

Testimony of  
**Mr. Benjamin Johnson**

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Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today and to provide testimony on behalf of the Immigration Policy Center (IPC). The IPC is an independent, non-partisan research center dedicated exclusively to research and analysis of immigration and immigration policy in the United States. The IPC is a division of the American Immigration Law Foundation, a non-profit educational foundation which for 20 years has been dedicated to increasing public understanding of immigration law and policy and the role of immigration in American society.

The root of the current crisis of undocumented immigration is a fundamental disconnect between today's economic and labor market realities and an outdated system of legal immigration. Undocumented immigration is driven in large part by a U.S. labor market that is creating a higher demand for less-skilled workers than is being met by the native-born labor force or by the current legal limits on immigration. Migration from Mexico in particular has increased over the past two decades as the U.S. and Mexican governments have actively promoted the economic integration of the two countries. As the past decade and a half of failed federal border-enforcement efforts make clear, immigration policies that ignore these larger economic forces merely drive migration underground rather than effectively regulate it. In short, there is an unsustainable contradiction between U.S. economic policy and U.S. immigration policy, and economics is winning. The problem is not undocumented immigrants, but a broken immigration system that sends the dual messages "Keep Out" and "Help Wanted" to the Mexican, Central American, and other foreign workers the U.S. economy depends on.

#### The Failure of Enforcement Only Strategies

The federal government has tried for over a decade to stop undocumented immigration through an ever expanding use of enforcement strategies. The experiment has been a failure. From FY 1993 to FY 2005, the Border Patrol budget quadrupled from \$362 million to \$1.4 billion and the number of agents nearly tripled from 3,965 to 11,300. Most of these resources were devoted to fortifying traditional border-crossing locales in the southwest. Despite these efforts, the pace of

undocumented immigration to the United States has increased. The Pew Hispanic Center estimates that the number of immigrants entering the country in an undocumented status, or falling into undocumented status by overstaying a visa, rose from about 400,000 per year between 1990 and 1994, to 575,000 per year between 1995 and 1999, to 850,000 per year between 2000 and 2005. As the U.S. Government Accountability Office concluded years ago, heightened border-enforcement efforts primarily have shifted undocumented immigration from one place to another and have motivated more prospective migrants to hire people smugglers to guide them into the country.

It makes little sense to continue pouring federal money and personnel into an enforcement-only strategy that does not work. It makes even less sense to force local and state police departments to go along for the ride. Turning police into immigration agents would destroy the community trust that many police departments have spent years building. The breakdown in this important relationship means many people - and not just illegal immigrants - will be less likely to report crimes or to cooperate in criminal investigations if they fear that doing so could lead to deportation of them, a family member, friend, or neighbor. This loss of public trust would not only undermine crime-prevention, but would erode national security as members of immigrant communities become even more afraid than they already are to offer tips to government authorities on potential security threats. There also is the problem of paying for local enforcement of federal immigration law. As Philadelphia Police Commissioner Johnson testified in this Committee's July 5th field hearing, local police already are doing more with less money. If they also must enforce federal immigration laws but are not given federal funds to do so, "enforcement of local and state laws, as well as our Homeland Security duties, would be compromised."

In arguing for the continuation of enforcement-only strategies some have attempted to use frightening images of immigrants as terrorists or criminals. This rhetoric, however, bears no relationship to the reality of the immigrant experience in America. To quote a 1997 paper jointly sponsored by the Carnegie Endowment for International Peace and the Urban Institute, "Few stereotypes of immigrants are as enduring, or have been proven so categorically false over literally decades of research, as the notion that immigrants are disproportionately likely to engage in criminal activity." More recent work from the Migration Policy Institute has again confirmed that "in fact, immigrants have the lowest rates of imprisonment for criminal convictions in American Society."

### Using Immigration to Complement the Native-Born Workforce

Treating immigration primarily as a law enforcement issue is a distraction from the far more important and more valuable goal of using immigration as a powerful resource for the U.S. labor market. The ability to supplement and fill gaps in our labor force with foreign workers across the skill spectrum is one of the principle reasons the United States has been able to create the most diverse, most dynamic, and most flexible workforce the world has ever seen.

Underlying the growth of undocumented immigration to the United States in recent decades is the fact that fewer and fewer native-born workers are filling many of the less-skilled jobs being created by the U.S. economy. These are jobs in industries such as construction, food service, agriculture, and building maintenance that generally are filled by younger, less-educated

employees. The native-born labor force, however, offers a diminishing pool of workers to fill such jobs because it is growing older and is better educated than in the past. As of 2004, 15 percent of the native-born labor force was within 10 years of the traditional retirement age, while an additional 4.4 percent was already over the age of 65. At the same time, the diminishing number of younger native-born workers is becoming better educated. The proportion of the native-born labor force age 25 and older with a high-school diploma or less fell from 44.3 percent in 1994 to 37.8 percent in 2004. The proportion with a four-year college degree or more education rose from 27.2 percent to 32.6 percent. Although the trend towards a more highly educated native-born workforce is obviously a positive development, it leaves an employment gap in those sectors of the economy that rely on younger, less educated workers.

The transition to an older and more highly-educated native workforce would be less of a problem if the number of less-skilled jobs were shrinking. But it is not. The Bureau of Labor Statistics (BLS) projects that between 2002 and 2012 a significant share of new jobs and job openings will be in industries that employ large numbers of workers with lower levels of formal education or training. BLS projects that 75 percent of new job openings during this period will be filled by workers who do not have a bachelor's degree and who are entering an occupation for the first time. Moreover, 48 percent of all job openings in this period are expected to be held by workers who have a high school diploma or less education.

### Bridging the Demographic Divide

As the number of less-skilled jobs has increased, it has become increasingly difficult for employers to find native-born workers, especially younger ones, with the educational levels that best correspond to those jobs. Immigrant workers have become a vital complement to a native-born labor force that is growing older and better educated. On average, foreign-born workers are younger than their native-born counterparts and a larger proportion have less formal education. As a result, immigrants provide a needed source of labor for the large and growing number of jobs that do not require much formal education.

Immigrants hold a large number of the less-skilled jobs in which BLS predicts high job growth. In 2004, 15 percent of U.S. workers were immigrants. But in less-skilled occupations such as farming, janitorial services, construction, and food preparation, between 20 and 38 percent of workers were immigrants. The foreign-born share of workers was lowest in occupations that require U.S. education and training, such as legal occupations, police and protective services, and social services. According to the Pew Hispanic Center, undocumented immigrants comprised 4.9 percent of workers in the United States as of March 2005. However, they accounted for 24 percent of all workers in farming, fishing, and forestry; 17 percent in building and grounds cleaning and maintenance; 14 percent in construction; 12 percent in food preparation and serving; and 9 percent in production occupations.

The complementary nature of the skills, occupations, and abilities of immigrant workers increases the productivity of natives, stimulates investment, and enhances the choices available to consumers. As a result, immigration raised the average wage of the native-born worker by 1.1 percent during the 1990s. Among native-born workers with a high-school diploma or more education, wages increased between 0.8 percent and 1.5 percent. Among native-born workers without a high-school diploma, wages declined by 1.2 percent.

The economic benefits of immigration extend beyond increasing the available labor supply. As immigrant workers spend and invest their earnings, new jobs are created, demand for labor increases, and wage levels rise - offsetting any decline in wages that might have resulted from the introduction of more workers into the labor force. According to the Selig Center for Economic Growth at the University of Georgia, Latino buying power totaled \$736 billion in 2005 and is expected to increase to \$1.1 trillion by 2010. Asian buying power totaled \$397 billion in 2005 and is expected to increase to \$579 billion by 2010. Given that roughly 44 percent of Latinos and 69 percent of Asians were foreign-born in 2005, the buying power of immigrants reached into the hundreds of billions of dollars.

In addition, undocumented immigrants pay taxes that benefit the Social Security system. According to the 2005 Economic Report of the President, "more than half of undocumented immigrants are believed to be working 'on the books,' so they contribute to the tax rolls but are ineligible for almost all Federal public assistance programs and most major Federal-state programs." Undocumented immigrants are also believed to be a major source of the social security taxes paid by workers who have invalid or mismatched social security numbers and who therefore can not receive social security benefits. As of 2002, these payments totaled \$463 billion.

#### Ineffective Channels of Legal Immigration

Despite the critical role immigrants play in filling less-skilled jobs, we offer few opportunities under the current immigration system for them to come to the U.S. legally. Nearly all of the visa "preference" categories for less-skilled workers have numerical caps far below the labor demands of the U.S. economy. As a result a large number of prospective employment-based immigrants compete for a small number of employment visas or they are forced into the already overburdened visa system for family reunification.

There are three types of employment visas for low-skilled workers: one for permanent immigration and two for temporary immigration.

The permanent immigration preference category for less-skilled workers allots only 5,000 visas each year to workers in occupations that require less than two years of education, training, or experience. This visa category, which is designated for "other workers," is nearly the only employment-based avenue for permanent immigration available to workers in less-skilled jobs.

There is a similar bottleneck for low-skilled workers who seek temporary employment-based visas. Of the 16 different types of temporary immigrant visas available for employment and training in the United States only two - H2A and H2B - are available to workers with little or no formal training. H2As are restricted to agricultural workers. H2Bs are limited to "seasonal" or otherwise "temporary" work, but the definitions of these terms are very restrictive and don't apply to workers in many industries. Moreover, the total number of H2B visas that can be awarded in a year is capped at 66,000. In Fiscal Year (FY) 2004 this cap was reached in March, half way through the fiscal year. In FY 2005 the cap was reached in January, only three months into the fiscal year.

Since most immigrants come to the U.S. through a family sponsor rather than an employer sponsor, it might seem that the family-based immigration system could compensate for deficiencies in the employment-based system. However, the effectiveness and efficiency of the family-based immigration system has its own problems. For one, the system is undermined by excessively long delays caused by arbitrary numerical caps and complex rules and regulations.

U.S. citizens may immediately obtain "visa numbers" for a spouse and minor children (under age 21). However, the allotment of visa numbers for all other relatives of U.S. citizens, and for all the relatives of lawful permanent residents (LPRs), is governed by a complex "family preference" system characterized by lengthy waiting times. For instance, in the case of Mexican nationals, wait times are currently 7-10 years for the spouse of an LPR and 10-12 years for the unmarried adult child of a U.S. citizen. In general, wait times for the relatives of LPRs are many years longer than the wait times for relatives of U.S. citizens. These long waits not only undermine the family-reunification goal of the family-based immigration system, but also render that system ineffective in responding to U.S. labor demand. The rise of undocumented migration is a predictable result.

## Conclusion

No amount of enforcement can compensate for outdated immigration policies. Over the past two decades, the economies of North America, the western hemisphere, and the world have become increasingly integrated. The U.S. economy continues to create large numbers of less-skilled jobs even as native-born workers grow older and better educated and are increasingly unavailable to fill such jobs. Yet the federal government continues to impose outdated numerical caps and other restrictions on immigration that bear little relationship to the economic realities of our time. As a result, enforcement resources are devoted in large part to trying to stem the labor migration the U.S. economy attracts and which is an outcome of globalization. As New York Mayor Bloomberg testified to this Committee last week, "You might as well sit in your beach chair and tell the tide not to come in."

Lawmakers must tackle the issue of undocumented immigration with less rhetoric and more realism. Continuing the status quo by trying to enforce immigration policies that are at war with the U.S. and global economies will do nothing to address the underlying problem. Nor is it feasible to wall off the United States from the rest of the world. The most practical option is to bring U.S. immigration policy in line with the realities of the U.S. labor market and an increasingly transnational economy.

Effectively controlling undocumented immigration will require lawmakers to craft immigration policies that are as responsive to market forces as their economic policies, while implementing and enforcing tough labor laws to guarantee fair wages and good working conditions for all workers, be they natives or immigrants. A truly comprehensive approach must include a process by which undocumented immigrants already living and working in the United States can apply for legal status, as well as the creation of a temporary worker program with stringent protections for both temporary workers themselves and native-born workers who might feel threatened by their presence. By taking these steps, the U.S. government would be able to more effectively control, regulate, and monitor immigration, rather than consigning a large portion of it to a shadowy and insecure black market.