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Testimony for the

House Judiciary Committee **on Immigration Policy and Enforcement's Subcommittee**
Hearing on Making Immigration Work for American Minorities

March 1, 2011

Rayburn Room 2138

The Rule of Law

President Obama's failure to enforce federal immigration laws raises the question of whether we are a nation of laws or a nation without the courage of its convictions. This dereliction of duties places our citizens at risk, and it damages our national sovereignty and standing in the world. Under our Constitutional system, the President, members of Congress, the Supreme Court, other elected and appointed officials take an oath of office where they solemnly swear to faithfully execute the duties of office "to the best of my ability, preserve, protect and defend the Constitution of the United States." Defending the United States includes taking action against all foreign and domestic threats. The failure to enforce immigration laws means that American citizens are unprotected from a massive influx of millions of foreign-born persons who have entered the country without authorization and have openly stolen jobs, goods, and opportunities from law-abiding American citizens. It does not matter that some of the unauthorized foreigners are otherwise good people. What matters is their choice to enter the country unlawfully and thumb their noses at the laws and regulations that Congress has enacted to protect the people. By not defending our laws, the president risks and encourages the kinds of lawlessness that we find rampant in other parts of the world. It dishonors us, and it dishonors our nation when the Chief Executive sends the signal to the world that duly enacted laws no longer matter.

I will address the preferences of the American people for immigration enforcement and the harmful impact that high levels of legal and illegal immigration have had on segments of Americans that include poor whites, blacks, and native-born Hispanics. I conclude my testimony by focusing on the need for workplace verification and enforcement that includes employee sanctions, raids, and stiffer penalties for persons found living and working in the country illegally. If we want to solve the problem of illegal immigration, then the country has to get

serious about increasing the penalties for persons found residing in the country illegally. Congress needs to pass legislation requiring current illegal immigrants to register their presence in the country with state, local, and federal officials within six months of the passage of the legislation or suffer the consequences of immediate deportation proceedings if they fail to comply. This may seem harsh but there is no other way to get a handle on the problem of illegal immigration and the dereliction of duties that have occurred at the highest levels of government. The American people have spoken

Poll after poll has shown that the American people would like to see levels of legal and illegal immigration reduced. Despite their preferences, elected leaders have looked in the other direction.¹ A February 10-11, 2011 Rasmussen Poll found that 67 percent of Americans given a choice between the passage of new immigration laws and enforcement preferred the enforcement of existing immigration laws.² Enforcement of federal laws is something that rarely happens or when it does happen, it happens in a haphazard manner. Not only is the current presidential administration not adequately enforcing immigration laws, it has used the power of the federal government to fight states and localities who have made good faith efforts to assist the federal government in performing its constitutional duties to protect the citizenry against domestic and foreign threats. The politically correct, non-enforcement approach to immigration enforcement that has also characterized some other presidential administrations has led to an estimated 8 million illegal aliens holding jobs in a labor market³ while 14 million Americans remain unemployed: millions of other Americans have simply given up on looking for work.

Who suffers the most?

Americans of all races are suffering from unemployment, job displacement, and stagnant or declining wages. But some suffer more than others. Unemployment has not affected the foreign born to the same extent as the native born. A study at the Pew Hispanic Center found that during the current recession foreign born workers have gained employment while native workers continued to lose jobs.⁴ In February 2011, the Bureau of Labor Statistics (BLS) placed the percentage of unemployed Americans at 9 percent down from 9.4 percent in December. But, the Gallup Poll survey of households, which is not seasonally adjusted, places the unemployment rate at 9.8 percent with 18.9 percent underemployed. Of course, these figures do not include the unknown millions of Americans who have abandoned the labor force. The black unemployment rate stands at 15.7 percent and the Hispanic rate at 11.9 percent compared with the white rate of

8 percent. Unfortunately, black Americans have not had effective representation on the issue of how competition with the illegal immigrant work force impacts their employment and educational opportunities.⁵

Unemployment data show that it is native-born blacks and Hispanics with a high school education or less who suffer the most in the current economic situation. These are the groups that compete directly with illegal aliens for a dwindling supply of employment opportunities. Unfortunately, a lack of opportunities in the legal jobs market has pushed and it will continue to push more and more minorities into illegal activities. The exact correlation between immigration and black unemployment and incarceration rates can be measured using econometric models. Harvard economist George Borjas's research team conducted a longitudinal study of black male employment and found a precipitous decline between 1960 and 2009 that was accompanied by a sharp rise in their incarceration rate that cannot be explained by the prevalence of crack cocaine or other factors. The Borjas team concluded that a "10% immigration-induced increase in the supply of a particular skill group reduced the black wage by 3%, lowered the employment rate of black men by about 5 percentage points, and increased the incarceration rate of blacks by a percentage point."⁶ In the 2nd quarter of 2010, only 51.4 percent of blacks were employed even though the economy was improving for some groups.⁷

The U-6 Measure

The U-6 measure includes unemployed people who would like to have a job but have not looked recently and persons with part-time jobs who would like to work full-time. It does not include those who have totally abandoned the labor force. Using U-6 as our measure, we find that the overall unemployment rate for native-workers in the third quarter of 2009 was 15.9 percent. (In February 2011, the U-6 was 16.5 percent.) The 2009 data shows that native-born workers with less than high school education have an overall unemployment rate of 20.5 percent and a U-6 rate of 32.4 percent. That represents a lot of people out of work. If we look at the unemployment rate for young native-born Americans (18-29) with only a high school education, their rate is 19 percent with a U-6 rate of 31.2 percent.

The February 2011 unemployment rate for blacks is 15.7% and native-born Hispanics 11.7, whereas the rate for whites is 8%. The overall unemployment situation for minorities has not changed much since the 3rd quarter of 2009. Native-born blacks with less than a high school education have an unemployment rate of 28.8 percent and a U-6 measure of 42.2 percent.⁸

Almost half of the people who would like to be working full-time are either unemployed or underemployed. As is always the case, young people are the most affected. Young native-born blacks (18-29) with a high school education have an unemployment rate of 27.1 percent and a U-6 rate of 39.8 percent. Black men are the group most adversely impacted by competition from illegal workers and guest worker programs that bring low-skilled workers into the country.

When we look at the unemployment rates for native-born Hispanics, their numbers look slightly better than blacks. But both groups have serious unemployment issues, especially the native-born Hispanics with less than a high school education. This group has an unemployment rate of 23.2 percent and a U-6 rate of 35.6 percent. Young Hispanics (18-29) with a high school degree do better than blacks. Their overall unemployment rate is 20.9 percent and their U-6 rate is 33.9 percent.

The Educational Factors

In 2008, blacks had a worsening high school dropout rate of 9.9 percent up from 8.4 percent the previous year. Dropout rates are calculated on the basis of the number of persons between the ages of 16-24 not in school who have not earned a high school diploma or equivalency. Hispanics had a dropout rate of 18.3 percent down from 21.4 percent the previous year. The Native Americans rate had improved from 19.3 percent in 2007 to 14.6 percent in 2008. Whites had the lowest dropout rate of 4.8 percent down from 5.3 percent the previous year.⁹ So once again blacks face a worsening situation. Nevertheless, a recent Washington Post-Kaiser Family Foundation Poll found blacks and Hispanics more optimistic about their futures than white Americans. Despite losing their homes to foreclosures and their jobs at a greater rate than any other group, a majority of blacks Americans felt that the economy was improving and so would their own personal circumstances.¹⁰

What Congress can and should do?

Lawlessness has no place in America. Congress should take immediate steps to regain the confidence of the American people in the rule of law and the faithful execution of Constitutional values and principles. Congress should use its oversight authority to ensure that Homeland Security is enforcing existing federal laws and not using governmental resources to sue Border States that have been left on their own to defend and protect the well-being of its residents.

Congress should encourage increased workplace verification and enforcement, a restoration of the social security no-match regulation, a return to workplace raids, detention of unauthorized foreigners who pose a flight risk, and stiff penalties for employers who repeatedly hire illegal aliens.

Congress also needs to encourage and demand that state, federal, and local authorities take aggressive steps to ensure that all businesses, public and private, participate in the now voluntary federal E-Verify Program. Currently, there is a bill before Congress that would make E-verify permanent and mandatory for all businesses. H.R. 800 would require employers to check the eligibility status of new and existing employees, and would establish penalties for non-compliance. H.R. 800 needs to be passed quickly and signed by the President. In addition, Congress should allocate more funds to improve E-Verify, so that it can more easily detect identity fraud and employer circumvention.¹¹

Lastly, Congress needs to strengthen the hands of local law enforcement officials and give them the authority to assist with enforcement of immigration laws. Sanctuary cities, towns, and states should lose their federal funding. Most importantly, we need new legislation requiring every person in the country unlawfully to register their presence with authorities within a six-month period after passage of the legislation. Anyone caught deliberately ignoring the new law would be subject to immediate deportation. These difficult measures are necessary if we are to protect the health and well-being of our citizens and permanent residents, while maintaining our national sovereignty and the rule of law established by the U.S. Constitution.

¹ Peter H. Schuck, "The Disconnect between Public Attitudes and Policy Outcomes," in Carol M. Swain (ed.) *Debating Immigration* (New York, NY: Cambridge University Press, 2007), 17-31; Lymari Morales, "Americans Return to Tougher Immigration Stance: More want immigration decreased than kept the same," Gallup Poll, August 5, 2009.

² Question wording: "In order to combat illegal immigration in the United States do we need new immigration laws or do we need to enforce the existing immigration laws?" Rasmussen Poll, February 16-17, 2011.

³ Jeffrey Passel and D'Vera Cohn, "Unauthorized Immigrant Population: National and State Trends, 2010," Pew Hispanic Center's Annual Report, February 1, 2011.

⁴ Rakesh Kochhar, C. Soledad Espinoza, and Rebecca Hinze-Pifer, "After the Great Recession, Foreign Born Gain Jobs; Native Born Lose Jobs," Pew Hispanic Center, Washington, D.C. (October 29, 2010).

⁵ Carol M. Swain, “The Congressional Black Caucus and the Impact of Immigration on Black Unemployment,” in Swain (ed.) *Debating Immigration* (New York, NY: Cambridge University Press, 2007), 175-188.

⁶ Borjas et al, 277.

⁷ Ibid, 13.

⁸ The employment figure in this report for natives are from the public use files of the Current Population Survey for third quarter of 2009 and are seasonally unadjusted. They were provided to the author by Dr. Steven Camarota at the Center for Immigration Studies and are part of a forthcoming study on the employment patterns of native-born Americans. Data are available upon request from the Dr. Camarota.

⁹ National Center for Educational Statistics Fast Facts

<http://nces.ed.gov/fastfacts/display.asp?id=16>

¹⁰ Michael A. Fletcher and Jon Cohen, “Poll Finds Minorities more Optimistic About the Economy Despite Losses,” *The Washington Post*, February 20, 2011.

¹¹ Marc Rosenblum, “E-Verify: Strengths, Weaknesses, and Proposals for Reform,” Migration Policy Institute, February 2011, 1-23.