



**NATIONAL ALLIANCE OF LATIN AMERICAN & CARIBBEAN COMMUNITIES**  
**ALIANZA NACIONAL DE COMUNIDADES LATINO AMERICANAS Y CARIBEÑAS**

A Transnational Vision, Rooted in Latin American and Caribbean Migrant Communities  
Una Visión Transnacional, con Raíces en la Comunidad Migrante Latinoamericana y Caribeña

Brief description of key administrative measures NALACC urges the incoming Obama Administration to take, in the area of immigration policy.

The measures listed below, if embraced and implemented by the Obama Administration, would go a long way in reorienting the logic of immigration law enforcement and in bringing peace of mind to many immigrant households.

- Halt Immediately All Residential and Workplace Immigration-related Raids.

Beginning in 2006 the Department of Homeland Security (DHS) through the agency of Immigration and Customs Enforcement (ICE) increased its actions targeting the detention and removal of undocumented, Latino immigrants. ICE has executed massive raids nationwide which have resulted in the separation of families and the interruption of social and economic life in many communities. Additionally, testimony given at hearings speaks to the grave violations of due process rights and civil rights as well as the violations of the US constitution that ICE committed during these activities.

Justice requires declaring a moratorium on these ICE actions against individuals and communities until Congress manages to modernize US immigration law via a set of incremental steps or via a single major overhaul.

- End All Existing and Cease Initiating Any New Collaboration Agreements Between City and State Law Enforcement Agencies and ICE.

In the past few years ACCESS (Agreements of Cooperation in Communities to Enhance Safety and Security) has provided a way for ICE to pressure local law enforcement agencies to enforce federal immigration laws. Section 287 (g) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) authorizes local authorities to do this work. These agreements result in increased racial profiling and create a financial burden on local governments. (Please see enclosed copy of the document titled, "Delegation of Immigration Authority Section 287 (g), Immigration and Nationality Act").

The promotion of these agreements between local authorities and ICE, based on Section 287 (g), should end and the current agreements be terminated. This change will result in prohibiting local authorities from attempting to enforce federal laws.

- Postpone Sending of Any New Social Security "No-Match" Letters.

Each year, employers file a Wage and Tax Statement (Form W-2) with the Social Security Administration (SSA) and the Internal Revenue Service (IRS) to report how much they paid their employees and how much they deducted in taxes from employees' wages throughout the

year. SSA sends a “no-match” letter when the names or Social Security numbers (SSNs) listed on an employer’s Form W-2 do not match SSA’s records. The letter’s purpose is to notify workers and employers of the discrepancy and to alert workers that they are not receiving proper credit for their earnings, which can affect future retirement or disability benefits administered by SSA.

On March 26, 2008, DHS issued a supplemental proposed rule that purports to clarify its August 2007 final rule regarding an employer’s legal obligations upon receiving a no-match letter.

On October 10, 2007, the U.S. District Court for the Northern District of California preliminarily enjoined implementation of the August 2007 rule, finding that it would cause irreparable harm to both innocent workers and employers. Shortly after the decision, DHS asked the court to suspend the litigation while it revised the rule so it would pass legal muster and address the concerns raised by the court. Now, DHS states that it is reissuing the 2007 final rule “without change.”

The DHS arbitrary rule, which remains unrevised despite the explicit Federal Court ruling enjoining the very language now being reissued, should be suspended. Furthermore, the issuance of the letters to employers should cease immediately. Such administrative action would ensure the decision of the 9<sup>th</sup> Circuit Federal Court is respected.<sup>1</sup>

It is important to note that in along with this concern that the court has been ignored, an additional concern is that the SSA database is not an immigration database and does not contain “real-time” data on individuals’ immigration status or work authorization.<sup>2</sup> Thus it is unreliable.

- Halt Any New Action on Implementing the Real ID Act.

This legislation required states to produce new, standardized driver’s licenses with machine-readable technology, and to create databases that hold copies of American citizens’ sensitive identity documents, including immigration status.<sup>3</sup> The original requirement of the Real ID Act set May of 2008 as the deadline for compliance. However, given the estimated cost for the states to implement Real ID Act requirements (more than \$11 billion over five years), and the impact this would have on local public finances, all 50 states have been granted an extension until 2014 to comply.<sup>4</sup>

Implementation of this law means that some of the \$11 million required to carry out the law over five years has already been expended. This law has negatively impacted services to the public and has imposed burdens on the states.

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<sup>1</sup> “PRELIMINARY INJUNCTION: Court Block Government From Implementing Flawed Social Security ‘No Match’ Rule”; NILC; [http://www.nilc.org/immseplymnt/SSA\\_Related\\_Info/ssa006.htm](http://www.nilc.org/immseplymnt/SSA_Related_Info/ssa006.htm)

<sup>2</sup> “Facts about the Social Security ‘No Match’ Letter” by National Immigration Law Center (NILC); [http://www.nilc.org/immseplymnt/SSA-NM\\_Toolkit/factsaboutno-matchletter\\_2008-03-26.pdf](http://www.nilc.org/immseplymnt/SSA-NM_Toolkit/factsaboutno-matchletter_2008-03-26.pdf)

<sup>3</sup> “Real ID Laws are a National Catastrophe” by Jim Harper; CATO Institute; [www.cato.org/pub-display.php?pub\\_id=9606](http://www.cato.org/pub-display.php?pub_id=9606)

<sup>4</sup> “The Real ID Act: National Impact Analysis” Presented by: National Governors Association, National Conference of State Legislatures and the American Association of Motor Vehicle Administrators, September 2006; [http://www.ncsl.org/print/statefed/Real\\_ID\\_Impact\\_Report\\_FINAL\\_Sept19.pdf](http://www.ncsl.org/print/statefed/Real_ID_Impact_Report_FINAL_Sept19.pdf)

Therefore, it is important that your administration halt any new action related to the implementation of this law and work with the U.S. Congress to effectively repeal it. Real ID will only make it more difficult for US citizens to obtain much needed driver's licenses. It also begins to move the nation in the direction of a national ID which can potentially infringe on the privacy rights of all individuals.

- End Use of "Identity Theft" Charges against Undocumented Immigrants:

Recently the consequences for many immigrant workers detained by ICE has been to be charged with "identity theft" (18 U.S.C. 1028 (A) (a) (1) - which can impose sentences of up to 2 years imprisonment) and add eligibility for deportation as a sanction. This has been a major factor contributing to the ongoing criminalization of immigrants and introduces a significant change from the approach of federal labor law that treats issues related to undocumented workers as an administrative infraction.

Clearly the accusation of identity theft against immigrant workers is unwarranted and unnecessarily burdensome and should be stopped immediately.

- Expedited Removal of Undocumented Immigrants:

In 2004 the US Attorney General authorized the "expedited removal" of undocumented immigrants detained within 100 miles of a US border (69 Fed. Reg. 48877). This practice has evoked testimony from the civic community describing the negative repercussions of this policy upon individuals seeking asylum in the US including violations to due process rights. Accordingly, the practice of "expedited removal" should be eliminated immediately.

The US system of justice is designed to ensure due process protections for all, both U.S. citizens and noncitizens, regardless of their immigration status. Reforms are needed to end the erosion of due process protections for legal permanent residents (LPRs) and refugees. Cease practices such as: mandatory detention, the expansion of the "aggravated felony" definition to include violations that are neither aggravated nor felonies, and the denial of judicial discretion for courts to weigh individual circumstances and allow someone a second chance.<sup>5</sup>

- End Discrimination against Undocumented Workers

Since 1999, the Equal Employment Opportunity Commission (EEOC) has acknowledged that undocumented immigrants are more vulnerable to discrimination and exploitation in the workplace and conceded that they deserve the same labor rights as US citizen workers.<sup>6</sup>

Therefore, the Department of Labor must invest resources into the enforcement of current US labor laws designed to dissuade employers from hiring immigrant workers with as a way to circumvent US labor laws.

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<sup>5</sup> "Immigration Reform and the Current Debate" by Judith Goldberg; Immigrant Legal Resource Center (ILRC) May 2007; [http://www.ilrc.org/resources/IR\\_debate.pdf](http://www.ilrc.org/resources/IR_debate.pdf)

<sup>6</sup> "EEOC Issues Guidance on Remedies for Undocumented Workers Under Laws Prohibiting Employment Discrimination" by EEOC; October, 26, 1999; <http://www.eeoc.gov/press/10-26-99.html>

- Postpone the Implementation of E-Verify

E-Verify (formerly the Basic Pilot/Employment Eligibility Verification Program) is an online system operated jointly by the Department of Homeland Security and the Social Security Administration (SSA). Participating employers can check the work status of new hires online by comparing information from an employee's I-9 form against SSA and Department of Homeland Security databases. This is an additional attempt to turn employers into federal immigration law enforcers. As with the Social Security "No Match" letters, not only is the information used to determine an individual's employment status inaccurate (SSA database), but it is another instrument to promote discrimination against immigrants in hiring processes. In particular any administrative or legislative action that disproportionately increases employer supremacy over employees leads to union busting and violations of workers' rights.