

TESTIMONY OF

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at the hearing on

“ICE Worksite Enforcement – Up to the Job?”

before the

HOUSE COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT

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**Testimony on
“ICE Worksite Enforcement – Up to the Job?”
Before the House Committee on the Judiciary
Subcommittee on Immigration Policy and Enforcement
Submitted by Daniel Griswold, Cato Institute
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Chairman Gallegly, Ranking Member Lofgren, and members of the Subcommittee, thank you for inviting the Cato Institute to testify today on the subject of worksite enforcement of U.S. immigration law. The Cato Institute is a non-profit, non-partisan educational institution dedicated to promoting understanding of public policies based on the principles of individual liberty, free markets, and limited, Constitutional government. As the director the Institute’s Center for Trade Policy Studies, I’ve been researching and writing about trade and immigration policy since joining Cato in 1997.

All of us in this room share the policy goals of reducing illegal immigration, securing our borders against those who would do us harm, and creating jobs for U.S. workers through a growing economy. With those goals firmly in mind, I believe that focusing primarily on worksite enforcement will continue to be an expensive and damaging distraction until we reform our immigration laws to reflect the underlying realities of America’s 21st-century labor market.

Our policy of relying solely on enforcement of existing law to reduce illegal immigration has failed. This is true for both border and interior enforcement. Since 1992, the U.S. Border Patrol’s annual budget has shot up by 714 percent, from \$326 million to \$2.7 billion, while the number of Border Patrol agents stationed along the southwest border has grown five-fold, from 3,555 to 17,415.¹ Meanwhile, since the 1986 Immigration Reform and Control Act, U.S. employers have been subject to fines for knowingly hiring undocumented workers. Interior enforcement of those laws has waxed and waned and waxed again over the years. In the late 1990s, the Clinton administration raided hundreds of workplaces and detained thousands of illegal workers. More recently the Bush administration ramped up deportations in 2007 and now the Obama administration has rounded up and deported record numbers of illegal immigrants.²

Yet during two decades of more vigorous enforcement at the border and at the worksite, the number of illegal immigrants in the country has roughly tripled, from 4 million to 11 million.³ Imagine the complaints we would rightfully hear about a federal education program in which spending and personnel had grown dramatically, and yet the problem it was supposed to solve had gotten far worse. The right response would be to change our

¹ Hiniyosa-Ojeda Raúl Hinojosa-Ojeda, “Raising the Floor for American Workers: The Economic Benefits of Comprehensive Immigration Reform,” The Center for American Progress, January 2010, p. 3-4.

² “Current ICE Removals of Noncitizens Exceed Numbers Under Bush Administration,” TRAC Immigration Project, Syracuse University, <http://trac.syr.edu/immigration/reports/234/>

³ Jeffrey Passel and D’Vera Cohn, “U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade,” The Pew Hispanic Center, September 1, 2010.

approach, not to keep throwing more money and personnel into a broken system hoping for a better result.

Economic and Demographic Realities Drive Immigration

Our enforcement-only approach is at odds with the underlying economic and demographic realities of our dynamic American economy. Low-skilled immigration to the United States, both legal and illegal, is driven by basic forces of demand and supply.

On the demand side, our economy continues to create hundreds of thousands of net new jobs each year that require only short-term, on-the-job training. Of course, the Great Recession of 2007-09 put a temporary halt to net job creation, but as our economic recovery and expansion continue, the long-term demand for low-skilled workers will continue to rise. According to recent projections by the U.S. Department of Labor, hundreds of thousands of net new jobs will be created during the next decade for home health aides, food preparation and serving workers, retail salespersons, landscaping and groundskeeping workers, and waiters and waitresses.⁴

At the same time, the number of Americans who have traditionally filled such jobs continues to shrink. American workers, on average, are becoming older and better educated and thus less willing to fill those jobs. The number of adult Americans in the work force without a high school diploma has dropped by 3 million in the past decade, and that trend will likely continue.⁵ According to projections by the U.S. Department of Labor, the number of workers age 16-24, another group that has traditionally filled less-skilled jobs, will shrink by 900,000 by 2018.⁶

Immigrants fill the growing gap between expanding low-skilled jobs and the shrinking pool of native-born Americans who would want such jobs. Immigrant workers enable important sectors of the U.S. economy to continue to grow and meet the needs of their customers. By facilitating the growth of such sectors as retail, agriculture, landscaping, restaurants, and hotels, low-skilled immigrants have enabled those sectors to expand, attract investment, and create middle-class jobs in management, design and engineering, bookkeeping, marketing and other areas that employ native-born Americans.

More broadly, our nation is undergoing a demographic downshift with enormous implications. The 2010 Census figures that were just released show the slowest population growth in the past decade since the 1930s. Without immigration, our workforce would soon begin to shrink, reducing our potential economic growth and our weight and influence in the global economy. Without a steady, continuing growth in our

⁴ T. Alan Lacey and Benjamin Wright, "Occupational employment projections to 2018," U.S. Department of Labor, *Monthly Labor Review*, November 2009, Table 5, pp.93-94.

⁵ U.S. Census Bureau, "Table A-1. Years of School Completed by People 25 Years and Over, by Age and Sex: Selected Years 1940 to 2009," www.census.gov/cps/.

⁶ Mitra Toossi, "Labor force projections to 2018: older workers staying more active," U.S. Department of Labor, *Monthly Labor Review*, November 2009, Table 1, p. 32.

workforce, it will be even more difficult to fund Social Security and Medicare payments to the army of Baby Boomers who are already beginning to retire. Immigration has played an important role in allowing our workforce to continue a healthy if slowing rate of growth.

It may produce a good sound bite but it is misleading to assert that every low-skilled immigrant we can round up and deport will mean a job for an unemployed American. The real world economy doesn't work that way. Low-skilled immigrants, whether legal or illegal, do not compete directly with the large majority of American workers. American companies hire immigrant workers to fill millions of low-skilled jobs because there are simply not enough American workers willing to fill those same jobs. The pay and working conditions for many of these jobs do not match the qualifications and aspirations of the large majority of Americans currently looking for employment in our recovering economy.

Consider the agricultural sector, in which an estimated 800,000 to 1 million undocumented immigrants work each year to harvest American crops. Does anybody seriously believe that if we could deport every one of those workers tomorrow, that a sufficient number of American workers would line up to take their place? It's safe to say most of those jobs would go unfilled. If wages were hiked significantly, many of those jobs would simply disappear, most likely to be replaced by imported farm goods grown and harvested in other countries.

Without immigrant workers, the most likely scenario is that we would simply produce less agricultural output as a nation. This would mean not only a direct loss of manual, on-the-farm jobs but a ripple effect of job losses in upstream and downstream sectors such as management, processing, packaging, distribution, and marketing. According to estimates from the U.S. Department of Agriculture, there are 3.1 related jobs off the farm for every job on the farm. Eliminating the on-farm jobs would put at risk many more jobs paying middle-class wages and employing native-born American workers.

Immigration and Employment

We cannot enforce our way out of unemployment. There is no causal relationship between inflows of immigration and higher overall unemployment in the U.S. economy. In fact, the causation usually runs the other way: immigrants tend to come in greater numbers during periods of low unemployment when jobs are plentiful, and the numbers tend to decline when unemployment rises. That is the main reason why the number of illegal immigrants in the United States has actually fallen by an estimated 1 million since 2007, according to the Pew Hispanic Center.⁷ Incremental changes in enforcement cannot account for such a sharp drop in the number of undocumented workers in the United States. The most plausible major explanation is the economic downturn in the U.S. labor market that began at the end of 2007 and persisted into 2010.

⁷ Jeffrey Passel and D'Vera Cohn, "U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade," The Pew Hispanic Center, September 1, 2010.

When it comes to employment, immigrants complement the large majority of American workers rather than compete against them. Immigrants help to create job opportunities for native-born workers by starting businesses, attracting investment, and allowing important sectors of the economy to expand, creating opportunities higher up the skills ladder.

It is an especially pernicious myth that low-skilled immigrants harm the employment prospects of African Americans. As with most other Americans, few African Americans compete directly with immigrant workers. In what was probably the most thorough economic study of U.S. immigration ever, the 1997 report of the National Research Council, titled *The New Americans*, came to the conclusion that:

None of the available evidence on spatial correlations suggests that in the aggregate the economic opportunities of black Americans are substantially reduced by immigration. . . . Some black workers have lost their jobs to immigrants, especially when they live in a place with a large concentration of immigrants. But the vast majority do not live in such places, and their economic opportunities are determined by other things.⁸

Those “other things” include the quality of education, local crime rates, and the overall business climate. I would humbly suggest to the Committee members that improving any or all of those other things would do far more to enhance the economic opportunities of American workers than beefed up worksite enforcement against the hiring of low-skilled immigrants.

My own research at the Cato Institute shows that the growth of Hispanic immigration has not had a negative effect on lower-income African Americans. In fact, the evidence from the past 20 years shows that as immigrants have moved in, native-born Americans, including African Americans, have generally moved up. From 1994 through 2007, the number of illegal immigrants in the United States more than doubled, from an estimated 4.5 million to 11 million. During that same period, the number of African Americans living below the poverty line dropped by 1.6 million.

During that same period of rising low-skilled immigration, we also witnessed an encouraging decline in the number of adult Americans toiling without a high-school diploma. From 1993 through 2006, the number of adults 25 and older without a high school diploma declined from 32.1 million to 27.9 million, a fall of 4.2 million. That includes a drop of 1 million in the number of adult African Americans without a diploma.⁹ Clearly, rising numbers of low-skilled immigrants have not prevented African Americans from improving their skills and lifting themselves out of poverty.

⁸ James P. Smith and Barry Edmonston, eds., *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration* (Washington: National Research Council, 1997), p. 223-224.

⁹ U.S. Census Bureau, Current Population Survey, Educational Attainment, Table 4, <http://www.census.gov/cps/>.

Immigration itself may have helped to spur the advancement of millions of Americans to improve their employment prospects and earnings potential in the past two decades. The arrival of low-skilled foreign-born workers in the labor force increases the incentives for younger native-born Americans to stay in school and for older workers to upgrade their skills.

Immigrants do compete directly with a small subset of American workers, typically those without a high school diploma. But the addition of low-skilled immigrants also expands the size of the overall economy, creating openings in higher-paid occupations such as managers, skilled craftsmen, and accountants. The result is a greater financial reward for finishing high school and for acquiring additional job skills. Low-skilled immigration motivates Americans who might otherwise languish in the underclass to acquire the education and skills necessary so they are not competing directly with foreign-born workers.

The large majority of economists across the political spectrum agree that immigration is good for our economy. It increases the incomes of the large majority of Americans while boosting overall economic growth. Evidence is growing that immigration has a modestly positive impact on the wages of the large majority of American workers, and a modestly negative impact on the small and shrinking minority of adult American workers without a high-school diploma.

The 1997 National Research Council study concluded that immigration boosts the income of American workers overall by as much as \$10 billion, but that it does slightly reduce the wages of the lowest skilled Americans. As the NRC concluded, “The weight of empirical evidence suggest that the impact of immigration on the wages of competing native born workers is small—possibly reducing them by only 1 or 2 percent.”¹⁰ More recent studies have confirmed this effect. For example, in a 2006 study for the National Bureau of Economic Research, Ottaviano and Peri estimated that immigration from 1990 to 2004 had reduced the wages of Americans without a high school diploma by 1 to 2 percent, while boosting the wages of the more than 90 percent of American adults with a high-school education by 0.7 percent in the short run and 1.8 percent in the long run.

Immigrants have a relatively small impact on the wages of native born workers for at least three major reasons: One, immigrants tend to bring a different set of skills and differing preferences for the kind of work they perform compared to native-born workers, which means immigrants are less easily substituted for their native-born counterparts. Two, by increasing the size the labor force, immigrants tend to boost the returns to capital, stimulating more investment in the economy and thus raising the productivity and wages of all workers, including the native-born. Three, for all the political hype over immigration, the number of immigrants and their output continue to be modest compared to the overall size of a U.S. economy that employs close to 150 million workers and produces more than \$14 trillion in output a year.

¹⁰ National Research Council, p. 220.

The Economic Benefits of Legalization

Allowing more low-skilled immigrants to legalize would have a positive effect not only on the immigrants themselves but on native-born workers on the lower end of the skill ladder. We know from experience after the 1986 Immigration Reform and Control Act that newly legalized workers are more likely to upgrade their job and language skills, raising their productivity and wages. Legalized workers also enjoy more bargaining power in the marketplace, and are far more likely to be employed “on the books,” resulting in better pay. A 1996 Labor Department study found that real wages paid to undocumented workers were flat for most of the decade until 1987–88, but then rose 15 percent in the five years following legalization.¹¹ Legalization means that native-born and legal immigrants are no longer required to compete with an underground labor supply.

If anything, more aggressive enforcement against low-skilled immigration will arguably have a negative impact on our economy and the incomes of American households. Removing millions of low-skilled workers from our labor force through enforcement would impact our economy in a number of negative ways: It would reduce incentives for investment in the affected industries. It would reduce the relative job openings in more skilled positions in those industries, reducing employment for native-born Americans. Less investment and employment in the affected sectors would in turn reduce government revenue.

A 2009 Cato study by Dixon and Rimmer estimated the economy-wide effects of enhanced border enforcement and interior enforcement, as well as different versions of legalization through immigration reform. The authors used a general-equilibrium model that they have developed for the U.S. Homeland Security Department, the U.S. Agriculture Department, and the U.S. International Trade Commission. In a study titled, “Restriction or Legalization,” Dixon and Rimmer estimated that more aggressive interior enforcement that resulted in a 30 percent reduction in low-skilled immigration to the United States would cause a drop in the incomes of American households of 0.45 percent—or \$64 billion a year. In contrast, the same study estimated that immigration reform that allowed more low-skilled immigrants to enter the United States legally could boost the incomes of American families by \$180 billion a year.¹² A 2010 study by the Center for American Progress confirmed the magnitude of the potential gains, concluding that legalization would boost incomes by \$189 billion a year once fully implemented.¹³

¹¹ Shirley Smith, Roger G. Kramer, and Audrey Singer, *Effects of the Immigration Reform and Control Act: Characteristics and Labor Market Behavior of the Legalized Population Five Years Following Legalization* (Washington, DC: U.S. Department of Labor, 1996), p. 43.

¹² Peter B. Dixon and Maureen T. Rimmer, “Restriction or Legalization? Measuring the Economic Benefits of Immigration Reform,” Cato Trade Policy Analysis no. 40, August 13, 2009.

¹³ Raul Hinojosa-Ojeda, “Raising the Floor for American Workers: The Economic Benefits of Comprehensive Immigration Reform,” Center for American Progress and the Immigration Policy Center, January 7, 2010.

The best approach to reducing illegal immigration would be to expand opportunities for legal immigration while targeting enforcement against terrorists, criminals and others who continue to operate outside the system.

If foreign-born workers were allowed to enter the country through a safe, orderly and legal path, the number choosing to enter illegally would drop sharply. When given the choice of paying a smuggler \$2,000, risking robbery and death in the desert, and living a shadowy existence in the underground U.S. economy, unable to leave and return freely to visit home, or entering the United States across a legal port of entry with legal documents, enjoying the full responsibility and protection of the law, and the freedom to visit home without fear of being denied re-entry, the large majority of potential entrants will choose the legal path.

We know from experience that legal immigration, if allowed, will crowd out illegal immigration. Here we can learn two valuable lessons from the *Bracero* program, which allowed Mexican workers to enter the United States temporarily from 1942 to 1964, typically to work on farms in the Southwest. One lesson is that temporary workers should be given maximum mobility to change employers. The fatal flaw of the *Bracero* program is that it tied workers to specific employers as a condition of the visa. This gave too much leverage to employers, resulting in abuses which lead Congress to shut down the program.

The more positive lesson from the *Bracero* program is that, for all its shortcomings, it did provide a legal alternative to illegal immigration. Early in the 1950s, illegal immigration was widespread because the program offered an insufficient number of visas to meet the labor demands of a growing U.S. economy. Instead of merely redoubling efforts to enforce a flawed law, Congress dramatically increased the number of visas to accommodate demand. The result: Apprehensions of illegal entrants at the border soon dropped by more than 90 percent.¹⁴ Back then, as we could expect now, foreign-born workers rationally chose the legal path to entry when it was available. When the *Bracero* program was abolished in 1964, illegal immigration began an inexorable rise that has continued to the present time.

Legalization would not necessarily mean a significant increase in the number of low-skilled immigrant workers in the U.S. economy, but instead the replacement of an undocumented workforce with a documented workforce. Legalization would allow the U.S. government to more effectively monitor and manage who was entering the United States for employment. Although the number of immigrant workers is ultimately determined by demand in the labor market, the federal government could regulate the number of visas depending on the unemployment rate and the business cycle. One tool of regulation could be changing visa fees to better match the supply of temporary foreign-born workers with domestic demand.

¹⁴ Stuart Anderson, "The Impact of Agricultural Guest Worker Programs on Illegal Immigration," National Foundation for American Policy, November 2003.

A program of legalization would transform the enforcement debate. Instead of wasting resources in a futile effort to root out millions of low-skilled immigrant workers who are productively contributing to our nation's economy, we could focus our enforcement efforts on apprehending terrorists and other real criminals. Large-scale illegal immigration will end only when America's immigration system offers a legal alternative consistent with the underlying realities of our labor market.