

## **Instilling Values at the Forefront of Immigration Reform Legislation California Values Statement on Immigration Reform**

California is home to the largest population of immigrants in the United States. Immigrants are our family members, friends, neighbors, and co-workers - and many of us are immigrants ourselves. From the fields of the Central Valley to downtown city skyscrapers, immigrants help to drive California's economic and cultural engines.

- More than one in four (27%) of California residents are immigrants. This amounts to over 9.9 million people.<sup>i</sup>
- 45% of California's immigrants are citizens.<sup>ii</sup> Immigrants and their communities make up a crucial part of the voting public. For example, from 1994-2012, the total number of voters in California grew by 3.5 million. Nearly 90 percent of these were Latino and Asian American voters.<sup>iii</sup>
- Immigrant workers are important to California's economy - comprising more than one-third of California's labor force.<sup>iv</sup>
- Immigrants from Latin America (55%) and Asia (35%) compose the majority of the foreign-born population in California.<sup>v</sup>

However, and for far too long, our rash and unworkable federal immigration policies have disproportionately and unfairly impacted California. Each and every day, aspiring citizens live in fear of detention and deportation – a fear worsened by federal initiatives that inappropriately coerce state and local law enforcement agencies to act as immigration agents. Moreover, current border enforcement policies have been inefficient, costly, and deadly and have been implemented without allowing California residents along the U.S.-Mexico border to have a say on policies that impact their communities.

- There are 2.8 million undocumented Californians – more aspiring citizens than any other state.<sup>vi</sup>
- Over 90,000 Californians have been torn from their families and deported as a result of the controversial “Secure Communities” program – the highest number in the country.<sup>vii</sup>
- Since 2010, unchecked enforcement at California's southern border has resulted in the death of three residents at the hands of Border Patrol agents.<sup>viii</sup>

*California's communities need commonsense immigration policies that uphold our basic values and protect the rights we hold dear. We urge the California Congressional delegation to be champions for our families and communities. Our representatives in Congress can play a significant role in protecting families, creating a workable immigration process that provides a roadmap to citizenship for 11 million new Americans, and upholding our basic rights.*

## **Instilling Values at the Forefront of Immigration Reform Legislation California Principles on Immigration Reform**

**1. Protection of the unity of the family must remain at the heart of immigration law and policy.** We recognize that there are many types of families and our immigration laws should respect all family members, regardless of race, religion, gender, age, sexual orientation, contact with the criminal justice system, country of origin, or current immigration status. We call for immigration reform that respects the value and fundamental right to protection and unity of the family, including lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) families. Immigration reform must reunify and keep families together by expeditiously clearing out the family visa backlogs. Family unity requires that the family visa backlogs - which have caused families to separate for as long as 23 years - be immediately and quickly cleared out.

### *Road to Citizenship*

**2. Immigration reform must create a road to citizenship for 11 million new Americans.** Any road to citizenship should be based on keeping families and communities together, including those family members who have had past contact with law enforcement or immigration officials. The road to citizenship should be as broad as possible and not contain roadblocks. The path also should not include long wait periods.

### *Ending Unjust Detentions and Deportations*

**3. The foundation of all immigration law and policy should be the inherent dignity and equal rights of all people.** As Americans, we believe all people are created equal and that our laws should treat all people fairly and with respect, no matter the color of your skin or the country of your birth. We oppose penalties for immigration violations and the criminalization of our communities. While all communities feel the impact of harsh enforcement laws and policies, the current system imposes particular burdens on women, members of the LGBTIQ community, people of color, and those who have had contact with the criminal justice system. We call for scaling back laws and policies such as the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) which have resulted in massive deportations of aspiring citizens and compromised the fundamental right to a day in court. Local law enforcement should not be entangled in the federal enforcement of immigration laws. Programs like Secure Communities and the Criminal Alien Program as well as ICE detainer requests should be eliminated because they undercut community policing and due process.

**4. Detentions and deportations must end because they violate our most fundamental rights to liberty and freedom.** We call for immigration policy reform that ends the reliance on cruel and costly detention as a cornerstone of immigration enforcement, including the ending of mandatory deportation. All persons detained should be treated humanely and granted access to quality medical and mental health care, counsel, legal information, and other protections. Immigration law and policy must ensure the

protection of refugees, women, LGBTIQ, and other vulnerable migrants in detention. Judicial discretion, judicial review, and a fair day in court must be restored to the immigration system in order to ensure due process.

### *Workers' Rights*

**5. Our immigration policies should reflect our country's core values of fairness and respect for work.** Immigration law should protect all workers' labor and civil rights. The U visa should be expanded to make it a more effective tool for immigrant workers defending their civil rights and to protect them from immigration-based retaliation. The antidiscrimination provisions of the Immigration and Nationality Act should be expanded to cover all workers and to ensure an effective remedy for workers who are discriminated against on the basis of national origin, citizenship, and immigration-status.

**6. Our immigration policies should uphold labor and employment standards and should ensure that the enforcement of immigration law does not undermine the enforcement of labor and employment laws and standards.** Workers' rights should be protected during employer compliance activities, including I-9 audits. Ensuring the transparency of the Department of Homeland Security must be at the core of immigration policies and programs.

**7. Our immigration policies should restrict, rather than build on, a burdensome employer sanctions framework.** As such, mandating electronic employment verification lessens the power of all workers and threatens the jobs and privacy of many citizens and work authorized immigrants.

### *Border Justice*

**8. A better border is efficient, humane, and a cornerstone of economic prosperity for all.**

**9. A dignified quality of life for border communities depends upon accountable border agencies with oversight mechanisms that uphold basic civil and human rights protections.**

**10. We believe border communities are gateways for bilateral trade and bilateral relationships.** Immigration reform should transform border enforcement by establishing modern, efficient and safe ports-of-entry that generate bi-lateral trade and economic development, promote public safety and create a welcoming environment for port-of-entry users.

**POLICY RECOMMENDATIONS FOR IMMIGRATION REFORM LEGISLATION**  
ADDENDUM TO THE CA VALUES STATEMENT ON IMMIGRATION REFORM

## **ROAD TO CITIZENSHIP**

### **Policy recommendations**

Immigration reform must include a road to full citizenship for all 11 million aspiring citizens currently in the U.S., as well as for those seeking to reunite with their families. The road should be as expansive as possible and contain clear and simple steps for people to obtain their lawful permanent resident status. There should be no barriers for low-income immigrants to regularize their status. The road to citizenship should do the following:

- Include simple steps for people to gain immediate lawful immigrant status
- Include simple steps for people to gain lawful permanent residency quickly, without long waiting periods
- Make sure that any fee, if included, is affordable and allow fee waivers for individuals who meet the income guidelines
- Allow family members of applicants who are able to regularize their status to reunite with their family, including same sex couples
- Be based on physical presence in the United States, not conditioned on factors like language skills, education, or continuous employment that would unreasonably burden immigrants who are committed to this country
- Provide applicants with work authorization documents while their applications are being adjudicated.
- Close any pending removal case and prior removal orders for people who qualify
- Allow applicants to travel in and out of the country
- Ensure access to affordable health care and economic security programs
- Contain a streamlined process for people who have been granted deferred action (including Deferred Action for Childhood Arrivals), Temporary Protected Status, and other forms of temporary relief, to become lawful permanent residents
- Provide a broad waiver for offenses associated with past unauthorized work. The waiver must include past use of false documents to obtain employment, which is a direct consequence of the Federal Government's failure to create a common-sense immigration process for immigrants who work hard and contribute to their communities.

The road to citizenship should NOT:

- Be contingent on enforcement benchmarks
- Exclude people by continuing to use the current grounds of inadmissibility or by expanding them

- Penalize people for status-based offenses related to past unauthorized employment

## **FAMILY IMMIGRATION** **Policy Recommendations**

Protection of the unity of the family must remain at the heart of immigration law and policy. We recognize that there are many types of families and our immigration laws should respect all family members, regardless of race, religion, gender, age, sexual orientation, contact with the criminal justice system, country of origin, or current immigration status.

### **1. Reunite Families by Reducing Visa Backlogs:**

- Immediately and expeditiously clear out bureaucratic backlogs for family-based immigration visas that have caused some families to be separated for over two decades.
- Ensure that people whose age, family relationship or marital status change while waiting for visa approval are not subject to processing delays.
- Provide adequate numbers of family-based visas each year
- Retain family preference categories at sufficient levels
- Remove the per country limits
- Reclassify spouses and minor children of lawful permanent residents as immediate relatives to ensure that these families are reunited as quickly as possible.

### **2. Guarantee Equality for LGBTIQ Families:**

- Promote the unity of LGBTIQ families by amending immigration laws to ensure that LGBTIQ individuals have the same immigration rights and benefits as other immigrants, including allowing U.S. citizens and permanent residents to sponsor their same-sex, foreign-born partners for immigration purposes.

### **3. Consider Humanitarian Factors in Keeping Families Together:**

- Remove bars to reentry and adjustment of status so immigrants can reunite with their family members and loved ones in the U.S.
- Authorize discretion to waive bars to admission for individuals if they or their family members would experience hardship.

## **ENDING UNJUST DETENTIONS AND DEPORTATIONS** **Policy Recommendations**

## 1. Scale back deportations

- Since 1996, certain criminal convictions, including some minor misdemeanors from many years ago, automatically trigger deportation for life regardless of individual circumstances and rehabilitation. End this disproportionate double punishment of immigrants for past convictions by narrowing the definition of “aggravated felony” and removing punitively and overbroad definitions of “conviction” and “term of imprisonment.”
- Eliminate the National Security Entry-Exit Registration System (NSEERS) program outright because it unfairly targets immigrants based solely on their national origin.<sup>1</sup> Strict and broad prohibitions on the use of race and religion in enforcement of federal law must become the universal norm.
- Increase people’s ability to defend themselves in removal proceedings by expanding the availability of waivers and reducing the heightened standard for waivers. This can be done by creating a simple, general waiver applicable to the grounds of inadmissibility and removability. This uniform waiver would allow people to remain in the U.S. based on their family and community ties.
- Limit removals that take place without judicial review, such as stipulated removals and reinstatement of removals.
- Immigration reform should not create new deportation grounds or greater immigration and criminal penalties for crossing the border and other immigration-related violations.
- Increase transparency and accountability for Immigration & Customs Enforcement (ICE) personnel to ensure that they respect the civil, constitutional, and human rights of immigrants, including protection from unlawful searches and seizures, the right to due process, and access to counsel.

## 2. Terminate Mass Deportation Programs

- Eliminate programs that entangle local law enforcement in federal immigration enforcement such as 287(g), “Secure Communities,” and the Criminal Access Program. These programs render immigrants more vulnerable to increased racial profiling and cause communities to live in fear of law enforcement.

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<sup>1</sup>NSEERS required nonimmigrant (individuals seeking admission to the U.S. temporarily) males who are 16 of age and older from 25 specific countries to register at local immigration offices. All but one country on the list have predominately Muslim populations.

- Stop issuing ICE detainer requests (“ICE holds”) to local law enforcement. ICE holds are only for the purpose of notification and raise significant constitutional and liability questions, burden local resources, undercut due process, and undermine community policing strategies.

### **3. Reaffirm federal authority over immigration law (pre-emption)**

In recent years we have seen a spate of discriminatory state laws like SB 1070 attempting to crackdown on immigrants. These laws have resulted in civil rights violations and damaged trust between the police and immigrant communities. Any immigration reform bill should:

- Reaffirm the limited role of state and local law enforcement in immigration enforcement.
- Reaffirm that all state and local participation in immigration enforcement is limited to that expressly authorized by federal statute, and generally is optional.

### **4. Improve the Immigration Detention System**

- End the mandatory detention of immigrants. Laws that require jailing thousands of immigrants while they fight their deportation cases are inhumane. Even in the criminal justice system, people facing charges can at least request bail. Many immigrants are transferred to privately run, for-profit detention centers thousands of miles from their homes, do not have access to lawyers, and are pressured to accept deportation to escape the deplorable conditions in detention.
- Establish screening systems and procedures to ensure that vulnerable populations are not detained.
- Limit all detentions to no more than 90 days.
- Establish a right to government-appointed counsel for, at a minimum, individuals with substantial defenses, lawful permanent residents and vulnerable populations facing removal.
- Institute enforceable standards in the detention system, such as interpretation and translation assistance and access to quality medical care, mental health services, legal counsel, legal resources, and family members. Expand the Legal Orientation Program to provide all detained immigrants with group legal orientations, consultations and pro bono legal support.

- Expand the use of alternative to detention programs in place of custodial programs to minimize the number of people in detention and reduce spending on unnecessary detention.
- Ensure that parents facing detention and removal have meaningful opportunities to make informed decisions with respect to their children's care and well-being, to participate in administrative and judicial processes affecting custody of their children, and to make travel and custody arrangements that preserve family unity.
- Set up an agency monitoring system for detention centers operating under private contracts. An annual report should be released and those agencies that do not meet the standards should not be allowed to renew their contract with DHS.

## **5. Restore Judicial Discretion**

- Ensure that immigrants and refugees are guaranteed fair court proceedings and meaningful review of their individual cases by amending the 1996 laws to restore judicial discretion and due process.
- Immigration Judges must be given back the power to grant a second chance and discretion to consider aspects of a person's life—such as family ties, length of time in the U.S., rehabilitation, and acceptance of personal accountability – when considering eligibility for forms of relief from removal. Eliminate the Lawful Permanent Resident (LPR) Cancellation of Removal aggravated felony bar, change the hardship standard for non-LPR Cancellation of Removal, and remove the restrictive stop-time rules.
- Restore judicial recommendations against deportation so that criminal judges can consider each case and decide whether deportation is appropriate.
- Require in-person immigration court hearings before entering final orders or removal, including for individuals who have signed a stipulated order of removal to ensure due process is met.

## **WORKERS' RIGHTS** **Policy Recommendations**

### **1. Establish Full Labor and Workplace Rights and Protections for All Workers Regardless of Immigration Status**

- Promote shared prosperity and strengthen the U.S. economy by establishing and enforcing full labor and workplace rights and protections for all workers regardless of immigration status, including in the areas of wage/hour, health and safety, antidiscrimination, and the right to organize. All labor and workplace rights and protections should continue to apply to individuals during the transition period while in provisional immigration status.

## **2. Protect Workers from Immigration-based Employer Retaliation**

- Include the POWER Act in immigration reform legislation, to strengthen and streamline access to U visas for any individual who has filed a workplace claim or who is a material witness in any pending or anticipated proceeding involving a workplace rights claim, and expand grounds for U visas to include victims of employer retaliation, including through the use of retaliatory I-9 employer self-audits.

## **3. Restrict the Use of Flawed Electronic Employment Verification Systems (EEVS)**

- Burdensome electronic employment verification systems (such as E-Verify) build upon a broken employer sanctions system and do not work. Such programs have unacceptably high error rates which disproportionately impact naturalized citizens and work authorized immigrants. As a result, any mandated EEVS program will cause job losses for U.S. citizens and work authorized immigrants, drive jobs into the underground economy and make all workers more vulnerable, impose significant new costs on employers, particularly small businesses, and deprive the government of revenue. Any mandated EEVS program and any new employer sanctions belie the reality that the U.S. economy is dependent upon immigrant labor, including undocumented labor.

## **4. Reform Worksite Immigration Enforcement to Protect Workers' Rights**

- Codify and strengthen existing ICE policies aimed at preventing employers from manipulating the immigration system to retaliate against workers who have come forward to assert their workplace rights, and that provide interim protections to such workers whose employers have placed them in danger of deportation.

## **5. Halt the Expansion of Temporary and Guest worker Programs and Ensure Existing Programs Do Not Undermine Workers' Rights**

- Because both temporary and guest workers lack the basic freedom to change jobs if they experience workplace exploitation and instead risk retaliation, blacklisting and deportation if they challenge abuses, we do not support any new guest worker programs. The Department of Labor should ensure that employers who currently sponsor temporary and guest workers provide healthcare and maintain safe, humane, and fair workplaces.
- All temporary and guest workers should be free to seek employment with different employers through portable visas, have full labor and workplace rights and protections, and have access to a roadmap to citizenship independent of employment verification by a specific employer.

## **BORDER JUSTICE**

### **Policy Recommendations**

The U.S.-Mexico border has become an increasingly militarized boundary between two nations not engaged in armed conflict and which are in fact critical economic partners. Current border enforcement policies have been inefficient, costly, and deadly and have been implemented without allowing border residents to have a say on policies that impact their communities. Moreover, these policies create mistrust and tension between border residents and federal law enforcement agencies.

**1. Improve Ports-of-Entry infrastructure to facilitate the flow of bilateral trade, traffic, and improve overall bi-national relationships** Every minute of delay at the five busiest southern ports costs the US economy \$116 million according to US Dept. of Commerce estimates.

**2. Create clear and enforceable standards for treatment of people who cross the border and residents**

**3. Develop measures for enhancing oversight and accountability of Customs and Border Protection to guard against abuse of authority, profiling, and other civil rights violations** All the border enforcement benchmarks proposed over the past seven years have been met. We now need better oversight mechanisms and clear accountability measures for how border agents operate.

**4. Reaffirm the limited role of state and local law enforcement agencies in immigration enforcement along the border and within the 100 mile border zone**

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<sup>i</sup> Figure based on tabulations made by the Center for the Study of Immigrant Integration at the University of Southern California of 2008-2010 polled American Community Survey data.

<sup>ii</sup> Ibid.

<sup>iii</sup> CA Field Poll, <http://field.com/fieldpollonline/subscribers/RIs2435.pdf>

<sup>iv</sup> Figure based on tabulations made by the Center for the Study of Immigrant Integration at the University of Southern California of 2008-2010 polled American Community Survey data.

<sup>v</sup> “Immigrants in California.” Public Policy Institute of California. April 2011.

<sup>vi</sup> “Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2011.” U.S. Department of Homeland Security Office of Immigration Statistics.

<sup>vii</sup> “Secure Communities Monthly Statistics through December 31, 2012.” U.S. Immigration and Customs Enforcement.

<sup>viii</sup> Southern Border Communities Coalition website, listing killings with links to sources:  
<http://soboco.org/border-patrol-brutality-since-2010/>.