xi} Other New Jersey counties follow closely behind. As reported in the 2002 Census Bureau American Community Survey, Passaic County's immigrants made up 28.4 percent of the population,^{27.6}

percent in Union, 27.4 percent in Bergen, 25.3 percent in Middlesex, and 21.7 percent in Essex.^{xii} Some are immigrants with permanent resident status, such as spouses of U.S. citizens. Others arrived through employer sponsorship. New Jersey is also home to refugees and persons who have been granted asylum.^{xiii} There are also an estimated 429,000 undocumented immigrants in New Jersey who do not have legal status.^{xiv} In its 2006 American Community Survey, the Census Bureau estimated New Jersey was home to 1,754,253 foreign-born residents.^{xv}

New Jersey's large immigrant population has experienced some fallout from the anti-immigrant climate in the country.

- Shortly after the September 11 attacks, New Jersey established new rules for driver's licenses that imposed significant barriers for immigrants, many of whom need to drive to work.
- Latino day laborers have become targets of harassment and, in some cases, local measures to prevent them from gathering to seek work (Freehold, Bergenfield, Summit and Morristown).
- Immigration raids, sometimes conducted with the collaboration of local police, have torn families apart. In April 2008, Seton Hall Law School's Center for Social Justice and the Roseland, NJ, law firm Lowenstein Sandler sued Immigrations and Customs Enforcement for conducting warrantless raids across New Jersey, employing trickery and force to enter homes.^{xvi}
- Media reports have documented abuse in New Jersey immigration detention facilities.

On any given day in our state, over 1,000^{xvii} immigrants remain behind bars solely based on

their immigration status. The Elizabeth Detention Center, a grim, austere warehouse run by a private contractor and located in an industrial section of the city, houses 300 such detainees, sometimes for up to two years.^{xviii} Some of these detainees asked for political asylum on their arrival at Newark Liberty International Airport but instead found themselves in expedited removal proceedings.^{xix}

The county jails in Bergen, Hudson, Middlesex, Monmouth, Passaic and Sussex counties all have entered into contracts with the Department of Homeland Security to house immigration detainees, with problems reported in several facilities. Passaic County Jail was notorious for overcrowding and systemic abuse of immigrant detainees, including beatings, attack dogs, neglect and squalid conditions. It was the focal point of two separate federal investigations. After protests, criticism and media coverage, the Passaic County Jail stopped housing immigration detainees.^{xx}



Photo by Jim Winstead

THE RIGHTS OF IMMIGRANT WORKERS IN NEW JERSEY

Many immigrants in New Jersey are legally authorized to work, including green card holders, individuals who have obtained asylum, persons with “Temporary Protected Status,”^{xxi} individuals with pending applications to adjust their status and others. These individuals are entitled to all the rights and protections afforded U.S. citizens in the workplace.

Undocumented workers also have rights under federal and state laws. These rights include the right to be paid for work, the right to be free from discrimination in the workplace based on race, national origin, gender or religion and the right to be safe on the job.

The Special Plight of Undocumented Workers

Even though state and federal labor laws protect workers regardless of immigration status, for undocumented workers, enforcement is another matter. Undocumented workers are often reluctant to complain about rights violations, fearing that

their employers will report them to ICE for deportation. Some employers hold this possibility over their employees’ heads and use it to control and exploit them. Consequently, for practical purposes, these workers exist outside the protections of labor law.

Living in the shadows leaves undocumented

immigrants vulnerable to other forms of exploitation. Low earnings force many to share overcrowded and sometimes unsafe housing. Landlords motivated by profit willingly rent out apartments to multiple tenants, turning a blind eye to housing code violations.^{xxii} Efforts to combat overcrowding typically target the victims -- the tenants -- and not the landlords, where responsibility should lie.

Undocumented workers are also vulnerable to crime. They are generally paid in cash and leave work carrying their day’s wages. Their assailants are well aware that they will be reluctant to turn to the authorities for help. In Plainfield, New Jersey, a string of violent attacks against Hispanic men (one attack left its victim partially paralyzed) in 2004 illustrated this disturbing trend.^{xxiii}


The Special Circumstances of Migrant, Seasonal and Day Laborers

New Jersey’s substantial agricultural industry -- totaling over \$850 million in 2005^{xxiv} -- has long drawn migrant, seasonal and day laborers to our state. Particularly in the southern part of the state,^{xxv} many work under substandard conditions for unfair wages. By law, they are entitled to better treatment.

Migrant workers are defined as people who leave their homes to live on their work sites. Seasonal workers may labor on farms during certain times of the year, without necessarily living there, or they may be day laborers looking for short-term employment.^{xxvi} Under the Migrant and Seasonal Agricultural Worker Protection Act, migrant and seasonal workers have rights regardless of their immigration status.



Photo courtesy of South Central Federation of Labor of Madison, Wisconsin



Day laborers typically gather at designated sites where contractors pick them up to work for the day. These sites, sometimes called “muster zones,” have been a target for residents, business owners and town officials who dislike them. As the number of day-laborer gathering sites has multiplied, so too has the friction. Conflict between day laborers and communities has been reported in many New Jersey towns, including Morristown, Newark, Orange, Palisades Park, Passaic, Summit and, most notably, Freehold.

In Freehold, borough officials passed an ordinance barring workers from gathering at a hiring site. Signs posted in English and Spanish warned that anyone gathering would be arrested, fined and reported to the Department of Homeland Security, a threat that substantially raised the stakes by associating day laborers with terrorism. Only after a lawsuit was filed challenging the ordinance on First Amendment grounds did the Borough of Freehold agree to repeal the ordinance.

Some towns, such as Austin, Texas, and Glendale, California,^{xxvii} have addressed the issue constructively by creating hiring halls or worker centers where workers can gather freely and safely to look for work.

Day laborers also are often underpaid or not paid at all for their work. It is not uncommon, for instance, for a contractor to promise payment at the end of a job, but then simply disappear come payday. The workers have no real recourse.

ACLU-NJ's Fight for the Rights of Immigrant Workers in New Jersey

The ACLU-NJ works to protect the rights of vulnerable immigrants in the workplace. The

ACLU-NJ has settled three federal lawsuits against restaurants that have exploited immigrant workers.

- One suit charged that the Rainbow Buffet restaurant in Fairview, Bergen County, deprived two immigrant waitresses of wages and tips and subjected them to physical and emotional abuse. The ACLU-NJ sought to recover all unpaid wages and overtime in addition to compensatory and punitive damages, and the clients won a favorable settlement in May 2006.
- The ACLU-NJ represented three immigrant women against King Chef Restaurant in Wayne, Passaic County, and won a settlement. In violation of labor laws, King Chef had withheld their wages, forced them to pay kickbacks and skimmed their tips. The court ruled in favor of the three immigrant employees.
- The ACLU-NJ, with the help of the Civil Litigation Clinic at Seton Hall University School of Law, settled a lawsuit on behalf of an Ethiopian woman who was brought to the United States and forced to work without pay as a live-in domestic and child-care worker for a New Jersey couple. We argued that this arrangement violated her rights to be free from enslavement, unfair labor practices and trafficking in persons.

The ACLU-NJ also participates in coalitions to promote the rights of immigrant workers by educating the public and advocating on behalf of immigrants. These efforts foster greater understanding of the difficulties faced by such workers. Information about other ACLU-NJ cases related to immigrants in New Jersey can be read at www.aclu-nj.org

IMMIGRANTS' ACCESS TO DRIVER'S LICENSES

In the flurry of policies introduced after the September 11 attacks, among the first items were laws to restrict immigrants' access to driver's licenses.

Security experts and civil libertarians oppose these measures, arguing that restricting access to driver's licenses makes our roads less safe, results in increased document fraud and does little to protect national security.

However, proponents of these measures were concerned that some of the September 11 hijackers – 17 of whom were in this country legally -- had state-issued driver's licenses.” They argued that restrictions on immigrants' access to driver's licenses would help prevent future terrorist attacks, despite their shortcomings.

So, in 2003, New Jersey changed its laws to require that applicants prove they are in the country legally and to set immigrants' licenses to expire when their visas expire.^{xxviii}

Currently, under New Jersey law:

- Driver's license applicants must prove that they are in the United States with lawful immigration status; undocumented immigrants cannot obtain driver's licenses.
- New Jersey's new six-point identity system requires drivers to present a combination of identification documents.
- Immigrants are issued a driver's license with a “temporary visitor” notation that must be renewed each time the immigrant's visa expires. Depending on the length and status of their visas, some drivers would have to go through the ordeal of renewing their licenses after as little as 3 months.



Photo by Aaron Donovan

The restrictions on driver's licenses issued to immigrants in New Jersey impose a significant burden, and the “temporary visitor” notation exposes many immigrants seeking employment, housing and medical care to discrimination.^{xxix}

Our View

Barring undocumented immigrants from getting driver's licenses is dangerous public policy. It increases the number of unqualified and uninsured drivers on our roads. Driver's licenses ensure that people can operate motor vehicles safely. Turning them into immigration documents jeopardizes our public safety. People who cannot get a driver's license will not necessarily stop driving.

Bad Policies, Dangerous Roads

Moreover, drivers without licenses cannot get auto insurance and are more likely to flee accidents. Increasing the number of unqualified and



uninsured motorists on our roads is a recipe for more accidents, injuries and deaths. A report by the AAA Foundation for Traffic Safety, “Unlicensed to Kill,” found that unlicensed drivers are almost five times more likely to be in a fatal crash than are licensed drivers.^{xxx}

The experience of the handful of states that issue driver’s licenses to undocumented immigrants is instructive. New Mexico saw the percentage of its uninsured drivers drop from 33 percent in 2002, before immigrants could receive driver’s licenses, to 10.6 percent in 2007.^{xxxi} Utah also saw its rate of uninsured drivers fall after passing a law to issue driver’s licenses regardless of immigration status, and the state’s rates of fatal accidents fell as well.^{xxxii}

Making Ourselves Vulnerable

Every state has an interest in confirming the identity of licensed drivers. However, proving one’s identity is different from proving one’s immigration status. Many of our state’s undocumented immigrants could in fact prove their identity through legitimate documents such as foreign passports, consular identity cards or other verifiable documentation.

Barring use of legitimate identity documents creates conditions for a black market in false documents. Making a driver’s license tantamount to proof of legal status inflates the value of a license and creates incentives for fraud.

For example, in July, 2003, two Department of Motor Vehicles employees in Virginia were indicted for selling more than 1,000 fraudulent driver’s licenses for between \$800 and \$2,000 apiece.^{xxxiii} Similar instances have occurred in New Jersey. One New Jersey Motor Vehicles Commission

employee was charged with conspiring to commit document fraud at the Mount Holly Motor Vehicle Commission facility when she and an unnamed conspirator made at least 13 fake licenses and sold them for up to \$3,000 each.^{xxxiv}

The 9/11 Commission, established to investigate facts and circumstances relating to the terrorist attacks of September 11, stressed the importance of standards for issuing driver’s licenses, but it did not recommend denying licenses based on immigration status or rejecting reliable foreign documents as acceptable proof of identity. The report emphasized the overarching importance of intelligence gathering and information sharing in preventing terrorist acts -- goals that are actually undermined by denying millions of people legitimate forms of identification and pushing them into the shadows.

“Barring undocumented immigrants from getting driver’s licenses is dangerous public policy.”

Our View

The ACLU-NJ believes restricting driver’s licenses does more harm than good. Rather than restricting undocumented immigrants’ access to driver’s licenses, New Jersey should follow the lead of other states, such as New Mexico, and implement a program that would allow all residents to be insured, licensed drivers. This would better protect public safety and strengthen the work of law enforcement.

FEDERAL IMMIGRATION LAW: THE ROLE OF STATE AND LOCAL POLICE

The U.S. Constitution grants Congress the power to establish a “uniform rule of naturalization,” but is otherwise silent on immigration policy.^{xxxv} Although the Supreme Court has long interpreted this provision to mean that Congress has “plenary power” over immigration policy, it has also required our immigration laws be consistent with principles of due process. Immigration laws are spelled out in the federal Immigration and Nationality Act (INA). Each time Congress adds a new immigration law, it amends the INA to include the new provisions. Immigration laws are enforced by agents of Immigration and Customs Enforcement and U.S. Customs and Border Protection (CBP), both of which are now within the federal Department of Homeland Security.

Violations of immigration law -- arriving in the United States without proper documentation, being in the United States without authorization or overstaying a visa -- violate civil, not criminal, law.

State v. Federal: Who Enforces?

The duty of state and local police is to protect and serve the people in their communities (regardless of immigration status) by enforcing criminal laws. State and local police departments generally do not have the authority to enforce immigration law, except in limited circumstances when they enter into agreements with

the Department of Homeland Security. But there are proposals in Congress to require state and local police to enforce federal immigration laws.^{xxxvi}

Our View

The ACLU-NJ, along with many law enforcement professionals and immigrant rights advocates, believes that giving local police authority to enforce immigration law is bad public policy that undermines public safety and threatens immigrants’ basic rights.

State and local police can best do their duty to protect people and reduce crime when they work closely within communities to create good relations and foster trust. When local police take on enforcement of the immigration laws, immigrants begin to fear them and become reluctant to report crimes or come forward as witnesses or victims. This undermines public safety for all of us.

Many law enforcement professionals in major cities have spoken out to reject the role of enforcing immigration law because of the damage it would do to police and community relations^{xxxvii} and because police resources are strained already. Some cities with large immigrant populations have adopted “don’t ask, don’t tell” policies, which discourage law enforcement from reporting illegal immigrants to federal authorities. Nationwide, a number of jurisdictions have adopted resolutions, ordinances or orders that prohibit local police from enforcing federal immigration law.

New Jersey’s Directive

In August 2007, the New Jersey Attorney General issued a directive prohibiting local police from

“State and local police departments generally do not have the authority to enforce immigration law.”



inquiring about immigration status of witnesses and victims. This action was taken in part to respond to tension in Morristown, New Jersey, where the mayor sought to engage local police in immigration enforcement, despite the objections of the Chief of Police.^{xxxviii}

In November 2007, a Newark police officer became the first person disciplined for violating the Attorney General’s directive when he asked a crime witness about his immigration status. The witness, an immigrant who in 2001 had received the Newark Police Department’s “Citizen’s Award” for assisting the Newark Police in solving crimes, had contacted the police after discovering a dead body. His help was “rewarded” with inquiries about his immigration status.^{xxxix}

Yet, the Attorney General’s directive contains many flaws: It fails to explicitly prohibit inquiries about immigration status prior to arresting an individual, and its vagueness has left police departments uncertain about how to comply. Six months after the directive was issued, the number of suspects reported to immigration authorities by local police doubled, according to U.S. Immigration and Customs Enforcement.^{xl}

A Complex Area of the Law

Immigration law is enormously complex. There are more than 50 visa categories and many forms of temporary status.^{xli} Frequent changes to immigration law make it difficult for local law enforcement officers to determine the immigration status of individuals. If local law enforcement agencies become responsible for enforcing immigration law, officers must be trained in the complexities of a constantly evolving area of the law under the supervision of Immigration and



Photo by Matt Howe

Customs Enforcement, straining both federal and local resources.^{xlii}

Moreover, immigration records are frequently inaccurate.^{xliii} These inaccuracies increase the risk that police officers will make wrongful arrests and heighten the possibility of racial and ethnic profiling. Because so many undocumented immigrants belong to minority groups, police may be tempted to use race or ethnicity as a basis for stopping or questioning people. This could alienate immigrants and expose towns and cities to lawsuits. The town of Chandler, Arizona, paid out a \$400,000 settlement after local police, acting to aid border patrol, wrongfully stopped Hispanics, including U.S. citizens.^{xliv}

THE RIGHTS OF IMMIGRANTS: MYTHS AND FACTS

Much of the political rhetoric in the immigration debate is fueled by myths and underlying misconceptions about immigrants. Examining these myths can distinguish fact from fiction, inform the debate and help build public policies consistent with our principles of fairness.

Myth 1: Immigrants are a threat to the economy.

Fact: Immigrants contribute to our economy. A U.S. Department of Labor study prepared by the Bush administration found that the belief that immigrants take jobs away from American workers is the most persistent fallacy about immigration.^{xliv} Former Federal Reserve Board Chairman Alan Greenspan, in a statement before the U.S. Senate Special Committee on Aging in 2003, explained that as the U.S.-born population ages, our country needs more workers to maintain economic growth and contribute to the Social Security and Medicare systems. Greenspan called immigration an “antidote for slowing growth in the working-age population,” and stated that without continued immigration, “our Social Security and Medicare programs will become unsustainable in the long run.”^{xlvi}

Immigrants have high rates of entrepreneurship, creating new jobs as they start new businesses. Immigrants also expand the demand for goods and services through consumption; immigrants actually boost the economy of the United States through consumer spending.^{xlvii}

More than 500 economists, including five Nobel laureates, wrote an open letter in 2006 arguing that economic gains from immigration outweigh the

costs. The letter said: “Legitimate concerns about the impact of immigration on the poorest Americans should not be addressed by penalizing even poorer immigrants. Instead, we should promote policies, such as improving our education system, that enable Americans to be more productive with high-wage skills.”^{xlviii}

Myth 2: Immigrants are a drain on social services.

Fact: Several studies, including reports by the Urban Institute^{xliv} and the Cato Institute,¹ have concluded that immigrants pay significantly more in taxes than they cost in services. Yet immigrants’ access to basic social and government services has been curtailed. In 1996, President Clinton signed into law the Personal Responsibility and Work Reconciliation Opportunity Act, which took a wide range of federal benefits away from immigrants, including food stamps and Supplemental Security Income. (SSI benefits were later restored, but only for immigrants who entered the country before August 22, 1996 – the day the law went into effect.) The act prevents most legal immigrants from receiving federal welfare benefits during their first five years of residency and restricts documented immigrants’ eligibility for certain benefits, despite the fact that Social Security and income taxes are withheld from their paychecks.

Myth 3: Immigrants do not want to learn English and are not interested in becoming a part of American society.

Fact: Many immigrants struggle to become proficient in English. Reports throughout the United States indicate that the demand for English as a Second Language (ESL) classes is strong. In

many cities, ESL classes are so popular that people eager to take them have to sign up for long waiting lists.^{li} According to the Pew Hispanic Center, a clear majority of Hispanic immigrants believe that learning English is essential to living in America.^{lii}

According to the U.S. Department of Defense, more than 60,000 immigrants serve on active duty in the U.S. Armed Forces. On July 3, 2002, President Bush recognized their contribution in an executive order that provided for “expedited naturalization” of non-citizen men and women serving on active-duty status since September 11, 2001. Serving in the armed forces is a clear demonstration that immigrants want to join our society.

Myth 4: Immigrants commit an inordinate amount of crime.

Fact: A 2008 study by the nonpartisan Public Policy Institute of California reveals that U.S.-born men ages 18-40 are ten times more likely to be in jail or prison in California than foreign-born, first-generation men in the same age category.^{liii} A 2008 study of immigrants in Chicago found that increased immigration was a significant reason for the decrease in crime throughout the 1990s. Measuring crime rates between 1990 and 2004, the report found first- and second-generation immigrants less likely to commit crimes. The 2008 study of Chicago immigration reported lower crime rates in areas with high concentrations of immigrants, dispelling the common myth that areas with a large number of immigrants suffer from crime and disorder.^{liv}

What's at Stake

This country is known for its history of welcoming waves of immigrants and allowing them to pursue the American dream. The people we have welcomed have enriched our economy, culture and security. Unfortunately, we also have a record of rejecting newcomers based on fear and ignorance. Most of us are only one, two or three generations away from an immigrant relative who benefited from the opportunities this country offers. The riches we enjoy all flow from that first welcome.

We must look beyond fear and misunderstanding and put policies in place to increase our national security and economic well-being while recognizing the sacrosanct principles of fairness and justice upon which the country was founded and must still stand.

“Most of us are only one, two or three generations away from an immigrant relative who benefited from the opportunities this country offers.”

FOOTNOTES

- i Yamataya v. Fisher, 189 U.S. 86 (1903)
- ii Zadvydas v. Davis, 533 U.S. 678 (2001) and INS v. St. Cyr, 533 U.S. 289 (2001)
- iii Hsu, Spencer and Moreno, Sylvia. "Border Policy's Success Strains Resources." The Washington Post. February 2, 2007. <http://www.washingtonpost.com/wp-dyn/content/article/2007/02/01/AR2007020102238_2.html>
- iv Hernandez, Danny. "Lost in Tijuana." LA Weekly. July 16, 2007. <<http://www.laweekly.com/news/features/lost-in-tijuana/16817/>>
- v Londono, Ernesto. "U.S. Steps Up Deportation Of Immigrant Criminals." The Washington Post February 27, 2008: A01 (Article outlines places where local police departments have taken on immigration enforcement duties.)
- vi Moscoso, Eunice. "Teen U.S. Citizen Terrified at Immigration Raid." "Cox News Service" February 17, 2008.
- vii Curley, Augustine J. "Monks and the City -- A Unique New Experience." Archbishop Gerety Lecture, Institute for Christian Spirituality, South Orange, NJ. November 15, 2006
- viii Leavenworth, Jesse. Review of "The Art of Gaman: Arts and Crafts from the Japanese American Internment Camps/1942-46" at University of Connecticut's William Benton Museum of Art. Hartford Courant. February 28, 2008.
- ix Romero, Mary. "Racial Profiling and Immigration Enforcement: Rounding Up of the Usual Suspects in the Latino Community." Critical Sociology Vol. 32, Issue 2-3 2006: 447-473.
- x Census Bureau 2002 American Community Survey. "County Ranking – Percent of Population that is Foreign Born." <<http://www.census.gov/Press-Release/www/2003/ACSTables.html>>
- xi Batalova, Jeanne; Fan, Velma; Terrazas, Aaron. "Frequently Requested Statistics on Immigrants in the United States." Migration Policy Institute. October 2007. <<http://www.migrationinformation.org/feature/display.cfm?ID=649>>
- xii Census Bureau 2002 American Community Survey. "County Ranking – Percent of Population that is Foreign Born." <<http://www.census.gov/Press-Release/www/2003/ACSTables.html>>
- xiii People obtain asylum after proving to a U.S. immigration judge that they have a well-founded fear of future persecution in their country of origin based on race, religion, ethnicity/nationality, political opinion or membership in a particular social group.
- xiv Donohue, Brian. "Immigrants Reach 21 Percent of NJ Population." The New Jersey Star Ledger. November 29, 2007.
- xv U.S. Census Bureau American Fact Finder, 2006 American Community Survey. "New Jersey, Selected Social Characteristics in the United States: 2006." <http://factfinder.census.gov/servlet/ADPTable?_bm=y&-geo_id=04000US34&-qr_name=ACS_2006_EST_G00_DP2&-ds_name=&-_lang=en&-redoLog=false>
- xvi Donohue, Brian. "Lawsuit charges 'lawlessness' by immigration agents." The New Jersey Star Ledger. April 4, 2008.
- xvii Gottlieb, Amy. NJ Voices at NJ.com. "Standing with Immigrants in Detention." September 9, 2007. <http://blog.nj.com/njv_amy_gottlieb/2007/09/standing_with_immigrants_in_de.html>
- xviii Corrections Corporation of America. "Elizabeth Detention Center." <http://www.correctionscorp.com/facility_detailed.cfm?facid=133>
- xix Human Rights First. "Refugees Behind Bars." 1999. <<http://www.humanrightsfirst.org/pubs/descriptions/behindbars.htm>>
- xx Keller, Karen. "Passaic County Jail ends the housing of immigrant detainees," Herald News, December 29, 2005
- xxi Temporary Protected Status (TPS) is a temporary immigration status granted to eligible nationals of designated countries. TPS is most frequently granted to nationals of countries engaged in civil war (e.g., Somalia) or suffering from natural disasters (e.g., Honduras).
- xxii Daigle, Mike. "Laying low, no place to go," Daily Record, December 15, 2002
- xxiii Cave, Damien. "In a Divided Town, a Question of Hate or Cash?" New York Times, October 24, 2004
- xxiv State of New Jersey Department of Agriculture. "About NJDA." 2006. <<http://www.state.nj.us/agriculture/about/overview.html>>
- xxv Appel, Heather. "Immigrant Advocates Fear Restrictions Will Backfire," The Record, March 16, 2008. <<http://www.northjersey.com/news/immigration/16721881.html>>
- xxvi Day laborers, usually men, gather on sidewalks, in parking lots, near building supply stores or other places where they can be visible to potential employers for short-term jobs, often landscaping or construction.
- xxvii Day Labor Research Institute. "Solutions to Day Labor Grounded in Good Research." <<http://daylaborinfo.org/default.aspx>>
- xxviii National Conference of State Legislatures. "Legal Presence and Application Documentation Legislation by State." 2002.
- xxix Ehisen, Rich. "Terrorism Threat New Roadblock for Immigrant Licenses." State Net Capitol Journal. October 4, 2004 Volume XII, No. 39
- xxx AAA Foundation for Traffic Safety, "Unlicensed to Kill." June 2000
- xxxi Vock, Daniel C. "Tighter License Rules Hit Illegal Immigrants." Stateline.org. August 24, 2007
- xxxii Tyrell, Joie. "The Experience in the U.S.; Murky Picture Emerges From 2 States' Efforts." Newsday. October 23, 2007
- xxxiii Markon, Jerry. "DMV Fraud Ring Broken Up, U.S. Says" Washington Post, July 3, 2003
- xxxiv Bewley, Joel and Moroz, Jennifer. "Motor Vehicle worker charged," The Philadelphia Inquirer, November 6, 2003
- xxxv U.S. Constitution, Article I, section 8, clause 4
- xxxvi The CLEAR Act was introduced as a stand-alone bill (H.R. 2671) in 2003 by U.S. Rep. Charles Norwood and was incorporated into the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437), which the House passed on December 16, 2005.
- xxxvii Major Cities Chiefs. "M.C.C. Immigration Committee Recommendations for Enforcement of Immigration Laws by Local Police Agencies," June 2006
- xxxviii Star-Ledger Editorial Board. "A Sound Strategy on Crime and Illegals." The Star-Ledger August 24, 2007, Page 18.
- xxxix Donohue, Brian. "Are You Legal? Is Bringing Fear to Immigrants." The Star-Ledger September 18, 2007, Page 1
- xl Donohue, Brian. "AG Tries to Clarify When AG Can Check Immigration Status." The Star-Ledger- March 26, 2008, Page 11
- xli "Immigrant Classifications and Visa Categories." U.S. Citizenship and Immigration Services. <<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=e6c08875d714d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=ca408875d714d010VgnVCM10000048f3d6a1>>
- xlii "Section 287(g), Immigration and Nationality Act; Delegation of Immigration Authority." Immigration and Customs Enforcement. March 10, 2008. <http://www.ice.gov/partners/287g/Section287_g.htm>
- xliii For more information about the inaccuracies and poor record keeping of immigration records, see: National Immigration Law Center, "INS Data: The Track Record," [no date provided]
- xliv American Immigration Lawyers Association, Issue Packet: "Clear Act 2nd HSEA, Local Law Enforcement of Civil Immigration Laws," February 23, 2004
- xlv Chittenden, Michael; Johnson, Benjamin; Paral, Rob; Siciliano, Dan; Ewing, Walter. "Economic Growth & Immigration, Bridging the Demographic Divide," Immigration Policy Center, November 2005
- xlvi Greenspan, Alan. Testimony of Alan Greenspan: Aging Global Population. U.S. Senate Special Committee on Aging. February 27, 2003.
- xlvii Brian Grow, Adrienne Carter, Roger O. Crockett and Geri Smith, "Embracing Illegals: Companies are getting hooked on the buying power of 11 million undocumented immigrants," Business Week, July 18, 2005
- xlviii The Independent Institute, "Open Letter on Immigration," June 16, 2006
- xlix Fix, Michael E. and Passel, Jeffrey S. The Urban Institute. "Immigration and Immigrants: Setting the Record Straight." May 1, 1994. <<http://www.urban.org/url.cfm?ID=305184>>
- I Simon, Julian L. Cato Institute and National Immigration Forum. "Immigration: The Demographic and Economic Facts." December 11, 1995. <http://www.cato.org/pubs/policy_report/pr-imsun.html>
- li Moscoso, Eunice. "Spanish Network's English Show to Help Immigrants Get Over Si's." Cox News Service. December 20, 2007.
- lii Pew Hispanic Center, "Hispanic Attitudes Toward Learning English" June 7, 2006
- liii Butcher, Kristen F. and Morrison Piehl, Anne. "Crime, Corrections, and California: What Does Immigration Have to Do with It?" Public Policy Institute of California, February 2008.
- liv Sampson, Robert. "Rethinking Crime and Immigration." Contexts, American Sociological Association (Vol. 7:28-33, Winter 2008).

The Constitution gives every person in the United States the right to equal protection. The ACLU fights to make sure every person enjoys that protection.

- The ACLU-NJ successfully sued Riverside, NJ, for passing an unlawful ordinance that would have punished landlords and employers for renting to or employing individuals it classified as “illegal” immigrants. The Riverside Township Committee agreed to rescind the ordinance.
- The ACLU fought for children who were locked in cells for 12 hours a day while they awaited answers about their family’s immigration status in the Hutto detention facility in Taylor, Texas. The ACLU settled with Immigration and Customs Enforcement, and the children could leave their cells.
- In December 2007, the ACLU of Southern California filed a class action lawsuit on behalf of legal residents whose naturalization has been delayed for years by FBI name checks. Often, several people will have the same name, and the FBI can take years to resolve the confusion, stalling the entire naturalization process.
- The ACLU of Pennsylvania won a lawsuit against Hazleton, PA, for passing an ordinance intended to punish employers who hired undocumented immigrants and fine landlords who rented to them.
- The ACLU National Prison Project represented Francisco Castaneda, whose undiagnosed cancer worsened because he was denied tests and treatment in immigration detention. He testified before Congress in October 2008, months before he died, about inadequate medical treatment in detention facilities. In March 2008, U.S. District Judge Dean Pregerson ruled to allow the family of Francisco Castaneda to seek financial damages from the government.
- The ACLU represented Pedro Guzman, a mentally challenged American citizen born and raised in California who was wrongly deported to Mexico after mistakenly being detained by Immigration and Customs Enforcement.
- Visit <http://www.aclu.org/immigrants> to learn more about the work we do.

The ACLU defends our constitutional rights. Every person on American soil has the right to due process of the law.

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THE AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY

“In matters of truth and justice, there is no difference between large and small problems, for issues concerning the treatment of people are all the same.”

— Albert Einstein

Immigrant to New Jersey in flight from the Holocaust, Nobel laureate, Princeton University professor and Time’s Person of the Century

“From my home State of New Jersey, which was a gateway to millions of people across this country, particularly during the period of Ellis Island, we can almost touch Lady Liberty. Ellis Island is a short bridge walk across. The reality is that because of those people who have contributed so dramatically to our country, we all have a relationship to immigration.

Whether you can trace your history to the Mayflower and the voyage of that first opportunity, whether you are part of the Daughters of the American Revolution, whether you came with the millions in the European experience that crossed a great ocean through Ellis Island and then throughout our country, whether you came, as my parents did, in search of freedom, the reality is, we all have a connection. Let’s honor that connection in a way that meets these values.”

— U.S. Senator Robert Menendez of New Jersey
in a speech on the Senate floor; May 17, 2007

“We have defended over the centuries the fundamental liberties that make us so strong... including the rule of law. It is our responsibility at this moment in time to stand strong on those principles. It motivates us and moves us to be ever vigilant, protecting our security and freedoms.”

— Jon Corzine

New Jersey Governor and Former U.S. Senator; September 12, 2001