

## Discussion on Immigration Reform

July 21, 2012

If there's anything most people agree on about Immigration, it's that Reform is sorely needed. Twenty-six years after the passage of the Immigration Reform and Control Act of 1986 (IRCA)<sup>1</sup>, the security of our borders and integrity of our legal immigration system remain vulnerable, the magnet of illegal employment continues to be strong, we have yet to implement an effective system for ensuring that individuals comply with the terms of their visas, and the wisdom of granting amnesty to millions of unauthorized migrants living and working in the United States remains at the center of a national debate. Further, because immigration is such a complex, political, and emotionally-charged issue, few can truly articulate the scope of the Reform needed and most doubt the current Congress could transcend those issues and reach a consensus on a framework for major Immigration Reform. Some even question whether it's possible to secure our borders while simultaneously facilitating trade and travel, and streamlining the legal immigration process.

Given the ongoing global war on terrorism and the fact that actual and potential terrorists have used the immigration system to enter and remain in the U.S., a strong case can be made that better enforcement and improved integrity in immigration programs are essential components of any major Reform. On the other side of the equation, there is limited remedy under current law for individuals who are unlawfully present in the U.S., yet have substantive equities (families, children, homes, educational degrees, etc.) and do not pose a threat to national security or public safety. Many believe these unauthorized migrants merit an opportunity to contribute to the nation in a lawful manner without having to depart. An increasing number of employers are also expressing concern about a labor-based immigration system that is no longer responsive to the critical and dynamic requirements of today's business world. Finally, the time is past when families were content to wait years or decades to be reunited with family members residing overseas.

To achieve Reform, the American public needs to be better informed and have more say in the development of national immigration policy. There must be a more open and objective national dialog to ensure legislation reflects the *will of the people*. Traditional thought and politics need to be replaced with more creative, practical, apolitical, and balanced thinking. We should start by identifying core principles and goals that a broad cross-section of Americans will understand and support. In addition to addressing the vulnerabilities that threaten national security and

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<sup>1</sup> *The goals of IRCA included gaining control over our borders, eliminating the magnet of unauthorized employment and providing an opportunity for qualifying illegal aliens to become lawful residents of the United States. The fact that we are revisiting these very same issues today is confirmation that IRCA failed. Although the reasons require careful examination, it is clear that the legislative and executive departments of the Federal Government lacked the commitment to fix the problems. In fact it can be argued that by passing and implementing IRCA, with its weak enforcement provisions, additional millions of foreign nationals have been enticed to ignore our immigration laws.*

public safety, we need to develop an immigration strategy and plan that meets current and future needs of a modern America. A secure and responsive immigration system is essential to a country that seeks to sustain economic growth and aspires to actively compete in the global marketplace, while continuing to offer safety to threatened individuals and vulnerable populations, reunite families, and protect its citizens from trans-national threats. It has been evident for some time that many longstanding immigrant and nonimmigrant classifications and fixed numerical limitations on visas are not responsive to today's needs, however the appropriate analysis must be undertaken and the results subjected to public review and discussion before changes are made.

The national discussion needs to be informed by experts, including those with experience applying and enforcing U.S. immigration laws. To that end, the *Immigration Integrity Group (IIG)*<sup>2</sup> is of the position that the U.S. must control its borders<sup>3</sup> in a smart, balanced, efficient, effective, and humane way. To do so will require Congress to address major inadequacies in both the enforcement and services (immigration benefits) arenas. These inadequacies must be addressed prior or simultaneous with any form of amnesty or legalization. If Reform is not sequenced in a way that border security and immigration integrity come first, we will only repeat the failures of the past, which have led to widespread disregard for immigration law and an unprecedented population of unauthorized migrants.

Many members of Congress and external organizations lean towards supporting either enforcement or services-based legislation. Democrats have historically focused more on enhancing immigration benefit (services) programs, while Republicans have made enforcement their priority. However, comprehensive reform requires both. While there has been more recent bi-partisan support for legislation aimed at protecting national security, it took the tragic event of 9/11/01, to focus on the vulnerabilities that were leveraged by the terrorists.

There is increasing concern that the absence of another successful terrorist attack could be interpreted to mean sufficient legislative and operational improvements have already been undertaken. This very dangerous assumption will only lull the country back into a false sense of security at a time when further action is required. While it is true there have been unprecedented improvements to border security since 9/11, which includes more enhanced screening of persons seeking entry and other immigration benefits, considerable vulnerabilities remain. The fact that we continue to detect national security threats and other fraud-based conspiracies on a regular basis should serve as a warning that much more work needs to be done. For this reason alone, it is imperative that we continue to enhance the screening process for those seeking authorization to enter and/or stay in the U.S. This includes improving our ability to verify identity, perform more rigorous screening on high-risk populations, and more effectively detect, deter, and prevent fraud and remove individuals who threaten national security, public safety, and/or violate the

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<sup>2</sup> *IIG consists of former DOJ and DHS senior career professionals who have administered and enforced immigration laws and operations for many decades.*

<sup>3</sup> *The term "border" is used to describe a concept that extends beyond the geographical boundary and ports of entry to any location where an admissibility determination is made and includes interior enforcement as well as the administration of immigration services (benefits).*

conditions of admission. It also includes transforming the legal immigration process to ensure eligible applicants are serviced in an accurate, qualitative, and responsive manner.

Those intent on doing us harm are relentless and will continue to take advantage of an antiquated immigration system. Our dedicated and protective law enforcement professionals must get it right every hour of every day, while terrorists need only be successful once. We need to ensure that our system provides them with the tools needed to protect us. At the same time, we need to keep our borders open to legal immigration and ensure we don't sacrifice commerce, entrepreneurship, scientific advancement, and our core values as a nation built by immigrants.

Prior to undertaking any major Reform effort, we also recommend consideration of the following questions:

- 1) What is the role of the immigration system in a modern society or modern day America?
- 2) In what areas does the current system fail to meet those needs?
- 3) Are there lessons from IRCA that should be considered when outlining the scope of and strategy for Reform?
- 4) What are the guiding principles that must shape Reform?

To summarize, an objective, balanced, and bi-partisan effort is needed to craft the necessary revisions to the existing immigration system that will protect this country from harm, sustain economic growth, continue to strengthen families, and enrich our society. History finds us at a place where we can no longer rely upon a patchwork of legislation or regulations to address the myriad of known systemic deficiencies, and the magnitude of the challenge is such that legislation and money alone will not fix the problem. A new, collaborative approach and a thoughtful, comprehensive solution are required. We need to replace ineffective laws, strategies, and operations with a balanced system that secures our borders, protects jobs for lawful workers and facilitates economic growth, trade and travel, while respecting the rule of law and meeting the needs of families and modern day America. We also need a system that provides incentives that promote compliance supported by deterrents that discourage violations. We must stop investing precious resources on impractical, ineffective, and unenforceable immigration policies. Building a system that is smart and efficient is more likely to succeed in improving both security and services, while identifying status violations and reducing the potential for further illegal immigration than one that simply increases Government staffing or operational capacities. Finally, we need to find a solution on which there is broad general agreement, as immigration has the potential to affect almost every facet of our society. Therefore, decisions that could result in the revision of immigration law or significantly impact the formulation and administration of national immigration policy should be informed by a broad debate in which the American Public is a full partner. To be successful, those discussions must result in the emergence of a national understanding and consensus on the role of immigration in our society. That consensus should describe the desired balance between security, integrity, and economic growth, outline the terms for reconciliation with those who are not here in a legal status, and establish a strategy for fixing the Immigration System, as implementing the ultimate solution will require the support of several Administrations as well as Congress.

It is our objective to generate a healthy discussion about the importance and nature of Comprehensive Immigration Reform. To further the discussion, we offer papers that provide a *Vision of an Immigration System that Works* and a *Basic Framework for Immigration Reform* that we feel enhance border security and advance the integrity and responsiveness of our legal immigration system. What makes the need for Reform more critical today is the fact that the risks for not doing so are much greater in a post-9/11 climate, where the economy is also under severe stress. We need to pursue Reform now, as Americans, not as Democrats, Republicans, or special interests.