

IMMIGRATION

Of the more than 58 million⁴⁰ Hispanics living in the United States, 35% are foreign-born.⁴¹ Federal immigration law and policy continues to be a top priority for the Latino community. Our immigration, asylum, and naturalization policies must respect the dignity of the individual, end the criminalization of Hispanic immigrants, reflect our nation's commitment to human and civil rights, and deny state and local encroachment into this federal arena.

Rather than working to demonize and attack immigrants, Congress must work toward passing a fair and just comprehensive immigration reform bill

Immigration from Latin America has been on a decreasing trend in recent years.⁴² One notable exception is the case of Central American adults and children who have been fleeing Honduras, El Salvador, and Guatemala, seeking safe haven and opportunities for a dignified way of life.⁴³ However, anti-Latino and anti-immigrant fervor has increased in the media, from presidential candidates and Congress. Over the last three years, Congress has considered bills with significant support from Congressional members that would challenge the President's executive authority on deferred action, place enforcement of immigration laws in the hands of local police, criminalize those who would help immigrants, militarize the southern border, exploit immigrant workers, eliminate the due process rights of immigrants, and increase the number of Hispanics detained and deported. Rather than working to demonize and attack immigrants, Congress must work toward passing a fair and just comprehensive immigration reform bill that must ensure all people are treated with dignity and afforded the necessary protections under the law against discrimination and abuse. Administratively, the NHLA calls on the Obama Administration to reconsider its harsh positions in relation to Central Americans seeking safe haven, and to end family detention practices. We urge any subsequent administration to treat those seeking refuge consistent with human rights principles.

ADMINISTRATIVE RELIEF

On June 15, 2012, the Obama Administration announced Deferred Action for Childhood Arrivals (DACA), a program to protect immigrants who were brought to the United States as children and meet other specific requirements against deportation.⁴⁴ On November 20, 2014, President Obama announced that the administration would offer deferred action to undocumented parents in a program known as Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA).⁴⁵ The President also announced an expansion of the 2012 DACA program for youth who came to the United States as children. Together the programs are anticipated to benefit 5.2 million undocumented immigrants.⁴⁶ The NHLA strongly supports the deferred action initiatives, such as DACA and DAPA, and is a proponent of continued and expanded administrative relief, particularly in the absence of congressional action.

In the absence congressional action to reform our immigration laws, the next Administration should continue administrative relief programs.

Policy Recommendations

- Provide deferred action to parents of DACA holders and LGBTQ immigrants without children who are not otherwise eligible for relief under DAPA.
- Ensure the timely adjudication of DACA renewal applications and provide interim Employment Authorization Documents and other protections for DACA renewal applicants facing lapse in status in employment authorization.
- Provide deferred action to workers and others with deep ties to the United States.
- Provide a more robust system to expand access to prosecutorial discretion and take necessary steps to ensure uniform availability nationwide.
- Expand the use of Deferred Enforced Departure and Temporary Protected Status for Latinos from countries that are experiencing crisis -- such as a natural disaster, armed conflict, or extreme criminal violence, including sexual and domestic violence.
- Expand the use of Administrative Closures to stop removal proceedings and order of supervision for persons in cases in which people with final removal orders cannot be deported to their home countries.
- Provide protections for victims of notario fraud.

COMPREHENSIVE IMMIGRATION REFORM

The majority of Americans support prompt federal action in enacting sweeping and compassionate immigration reforms to fix our nation's failed immigration system and strengthen our commitment to basic fairness, opportunity for all, and equal treatment under the law.⁴⁷ Any legislation seeking to offer legal immigrant status without a clear path to citizenship, militarize the border, and/or criminalize immigrants must be rejected. Additionally, legislative action should also address the push factors that lead many from Central America to flee their countries as a result of violence, poverty, and government corruption. Congress must act to ensure that adults and children seeking refugee status are treated humanely, that their claims are being adjudicated consistent with the law and human rights principles, and that we as a country are working to address root causes of forced migration.

Policy Recommendations

- Enable the estimated 11.5 million undocumented people in our country to come forward and attain legal status, with an earned pathway to full citizenship.
- Reform legal channels that reunite families, such as changes to the family preference system.
- Eliminate per-country caps that unfairly discriminate and delay the entry of Latino immigrants.
- Expand the number of visas available in the appropriate immigrant and non-immigrant categories. Eliminate visa caps for victims of sexual assault, domestic violence, trafficking and other crimes. Limit the expansion of guestworker programs that do not lead to permanent residence.
- Oppose all efforts, whether through constitutional amendment, federal or state legislation, or state-to-state compacts, that would reopen the Citizenship Clause of the Fourteenth Amendment or call into question the citizenship of persons born in the United States.
- Include stronger protections for immigrant workers against exploitation by employers who underpay, cheat and use abusive and retaliatory tactics, including but not limited to:
 - Bolster the U visa and T visa for immigrant labor, and ensure protections for workers suffering from labor or civil rights violations.
 - Oppose discriminatory and unfair employment eligibility verification systems, such as E-Verify.
 - Ensure workplace discrimination is eliminated and all immigrant labor and civil rights are protected.
- Ensure that any temporary worker program protects temporary workers and protects against adverse effects on the wages and working conditions of domestic workers. Temporary worker protections should include, at a minimum:
 - 1) A roadmap to citizenship for guestworkers;
 - 2) Strong and equal labor protections;
 - 3) True economic freedom and mobility;
 - 4) Ability to live with immediate family if desired;
 - 5) Sensible limits ensuring temporary workers are only brought in when there is a true market need; and
 - 6) Protection from abuse during the international labor recruitment process.
- Provide undocumented farmworkers with a path to adjust their immigration status and attain eventual citizenship. Ensure all workers' ability to enforce legal protections, improve wages and working conditions, and participate in civic life.
- Include the DREAM Act in comprehensive reform to ensure students' paths to earned legal status and ultimately citizenship.
- Extend the dates for eligibility under section 245(i) of the Legal Immigration Family Equity Act so that qualified individuals can adjust their immigration status upon payment of a penalty.⁴⁸
- Promote immigrant entrepreneurship by awarding green cards and a path to citizenship to immigrants whose businesses thrive and create jobs.
- Grant authority to immigration judges and DHS officers to waive inadmissibility factors or terminate removal proceedings for a noncitizen where it would not be contrary to public interest, where there would be hardship to a U.S. citizen or lawful permanent resident spouse, child, or parent, or where the noncitizen would be otherwise eligible for naturalization.
- Enact legislation to provide a pathway to Legal Permanent Residency status to individuals who have resided in the U.S. for long periods of time as recipients of different forms of temporary status, such as Temporary Protected Status (TPS).

- Enact legislation to provide adequate foreign aid to “sending” countries in order to creatively and thoughtfully address the triggering factors that lead so many people, including unaccompanied children, to flee their homes as a matter of survival.

STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS

Federal immigration enforcement properly rests with federal authorities. Accordingly, the NHLA strongly objects to state and local law enforcement of immigration laws, either on their own or delegated by the federal government to state and local law enforcement officials.

Policy Recommendations

- Stop states and localities from enforcing immigration laws, which by their nature should be enforced at the federal level.
- Eliminate the Priority Enforcement Program, and any immigrant detainer or requests for notification mandates or agreements with local authorities.
- Eliminate all U.S. Immigration and Customs Enforcement (ICE) presence in or access to local jails and databases, a practice that has led to racial profiling, illegal detention, and deportation.
- Eliminate any information sharing (e.g. release date from custody, home address, place of employment, court hearings) between all local law enforcement and ICE, including but not limited to, police, sheriffs, probation officers, parole officers, and prosecutors.
- Enforce federal laws, such as the ruling in Plyler v. Doe,⁴⁹ that protect a student’s right to an education without discrimination based on immigration status.
- Work with the U.S. Department of Homeland Security in its efforts to exercise prosecutorial discretion in enforcement of immigration laws and the U.S. Department of Justice in its efforts to curtail states and localities impermissibly enacting immigration laws, a federal responsibility.

DEVELOPMENT, RELIEF, AND EDUCATION FOR ALIEN MINORS ACT (DREAM ACT)

Each year, approximately 65,000 students who came to this country as young children,⁵⁰ unaware of their immigration status, see their dreams to attain higher education, serve in the military, or pursue other aspirations come to an abrupt halt as their status prevents their access to the opportunities they were raised to believe they would enjoy.

Policy Recommendations

- Consider both Republican and Democratic immigration proposals that offer minors and young adults meaningful immigration relief. Encourage bipartisan efforts to develop workable legislation to help immigrants.
- Enact the DREAM Act⁵¹ to give undocumented students a path to earned legalization and citizenship.
- Enact legislation that ensures that eligible students have the right to federal higher education assistance, student loans, and other critical benefits, such as health care. Oppose policies that would deport youth who grew up in the United States to a country they barely know.

Enable the estimated 11.5 million undocumented people in our country to come forward and attain legal status, with an earned pathway to full citizenship.

NATURALIZATION AND INTEGRATION

In July 2007, the U.S. Citizenship and Immigration Services (USCIS) increased naturalization application fees from \$400 to \$675.⁵² Prior to the increase, there was a dramatic rise in naturalization applications beginning in 2006. In fiscal years 2011 and 2012, USCIS saw a decrease in the number of applications. A 2013 study by the Pew Hispanic Center stated that 93% of Latino immigrants who have not yet naturalized say they would if they could.⁵³ Of those Latino immigrants eligible to naturalize, nearly 20% cited financial costs as a main prohibitive factor to naturalizing, with another 28% conveying language and other personal barriers.⁵⁴ This study suggests the negative impact of high costs on the rate of naturalization, particularly for groups with generally lower incomes and English language difficulties.

Policy Recommendations

- Stabilize and lower the cost of naturalization by revisiting the immigration fee structure and expanding the availability of options to make naturalization more affordable. Direct USCIS to actively examine viable options to make naturalization more affordable.
- Provide discretionary funding of \$10 million for Citizenship and Integration Grants administered by the Office of Citizenship, but not to be allocated from the Immigration Examinations Fee Account.
- Ensure a fully operational Task Force on New Americans by allocating funding for and appointing an Executive Director, as directed by the President, who is tasked with creating the Task Force agenda, convening meetings, and supervising Task Force activities.
- Empower the Office of Citizenship to obtain private financial support for citizenship promotion and education work. In order to reduce the agency's reliance on revenue from immigration service application fees and continue to stabilize naturalization fees, the Director of USCIS and his/her designees should be permitted to solicit, accept, hold, administer, and utilize gifts and bequests, including property, for the limited purpose of supporting the work of the Office of Citizenship and funding the Citizenship and Integration Grants Program.
- Provide for more flexible or generous fee waiver policies beyond what is currently available.
- Support through discretionary funding, the USCIS Citizenship and Integration Grant Program, which is a cost-effective and efficient means of making naturalization more accessible for our nation's legal permanent residents.
- Continue the progress made in reducing the average processing time for naturalization applications.
- Increase funding to expand the availability of adult ESL and civics education so that those applying for naturalization can be prepared for the naturalization exam.
- Encourage state, local, and employer incentives that support and encourage, but do not coerce naturalization.
- Ensure immigrant access to critical services, such as health care, regardless of status.

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DEMILITARIZATION OF THE SOUTHWEST BORDER

Militarization and spending on securing the Southwest border has increased exorbitantly over the last decade. In 2012, the budget for CBP was \$11.65 billion dollars, an increase of 94% from 2004's budget of \$6 billion.⁵⁵ The U.S. Customs and Border Patrol (CBP) employs more than 21,400 agents, double the size from 2003.⁵⁶ More than 85% of its force is deployed at the U.S.-Mexico border.⁵⁷ The number of CBP agents does not include the thousands of Department of Homeland Security and Immigration and Customs Enforcement personnel deployed along the Southwest border. Nearly two thirds of the United States population, or about 200 million people, live within CBP's 100-mile border zone jurisdiction.⁵⁸ The militarization along the Southwest border has destroyed environmental resources, involved unfair and discriminatory taking of private property, encouraged racial profiling, proliferated immigration checkpoints, and drastically affected the means of subsistence and way of life of persons living in border communities.

Policy Recommendations

- Oppose exorbitant spending on border enforcement, spending which is taking place without thoughtful consideration of current border-community and security needs.
- Restrict CBP's authority on the border to under 25 miles and limit searches of private property.
- Prohibit racial profiling anywhere, regardless of proximity to the border.
- End discriminatory checkpoints.
- Limit CBP's authority to conduct internal immigration enforcement to a designated area along the border.
- Oppose the construction of any more walls along the Southwest border. Currently on the US-Mexico border there are over 650 miles of fencing, more than 300 video surveillance systems and a dozen drones.
- Withdraw National Guard troops from the Southwest border and replace them with civilian law enforcement officers who are properly trained to deal with border issues.

DRAMATICALLY REDUCE THE NUMBER OF DETAINED IMMIGRANTS, END THE DETENTION OF CHILDREN AND FAMILIES, AND END THE COMMERCIALIZATION OF DETENTION

Over the last decade, government spending on immigration detention beds has increased at a rapid rate without any commensurate justification. Since 2003, the number detention beds increased by 86% from 18,000 to a congressionally mandated bed quota of 33,400.⁵⁹ A mandated bed quota is only found in the immigration detention system and is justified to detain immigrants who pose a public safety risk. However, according to DHS data the majority of immigrants detained had no criminal record. The dramatic increase in immigration detention beds is out of step with the decline in unauthorized immigration rates and stabilization of the undocumented population in recent years. According to new preliminary research by the Pew Research Center based on census data, the unauthorized immigrant population has remained stable for the last five years after 17 years of changes.⁶⁰

With the recent increase of women and children migrating to the United States from Central America, there has been a dramatic rise in family detention in an effort to slow the flow of migration. After years of decline, in 2014, the Obama administration announced that it would renew detaining immigrant children and families. Two new facilities opened in 2014, including a GEO Group privately operated facility in Karnes County, Texas. In its supplemental appropriations request to Congress, the Obama Administration asked for funding for up to 6,300 family detention beds across the country.

Overall private prison corporations have increased their share of the immigrant detention industry. Since 2009 the private prison industry has increased its share of immigrant detention beds by 13%. Today, for-profit prison companies operate more than 60% of ICE immigration detention beds, up from 49% in 2009. Private companies run 90% of the largest ICE detention facilities.

In detention, immigrants often suffer physical or verbal mistreatment, and are routinely denied access to medical care and attorneys. Furthermore, detention results in family separation, negatively impacts children, and destroys the financial stability of the family. DHS must prioritize a system that keeps families together and respects due process rights of all immigrants. LGBTQ (Lesbian, Gay, Bisexual, Transgender and Queer) immigrants in detention face a high likelihood of sexual assault and other abuse; DHS must protect all detainees from such violations, or release them from detention.⁶¹

Policy Recommendations

- End the detention of families and close all facilities used for the sole purpose of detaining women and children.
- Reject any inclusion of a mandated bed quota in congressional appropriations legislation.

- Require DHS to use cost effective alternatives to detention, with an emphasis on community supervision programs and not GPS monitoring, and increase the number of persons granted release on their own recognizance, and reform bond practices.
- Prohibit federal and state governments from contracting with for-profit companies for immigration related detention services or alternative to detention programs.
- Immediately end contracts with facilities with reported abuse, and prosecute individuals accused of having abused immigrants.
- Ensure all detention facilities provide adequate access to health services.
- Increase the protections for LGBTQ immigrants in detention. Alternatives to detention are the safest options for LGBTQ immigrants. However, if a transgender individual must be detained, ICE's policy should be to place the individual in housing that is consistent with the individual's gender identity, not the anatomy or sex assigned at birth.
- Require Legal Orientation Programs in all immigration facilities and increase access to counsel for immigrants. Nearly 85% of detained immigrants are not represented by an attorney. Requiring a Legal Orientation Program in all facilities will assure detained immigrants have an understanding of their basic rights. Access to counsel is the single biggest determining factor in the outcome of immigration cases, and increased access to attorneys will assure more immigrants are released from detention.
- Ensure that all personnel are informed on interacting with survivors of trauma and how to conduct adequate, trauma-informed, credible fear interviews with potential refugees to ensure they do not fall through the cracks.
- Ensure that all individuals are thoroughly and properly screened for any and all immigration relief to which they are entitled, including but not limited to U visas, T visas, asylee or refugee status.
- Take measures to prevent violence against all detainees, including physical and sexual violence, by federal employees, third party contractors, other detainees, and any other individual who is in contact with detained individuals.

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