December 20, 2012

President Barack H. Obama The White House 1600 Pennsylvania Avenue, N.W. Washington, D.C. 20500

Dear Mr. President:

We appreciate your leadership and the commitment you have made to prioritize immigration policy reforms. Immigrant communities supported you overwhelmingly in your recent reelection, creating an incredible opportunity to aggressively pursue a long overdue set of reforms that will bring our immigration system into alignment with American values. Our group—a coalition of immigration advocates, human rights advocates, civil liberties advocates, and members of community groups and faith-based organizations—seeks to ensure that U.S. immigration and border policy is crafted and implemented in a way that is fair and upholds constitutional protections and human rights.

We are deeply concerned by the way the Department of Homeland Security (DHS) has carried out immigration enforcement during your first term. Even though unauthorized immigration crossings and apprehensions at the border have plummeted to their lowest level in 40 years, immigrants have suffered immensely as a result of record-breaking deportation rates. Tens of thousands of families have been separated by deportations and border regions have experienced excessive and wasteful spending resulting in unnecessary buildup of infrastructure, technology and personnel.

Immigration policy reforms should preserve human dignity and family unity. Currently, our immigration policies deny many immigrants their right to raise healthy, safe families. While our nation continues to struggle under the weight of a prolonged fiscal crisis, we urge you to adopt a reform plan that ensures federal resources for immigration enforcement and detention are deployed thoughtfully and efficiently. Moreover, reforms should uphold fundamental principles such as due process and equality under the law and ensure the security and stability of border communities.

We are eager to see the following measures implemented in your second term. We hope that you will communicate the following recommendations as urgent priorities in your directives to the Departments of Justice, Homeland Security, Labor and Health and Human Services.

The Federal Government Should Exercise Its Immigration Enforcement Authority in a Manner that Protects the Civil and Human Rights of All People.

The federal government must regain and exert control over the just enforcement of immigration laws. The devolution of immigration enforcement to state and local law enforcement has exacerbated profiling based on race, ethnicity, religion, gender, national origin, language and perceived immigration status. Such policies have created incentives for the police to make pretextual arrests based on racial profiling and other impermissible bases so that immigration status can be checked. Current practices that involve state and local police in immigration enforcement have also allowed for the unlawful detention and deportation of individuals with valid claims to remain in the United States—including U.S. citizens and lawful permanent residents—and the dismantling of long-established and effective community policing practices. Many women, for example, have been forced to choose between the threat of an abusive husband and—if they call the police—the risk of detention or deportation. These policies have alienated immigrant communities, making them less likely to cooperate with police investigations or come forward when they are victims or witnesses of crime.

The Obama Administration should:

- completely phase out existing 287(g) agreements and initiate no new agreements;
- immediately stop the implementation of the Secure Communities and Criminal Alien Programs unless and until meaningful civil rights and civil liberties safeguards are put in place to ensure that racial profiling and other human rights violations are not occurring, including collecting and monitoring data on the perceived race or ethnicity of the people arrested, the charges that are lodged and the ultimate disposition of the cases;
- terminate Secure Communities in jurisdictions that have chosen to opt out of the program;
- immediately suspend Secure Communities, the Criminal Alien Program, and other similar formal and informal partnerships in jurisdictions with a documented record of racial profiling or where DOJ or DHS is actively investigating a pattern or practice of discriminatory policing;
- clarify that immigration detainers are only for the purpose of notification, not additional detention;
- continue to aggressively challenge implementation of anti-immigrant state laws through DOJ-led litigation;
- rescind the DOJ's 2002 OLC "inherent authority" memo and issue a new memo clarifying that state and local law enforcement agents may not enforce federal immigration laws;
- issue enforceable regulations that make certain that civil rights laws and protections for noncitizens will be an integral component of immigration enforcement activities; and
- strengthen mechanisms for oversight and independent review of these programs.

Workplace Immigration Enforcement Must be Conducted and Targeted in a Manner that Improves—Rather than Undermines—the Wages and Working Conditions of US and Immigrant Workers, and that Respects Workers' Due Process Rights.

The Obama Administration should:

- establish an interagency taskforce to ensure that immigration enforcement is implemented in a manner that is consistent with other administration goals such as effective labor law enforcement and respect for due process rights;
- update the decades old workplace enforcement Operating Instructions so that such enforcement, including I-9 audits, does not interfere with labor disputes and is not misused or taken advantage of by employers to silence, intimidate, or eliminate workers exercising their rights, including their right to organize free from intimidation;
- expand the DHS-DOL MOU to encompass other federal, state, and local labor enforcement agencies, or otherwise establish policies to de-conflict labor and immigration law priorities;
- establish priorities to ensure that limited resources for workplace enforcement, including I-9 audits, do not undermine businesses that are industry leaders in wages, benefits, and treatment of workers, thereby putting downward pressure on the wage structure for entire industries;
- review confidentiality restrictions to ensure that workers who are affected by immigration enforcement actions are not at the mercy of their employers for information about government determinations that affect their livelihood, but rather are able to obtain accurate information that they need to protect their workplace rights directly from DHS; and
- robustly implement ICE's Memorandum "Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs," to ensure that workers' rights are respected by the agency. Despite the fact that the policy has been in effect for more than one year, ICE continues to deport workers who are organizing to protect their labor or civil rights, contrary to the policy.

Detention for Immigration Purposes Should be Civil.

The immigration detention system is woefully overburdened, inhumane, and denies basic due process and human rights.

<u>The White House should ensure that the Department of Homeland Security</u> (DHS):

- broadly implements effective community-based alternatives to detention for individuals who require supervision but who do not pose a flight risk or a danger to the community, including those for whom custody is currently mandatory;
- only uses detention as a last resort—where there is a flight risk or public safety threat that cannot be managed through an alternative program;

- closely monitors conditions of detention and take swift action for noncompliance, including closure of deficient facilities;
- ensures that individuals who are detained have access to counsel at all points in the detention and removal process; and
- does not endeavor to maintain a specific number of detention beds.

Sexual Abuse Must be Eliminated in Immigration Detention

We are glad to see the President's continued leadership in preventing sexual violence in confinement facilities and the recent issuance of proposed Prison Rape Elimination Act (PREA) regulations. Several of our groups will be submitting comments and will observe with great interest how these comments are taken under advisement and how the regulations are ultimately implemented.

DHS Must Adopt Responsible, Transparent and Accountable Border Policies.

Border apprehensions are at a four decade low point. Moreover, border communities and lawmakers at the local, state and federal level have acknowledged that the border is under greater operational control than it has been in decades and border cities are now among the safest in the nation¹. In this environment, the White House should establish policies that shift away from an enforcement-only paradigm and towards true security through oversight, training, community consultation, and public accountability. Border policies should also preserve the prosperity of the region and respect the human rights of border communities.

The White House should ensure that DOJ and DHS :

- reform and make public CBP's use-of-force policy to reflect best law enforcement practices and minimize the use of lethal and disproportionate force;
- develop *enforceable* and humane standards for holding immigrants in short-term custody to ensure conditions of confinement meet human rights standards;
- review, reform and disseminate to all CBP sectors and field offices policies that:
 - ban the use of racial profiling, (i.e., relying, to any degree, on actual or perceived race, ethnicity, gender, national origin, or religion in selecting which individual to subject to routine or spontaneous investigatory activities);
 - prevent immigration enforcement activities on interior transportation services and in sensitive community locations; and
 - ensure the return of personal belongings confiscated by CBP officials.
- ensure all CBP agents receive strengthened, regular training on civil rights law (particularly limits on stop and search authority); the rights of immigrants,

¹ Johnson, Kevin and Alan Gomez, *Violent crimes drop overall in U.S. border cities*, USA Today, Nov. 4, 2012, *available at* http://www.usatoday.com/story/news/nation/2012/11/04/violent-crimes-drop-overall-in-us-border-cities/1681821/

including eligibility for U and T visas; use-of-force de-escalation techniques to avoid lethal use of force; cultural sensitivity; and how to identify migrants fleeing persecution and torture or those who may be victims of human trafficking, and on policies for ensuring those identified receive appropriate referrals for services;

- install officer, hold room, and dashboard-mounted cameras to record CBP operations;
- allow unannounced visits to short-term custody facilities by non-governmental organizations and international human rights bodies;
- establish clear accountability systems and implement transparent oversight mechanisms including uniform and responsive complaint processes and a zerotolerance policy that holds Border Patrol agents accountable when they commit human rights violations;
- end Operation Streamline, which violates fundamental due process rights, and drastically reduce the number of Criminal Alien Requirement (CAR) beds; and
- consult with an independent commission, composed of diverse stakeholders, to oversee the implementation of federal policies and programs on the borders and in the immediate interior.

The Obama Administration Should Immediately Rescind Policies issued by the Department of Health and Human Services on August 28, 2012 Excluding Individuals Granted Deferred Action for Childhood Arrivals (DACA) from Eligibility for Health Coverage Programs Created by the Affordable Care Act (ACA) and Federal Medicaid and the Children's Health Insurance Program in About Half the States. The policies, issued through an Interim Final Rule and a State Health Officials letter, must be changed to fulfill the goals of the ACA, be consistent with existing policy qualifying all other individuals granted deferred action as eligible for these programs, avert unnecessary health consequences to DACA grantees, and undo a damaging and harmful precedent for immigration reform.

Family Waivers Should Be Fairly and Generously Adjudicated

The Administration should assure that all family waivers be fairly and generously adjudicated, including those that will be processed under the provisional waiver process still under review. We are eagerly awaiting a rule from the Obama Administration on the provisional waiver process.

Any executive actions that do not take the aforementioned principles into consideration would perpetuate the existing problems in immigration enforcement, detention and adjudication. Proposed reforms to our immigration system must reflect the urgency of restoring fundamental fairness, uphold cardinal American values, and respect constitutional principles and human rights norms. Sincerely,

National Organizations

9to5, National Association of Working Women (Milwaukee, Wisconsin) The Advocates for Human Rights (Minneapolis, Minnesota) Alliance for a Just Society (Seattle, Washington) Alliance of Forest Workers and Harvesters (Albany, California) America's Voice Education Fund (Washington, DC) American-Arab Anti-Discrimination Committee (ADC) (Washington, DC) American Civil Liberties Union (Washington, DC) American Immigration Council (Washington, DC) American Immigration Lawyers Association (Washington, DC) Americans for Immigrant Justice, formerly Florida Immigrant Advocacy Center (Miami, Florida) Asian American Justice Center, member of Asian American Center for Advancing Justice (Washington, DC) Asian American Legal Defense and Education Fund (New York, New York) Asian Pacific American Labor Alliance (APALA), AFL-CIO (Washington, DC) Best Practices Policy Project (Washington, DC) Bill of Rights Defense Committee (Northampton, Massachusetts) Black Unity (Nashville, Tennessee) Blacks in Law Enforcement of America (Washington, DC) Breakthrough (New York, New York) Casa Esperanza (Plainfield & Bound Brook, New Jersey) CCC (Campaign for Community Change) (Washington, DC) The Center for APA Women (San Francisco, California) Churches United to Save and Heal (CUSH) (New York, New York) Congreso del Pueblo (Stockton, California) Council on American-Islamic Relations (CAIR) (Washington, DC) De La Salle Christian Brothers (Chicago, Illinois) DREAM Action Coalition (New York, New York) Ella Baker Center for Human Rights (Oakland, California) Enlace (Portland, Oregon) The Episcopal Church (Washington, DC) The Episcopal Network for Economic Justice (Kent, Washington) Farmworker Justice (Washington, DC) FIRM (Fair Immigration Reform Movement) (Washington, DC) First Focus (Washington, DC) Friends Committee on National Legislation (Washington, DC) Gray Panthers (Washington, DC) Japanese American Citizens League (Washington, DC) Justice Strategies (Brooklyn, New York)

Immigration Equality (New York, New York) Institute for Research & Education on Human Rights (Seattle, Washington) International Center for Advocates Against Discrimination (ICAAD) (New York, New York) International CURE (Washington, DC) The Leadership Conference on Civil and Human Rights (Washington, DC) Lutheran Church of the Good Shepherd (Brooklyn, New York) Lutheran Immigration and Refugee Service (Baltimore, Maryland) MAFO, Inc. (St. Cloud, Minnesota) Main Street Alliance (Bloomfield, New Jersey) Muslim Legal Fund of America (MLFA) (Richardson, Texas) National Asian Pacific American Women's Forum (Washington, DC) National Asian Pacific Center on Aging (Seattle, Washington) National Association of Social Workers (Washington, DC) National Center for Transgender Equality (Washington, DC) National Council of La Raza (NCLR) (Washington, DC) National Economic & Social Rights Initiative (NESRI) (New York, New York) National Immigrant Justice Center (Chicago, Illinois) National Immigration Forum (Washington, DC) National Immigration Law Center (Washington, DC) National Immigration Project of the National Lawyers Guild (Boston, Massachusetts) National Immigration Reform Advocates (San Jose, California) National Latina Institute for Reproductive Health (Washington, DC) National Network for Arab American Communities (NNAAC) (Dearborn, Michigan) National Network for Immigrant and Refugee Rights (Oakland, California) National Organization for Women (Washington, DC) National Women's Health Network (Washington, DC) National Writers Union (Evanston, Illinois) NETWORK, A National Catholic Social Justice Lobby (Washington, DC) Pax Christi USA (Washington, DC) Physicians for Human Rights (Washington, DC) Provincial Council of the Clerics of St. Viator (Viatorians) (Arlington Heights, Illinois) Public Interest Projects (New York, New York) Refugee and Immigration Ministries of Disciples Home Missions, Christian Church (Disciples of Christ) (Indianapolis, Indiana) Rights Working Group (Washington, DC) Service Employees International Union (SEIU) (Washington, DC) South Asian Americans Leading Together (Takoma Park, Maryland) Southeast Asia Resource Action Center (Washington, DC) Strategic Philanthropy (Chicago, Illinois) Teamster Defense Guard (Calumet City, Illinois) Unitarian Universalist Association (Boston, Massachusetts) United Methodist Church, General Board of Church and Society (Washington, DC) United States Human Rights Network (Atlanta, Georgia)

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Violence Intervention Program *(New York, New York)* YWCA USA *(Washington, DC)*

Regional and State Organizations

Advocates for Women (Framingham, Massachusetts) American Dream Community Agency (Houston, Texas) American Gateways (Austin, Texas) Arizona-Sonora Border Coalition (Arizona) Black Alliance for Just Immigration (Oakland-Bay Area, California) Border Action Network (Tucson, Arizona) Capital Area Immigrants' Rights Coalition (Washington, DC) CASA FREEHOLD (Freehold, New Jersey) Casa Latina (Seattle, Washington) Causa Justa: Just Cause (Oakland, California) Center for Constitutional Rights (New York, New York) Center for Intercultural Organizing (Portland, Oregon) Central Arizona National Lawyers Guild (Arizona) Centro de Ayuda (Newport, Oregon) Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) (Los Angeles, California) Coalition of African, Arab, Asian, European and Latino Immigrants of IL (CAAAELII) (Chicago, Illinois) Colorado – CURE (Denver, Colorado) Council on American-Islamic Relations – San Francisco Bay Area Office (Santa Clara, California) EPOCA (Worcester, Massachusetts) Faith Action Network (Seattle, Washington) First Friends of NJ & NY Corp. (Elizabeth, New Jersey) Florida Immigration Coalition (Florida) Franciscan Sisters (Chicago, Illinois) Georgia Detention Watch (Atlanta, Georgia) Georgia Immigrant and Refugee Rights Coalition (Atlanta, Georgia) Georgia Latino Alliance for Human Rights (Atlanta, Georgia) Georgia Rural Urban Summit (Decatur, Georgia) Illinois Coalition for Immigrant and Refugee Rights (Chicago, Illinois) Immigrant Law Center of Minnesota (St. Paul, Minnesota) Indian People's Action (Butte, Montana) IRATE & First Friends (*Elizabeth, New Jersey*) Kids for College (Sodus, New York) La Fuente, a Tri-State Worker and Education Fund (New York, New York) La Union del Pueblo Entero (San Juan, Texas) Legal Aid Justice Center—Immigrant Advocacy Program (Charlottesville, Virginia)

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LULAC (Immokalee, Florida)

Massachusetts Immigrant and Refugee Advocacy Coalition (Boston, Massachusetts) Michigan Coalition for Immigrant and Refugee Rights (Michigan) Mississippi Immigrants Rights Alliance (Jackson, Mississippi) Missouri Immigrant and Refugee Advocates (St. Louis, Missouri) Moving Forward Gulf Coast, Inc. (Slidell, Louisiana) Muslim Bar Association of New York (Staten Island, New York) New Mexico Center on Law and Poverty (Albuquerque, New Mexico) The New York Immigration Coalition (New York, New York) NYS Immigrant Action Fund (New York, New York) OneAmerica (Seattle, Washington) Oregon Action (Medford, Oregon) Pangea Legal Services (San Francisco, California) Partnership for Safety and Justice (*Portland, Oregon*) Political Asylum/Immigration Representation Project (Boston, Massachusetts) Promise Arizona (Arizona) Racial Justice Action Center (Atlanta, Georgia) Rural Organizing Project (Scappoose, Oregon) SEIU 32BJ (New York, New York) Sisters of Mercy South Central Community (Belmont, North Carolina) Sisters of Mercy West Midwest Community (Omaha, Nebraska) SLW (Chicago, Illinois) South Asian Network (Artesia, California) Southern Anti-Racism Network (Columbus, Georgia) Southern Center for Human Rights (Atlanta, Georgia) Southern Coalition for Social Justice (Durham, North Carolina) Student Action with Farmworkers (Durham, North Carolina) Unitarian Universalist Legislative Ministry of New Jersey (Summit, New Jersey) United African Organization (Chicago, Illinois) United Methodist Women (New York, New York) United Migrant Opportunity Services/UMOS Inc. (Milwaukee, Wisconsin) Vermont Immigration and Asylum Advocates (Burlington, VT) Vermont Workers Center (Burlington, Vermont) Washington Community Action Network (Seattle, Washington) Washington DREAM Act Coalition (Seattle, Washington) WIN – the Welcoming Immigrants Network (Dallas-Forth Worth, Texas) Worker Justice Center of New York, Inc. (Rochester, New York)

Local Organizations

ABLE – Gamaliel *(Atlanta, Georgia)* Access California Services *(Anaheim, California)* Access of WNY, Inc. (Lackawanna, New York) Action Langley Park (Langley Park, Maryland) Adhikaar (Woodside, New York) Alliance San Diego (San Diego, California) Amnesty Cobb County Chapter Georgia (Smyrna, Georgia) Arab American Action Network (AAAN) (Chicago, Illinois) Arab American Association of New York (Brooklyn, New York) Arab American Family Services (Bridgeview, Illinois) Asian Law Alliance (San Jose, California) Band of Rebels (Rochester, New York) Border Network for Human Rights (El Paso, Texas) Cambridge United for Justice with Peace (Cambridge, Massachusetts) CAPSLO (San Luis Obispo, California) Catholic Migration Services (Brooklyn & Queens, New York) Catholics for Immigration Reform (San Diego, California) Central Florida Labor Council for Latin American Advancement (Orlando, Florida) Chicago Family Health Center (Chicago, Illinois) Chinese Progressive Association (New York, New York) Claire Heureuse Community Center, Inc. (Jamaica, New York) Coalicion de Lideres Latinos – CLILA (Dalton, Georgia) College of Holy Cross (Worcester, Massachusetts) Comunidad Liberación/Liberation Community (Denver, Colorado) CORES, INC. (Somerville, Massachusetts) Council of Churches, City of NY (Brooklyn, New York) Council on American-Islamic Relations of Washington State (Seattle, Washington) Daya Inc. (Houston, Texas) Direct Action for Rights and Equality (*Providence, Rhode Island*) Doctor Jorge Prieto Community Board (Chicago, Illinois) Dominican Sisters of Houston (Houston, Texas) DRUM – Desis Rising Up and Moving (Jackson Heights, New York) El CENTRO de Igualdad y Derechos (Albuquerque, New Mexico) Greater New York Labor-Religion Coalition (New York, New York) Greater Rochester Coalition for Immigration Justice (Rochester, New York) Hatari Peru Association (Madison, Wisconsin) The Hispanic Community Dialogue of Virginia (Virginia Beach, Virginia) Hispanic Interest Coalition of Alabama (HICA) (Birmingham, Alabama) Hispanic Resource Center of Larchmont and Mamaroneck (Mamaroneck, New York) Holy Innocents Episcopal Church, Little Lake, MI (Skandia, Michigan) Holy Spirit Missionary Sisters (Northfield, Illinois) Houston United/Unido (Houston, Texas) Human Rights Center (Carrboro, North Carolina) Iglesia Pueblo de Dios (Mesa, Arizona) Immigration Action Group (Santa Cruz, California)

Inmigrantes sin Fronteras (Phoenix, Arizona) Institute for Peace and Justice (St. Louis, Missouri) Interfaith Coalition on Immigration (ICOM, MN) (New Brighton, Minnesota) Jewish Alliance for Law and Social Action (Boston, Massachusetts) Jewish Community Action (St. Paul, Minnesota) Junta for Progressive Action (New Haven, Connecticut) La Comunidad, Inc. (Everett, Massachusetts) La Union (Brooklyn, New York) Las Americas Immigrant Advocacy Center (El Paso, Texas) Latino Community Service, Inc. (Hartford, Connecticut) Latinos for Community Transformation (Seattle, Washington) Lawrence Action Network for Diversity – LAND (Lawrence, Kansas) Leonzal Enterprises (Puyallup, Washington) Long Island Immigrant Students Advocates (Huntington, New York) Lowcountry Immigration Coalition (Bluffton, South Carolina) LULAC – Syracuse Chapter (Syracuse, New York) Lutheran Peace Group (Jemez Springs, New Mexico) Marin Grassroots (San Rafael, California) The Meadowlark Center (Newton, Kansas) Migrant Support Services of Wayne Co. NY (Sodus, New York) MinKwon Center for Community Action (Flushing, New York) Muslim Consultative Network (MCN) (New York, New York) Nacoochee Presbyterian Church (Sautee, Georgia) National Asian Pacific American Women's Forum – DC Chapter (NAPAWF-DC) (Washington, DC) New Sanctuary Movement of Philadelphia (Philadelphia, Pennsylvania) New York Legal Assistance Group (New York, New York) North Bay Organizing Project (Graton, California) Northern Manhattan Improvement Corporation (New York, New York) Nowia Unite (Medford, Oregon) OFA (Madison, Wisconsin) Ometeotl Ministries (Wichita, Kansas) Oregon New Sanctuary Movement (Portland, Oregon) Peace & Justice Committee of the Unitarian Society of Ridgewood (Ridgewood, New Jersey) Providence Youth Student Movement (Providence, Rhode Island) Reformed Church of Highland Park (Highland Park, New Jersey) Refugee Women's Network (Decatur, Georgia) Refugio del Rio Grande (San Benito, Texas) The Restoratio at Casa Mariposa, (Tucson, Arizona) Rights for All People (Aurora, Colorado) R.I.H.D., Inc. (Richmond, Virginia) Saint Gabriel Peace and Justice (San Francisco, California)

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International Organizations

American Friends Service Committee *(Philadelphia, Pennsylvania)* Centro Ricerca sull'utopia *(Lecce, Italy)* First Peoples Human Rights Coalition *(New York, New York)* Kino Border Initiative (Nogales, Arizona) Seminario Permanente de Estudios Chicanos y de Fronteras *(Mexico City, Mexico)*

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Boakye-Danquah (*Atlanta, Georgia*)
CEO Pipe Organs/Golden Ponds Farm (*Delafield, Wisconsin*)
Corso, Kennedy, & Campbell, LLP (*Gainesville, Georgia*)
Farmworker Association of Florida, Inc. (*Apopka, Florida*)
JEGLAW LTD (*Las Vegas, Nevada*)
MEYERS & STANLEY (*Immokalee, Florida*)
New Directions Consulting (*Seattle, Washington*)
Program on Human Rights in the Global Economy (*Boston, Massachusetts*)
Savannah Latina (*Savannah, Georgia*)

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Individuals

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