



November 12, 2014

The President
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

Dear Mr. President:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national civil and human rights organizations, we urge you to provide relief to the millions of people in our country who live every day under the threat of deportation under our broken immigration system, and to strengthen due process and civil and human rights protections in immigration enforcement. With the November elections now behind us, and with no serious indication that the new Congress intends to take up the issue in a comprehensive manner, we strongly support your taking administrative action, to the fullest extent permissible under law, to fix our broken immigration system.

Like you, we were encouraged last year when the Senate passed S. 744, the Border Security, Economic Opportunity and Immigration Modernization Act of 2013. While the bill contained many flaws, particularly a dangerous and unnecessary “surge” in border enforcement resources, it was a credible and commendable bipartisan attempt to solve longstanding and difficult shortcomings in our immigration system. And like you, we are frustrated that the House of Representatives failed to follow up on the Senate’s work.

In blocking any further debate on legislation, the House claimed that it would not act because your administration has not adequately enforced the law. Nothing could be further from the truth. Indeed, we believe that enforcement in many respects has been excessive:

- Between July 1, 2010 and September 31, 2012, ICE removed 204,810 parents of U.S. citizen children, nearly 23 percent of people removed during that time.ⁱ
- The detention of nearly 430,000 individuals, often in for-profit corporate facilities, has cost taxpayers about \$2 billion a year.ⁱⁱ
- Federal criminal prosecutions of immigration-related offenses are at historical highs, rising by 468 percent from FY 2003 to FY 2013, putting huge strains on our judicial system.ⁱⁱⁱ

At the same time that its leadership disingenuously blamed you for its failure to take up immigration reform, the House also rejected a proposal to pass reform now, but to delay the effective date until your successor took office. Their rejection of this offer spoke volumes. While the House continues stalling on comprehensive reform and pointing fingers, the bottom line remains that the status quo on immigration enforcement is simply unacceptable.

We recognize that you are bound by the Constitution to “take care that the laws be faithfully executed.” At the same time, it is beyond serious dispute that the implementation of any law inherently requires the making of executive judgment calls at every level, from the writing of regulations that fill in the countless details of laws that Congress does not address, to everyday decisions – in the face of limited resources – to pursue or not pursue individual cases. We

Officers

Chair

Judith L. Lichtman
National Partnership for
Women & Families

Vice Chairs

Jacqueline Pata
National Congress of American Indians
Thomas A. Saenz
Mexican American Legal
Defense and Educational Fund
Hilary Shelton
NAACP

Treasurer

Lee A. Saunders
American Federation of State,
County & Municipal Employees

Board of Directors

Barbara Arnwine
Lawyers' Committee for
Civil Rights Under Law
Cornell William Brooks
NAACP
Lily Eskelsen Garcia
National Education Association
Marcia D. Greenberger
National Women's Law Center
Chad Griffin
Human Rights Campaign
Linda D. Hallman
AAUW
Mary Kay Henry
Service Employees International Union
Sherrilyn Ifill
NAACP Legal Defense and
Educational Fund, Inc.
Jo Ann Jenkins
AARP
Michael B. Keegan
People for the American Way
Elisabeth MacNamara
League of Women Voters of the
United States
Marc Morial
National Urban League
Mee Moua
Asian Americans Advancing Justice |
AAJC

Janet Murguia
National Council of La Raza

Debra Ness
National Partnership for
Women & Families

Mary Rose O'Carroll
American-Arab
Anti-Discrimination Committee

Terry O'Neill
National Organization for Women
Priscilla Ouchida
Japanese American Citizens League

Mark Perriello
American Association of
People with Disabilities

Anthony Romero
American Civil Liberties Union

David Saperstein
Religious Action Center
of Reform Judaism

Shanna Smith
National Fair Housing Alliance

Richard L. Trumka
AFL-CIO

Randi Weingarten
American Federation of Teachers

Dennis Williams
International Union, UAW

Policy and Enforcement
Committee Chair
Michael Lieberman
Anti-Defamation League

President & CEO
Wade J. Henderson

Executive Vice President & COO
Karen McGill Lawson



believe that the following proposals – which have previously been raised by many of our coalition member organizations – are consistent with your constitutional mandate and existing law:

- **Expand Policies to Grant Administrative Relief:** We strongly applauded your 2012 Deferred Action for Childhood Arrivals (DACA) policy, which removed the threat of deportation for many immigrants who had no say in their legal status. DACA could be fine-tuned, however, to eliminate unnecessary cut-offs that deprive some deserving immigrants of relief. We also urge you to follow the successful model of DACA by creating similar administrative relief programs for other categories of immigrants who are otherwise law-abiding and have strong ties to family, community, or work here in the United States.
- **Refine Civil Enforcement Priorities:** We urge you to replace ICE’s overbroad 2011 civil enforcement priorities memo with DHS-wide guidance that limits and better defines the priority categories.
- **Improve Existing DHS Policies Governing Prosecutorial Discretion:** Your administration can take a number of steps to build upon the prosecutorial discretion memoranda issued by former U.S. Immigration and Customs Enforcement Director John Morton and his predecessors by: 1) ensuring the memoranda apply to all of DHS, not just to ICE; 2) creating a presumption of hardship for people with ties to the country; 3) applying deferred action with work authorization (not just administrative closure) to compelling cases; 4) giving timeframes for the grants of discretion, to provide recipients with some stability; 5) evaluating the use of prosecutorial discretion at each stage of the enforcement process; 6) treating some requests for prosecutorial discretion in groups, for example, workers in certain labor situations; 7) ensuring agency compliance with memos governing victims and sensitive locations cases; and 8) establishing a review process at DHS Headquarters.
- **Strengthen Due Process & Human Rights Protections in Detention:** The combination of mandatory detention laws and the widespread use of private, for-profit jails have turned our immigration detention system into a national disgrace. To ameliorate the harm caused by detention, your administration should require a bond hearing for anyone detained more than six months; interpret “custody” in statutes to permit forms of custody short of detention; shift resources from institutional detention to effective and far less expensive alternatives; and reaffirm DHS Secretary Jeh Johnson’s interpretation that the “detention bed quota” in recent appropriations bills is not a mandate to indiscriminately fill those beds with immigrants regardless of need.
- **Eliminate Profiling:** If immigrants are to face deportation, it should never be as a result of racial, ethnic, or national origin profiling. We urge you to revise the flawed 2003 Department of Justice Guidance on profiling, which contains massive exceptions for national security and border integrity that do far more harm than good.
- **Reduce the Use of Deportations without Hearings:** In FY 2013, more than 260,000 people (70 percent of those deported that year) were deported through expedited removals or reinstatement, with no hearing before an immigration judge. We urge you to: 1) end the use of deportations without hearings for people who have a case for relief or for prosecutorial discretion, and for people who agree to a stipulated removal and were not represented by counsel; 2) limit the use of expedited removal to people caught at a port of entry or while trying to enter (as was DHS policy before 2004); and 3) provide an administrative appeal process for immigrants who faced such procedures.



- **Improve Worksite Enforcement Policies:** When immigrants stand up for basic labor and civil rights protections, they should never be undercut by immigration enforcement practices. The administration should: 1) clarify and publicize the processes for immigrants involved in labor and civil rights cases to obtain immediate immigration status and work authorization; 2) prohibit civil immigration or criminal arrests of workers in the context of workplace enforcement actions; 3) look into labor and civil rights complaints before I-9 or other worksite enforcement actions; and 4) prevent employers from abusing I-9 or E-Verify procedures to violate workers' rights.
- **Return Immigration Enforcement to the Federal Government:** We were encouraged by recent reports that DHS plans to revisit the Secure Communities program. We urge you to scrap it altogether – as well as the 287(g) program, the use of detainers, and other ICE ACCESS programs that encourage the use of profiling and undermine public safety.
- **Protect Human Rights at the Border:** While our borders are now more secure than ever, we remain concerned about human rights being compromised in the process. The administration should: 1) end the Operation Streamline program; 2) implement all recommendations on use of force from the Police Executive Research Forum, and strengthen oversight and accountability regarding inappropriate use of force; 3) roll back the U.S. Customs and Border Protection's (CBP) claimed 100-mile authority; 4) create enforceable standards and provide effective oversight for CBP short-term holding facilities; 5) carefully limit the use of drones; 6) equip all CBP officers with lapel cameras; and 7) provide more humanitarian resources such as rescue beacons and water stations along the border region – which will not encourage more crossings, but will reduce the number of senseless migrant deaths.
- **Strengthen Due Process in Removal Proceedings:** Since 1996, a number of “criminal alien” provisions in the law have amounted to the immigration equivalent of mandatory minimum sentences. The administration should, as a general policy, not deport legal residents on the basis of offenses that occurred years ago.

We urge you to adopt these reforms as you move forward. They are fully within your authority, and they would affirm the administration's commitment to protecting the civil and human rights of all people within our nation's borders.

Thank you for your consideration. If you have any questions, please contact either of us or Rob Randhava, Senior Counsel, at 202-466-3311.

Sincerely,

Wade Henderson
President & CEO

Nancy Zirkin
Executive Vice President

ⁱ Falling Through the Cracks: The Impact of Immigration Enforcement on Children Caught Up in the Child Welfare System, Immigration Policy Center, available at: <http://www.immigrationpolicy.org/just-facts/falling-through-cracks>.

ⁱⁱ The Math of Immigration Detention: Runaway Costs for Immigration Detention Do Not Add Up to Sensible Policies, The National Immigration Forum, available at: <http://www.immigrationforum.org/images/uploads/mathofimmigrationdetention.pdf>.

ⁱⁱⁱ New Mexico Immigration Prosecutions Jumped 46% in FY 2013, TRAC Immigration, available at <http://trac.syr.edu/immigration/reports/335/>.