



**Written Statement of Asian Americans Advancing Justice | AAJC and Asian
Americans Advancing Justice | Los Angeles**

House Committee on the Judiciary

**Hearing on: “Examining the Adequacy and Enforcement of Our Immigration
Laws”**

February 3, 2015

Founded in 1991, Advancing Justice | AAJC is a national non-profit, non-partisan organization that works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education, and litigation. Founded in 1983, Asian Americans Advancing Justice | Los Angeles is the nation’s largest Asian American legal and civil rights organization and serves more than 15,000 individuals and organizations every year. We are leading experts on civil rights issues of importance to the Asian American and Pacific Islander (AAPI) community including: immigration and immigrants’ rights, affirmative action, anti-Asian violence prevention/race relations, census, language access, television diversity and voting rights. We appreciate this opportunity to submit a statement concerning today’s hearing concerning immigration enforcement.

A Decade of Enforcement

In the past decade, the United States has deported more people than in the preceding century.¹ Expenditures on immigration enforcement have also swelled, eclipsing the budgets of all other federal law enforcement agencies combined.² Since President Obama took office, two-thirds of the two million deportation cases involve people who committed relatively minor, non-violent crimes or have no criminal histories at all.³ The unprecedented rise in deportations has come with a parallel rise in the size of our immigration detention system. The Illegal Immigration Reform and Responsibility Act (IIRIRA) of 1996 subjected many people to mandatory detention, stripping immigration

¹ *A Decade of Rising Immigration Enforcement*, IMMIGRATION POLICY CENTER – AMERICAN IMMIGRATION COUNCIL at n.2 (Jan. 2013),

<http://www.immigrationpolicy.org/sites/default/files/docs/enforcementstatsfactsheet.pdf>.

² *Immigration Enforcement in the United States*, MIGRATION POLICY INSTITUTE at 12 (Jan. 2013),

<http://www.migrationpolicy.org/pubs/pillars-reportinbrief.pdf>.

³ *Misplaced Priorities: Most Immigrants Deported by ICE in 2013 Were a Threat to No One*, IMMIGRATION POLICY CENTER – AMERICAN IMMIGRATION COUNCIL (Mar. 2014), <http://www.immigrationpolicy.org/just-facts/misplaced-priorities-most-immigrants-deported-ice-2013-were-threat-no-one>.

judges of authority to release immigrants from detention or place them in alternatives to detention, even if they are determined not to be a danger to the community or a flight risk. In FY 2012, the United States Department of Homeland Security (DHS) detained a record 477,523 adult noncitizens.⁴ *More than half* of those in immigration detention have never been convicted of a crime.⁵ The immigration detention system is a massive waste of taxpayer dollars, costing \$164 per day to house a detainee, or \$2 billion per year.⁶ In fact, during the 2012 fiscal year, the federal government spent more on immigration enforcement — \$18 billion — than on every other federal law enforcement agencies combined.⁷

The growth of our detention and deportation system has also been fueled by programs such as Secure Communities. Launched in 2008, Secure Communities engaged state and local law enforcement in immigration enforcement by allowing them to send fingerprints of persons arrested to DHS to check their immigration status. Although the program's purpose was to identify and deport individuals with serious or violent felony convictions, about 7 out of 10 individuals deported either did not have criminal convictions or were convicted of lesser offenses.⁸

While the Obama Administration has now replaced Secure Communities with the Priority Enforcement Program (PEP), ICE has piloted new enforcement programs such as the Criminal Alien Removal Initiative (CARI), whereby ICE officials carry out indiscriminate raids in immigrant communities to round up undocumented immigrants and deport them.⁹ Among these new measures, the most visible initiative involves the fortification of the U.S. Mexico border, where Congressional mandates have repeatedly increased the number of border agents and led to the construction of 650 miles of additional fencing.¹⁰

Immigration Enforcement Separating Families

Over 204,000 people deported between 2010 and 2012 left behind U.S. citizen

⁴ Department of Homeland Security, Immigration Enforcement Actions: 2012, available at <http://www.dhs.gov/publication/immigration-enforcement-actions-2012>.

⁵ Donald Kerwin and Serena Yi-Ying Lin, *Immigrant Detention: Can ICE Meet Its Legal Imperatives and Case Management Responsibilities?*, MIGRATION POLICY INSTITUTE (Sept. 2009), <http://www.migrationpolicy.org/pubs/detentionreportSept1009.pdf> (reporting that 58% of the detainees held on January 25, 2009 did not have criminal convictions).

⁶ NATIONAL IMMIGRATION FORUM, *supra* note 3, at 2.

⁷ Doris Meissner, et al., *Immigration Enforcement in the United States: The Rise of a Formidable Machinery*, Migration Policy Institute (Jan. 2013), www.migrationpolicy.org/pubs/enforcementpillars.pdf.

⁸ Jacquie Marroquin, *Secure Communities: The Real Cost of Failed Immigration Policy*, VOTO LATINO (Feb. 2012), <http://www.votolatino.org/blogs/secure-communities-real-cost-failed-immigration-policy>.

⁹ *The Criminal Alien Removal Initiative in New Orleans*, NEW ORLEANS CENTER FOR RACIAL JUSTICE (Dec. 2013), <http://www.ushrnetwork.org/sites/ushrnetwork.org/files/cari-report-final.pdf>.

¹⁰ Marc R. Rosenblum, CONG. RESEARCH SERV., BORDER SECURITY: IMMIGRATION ENFORCEMENT BETWEEN PORTS OF ENTRY 14–15 (2013).

children.¹¹ In the decade following IIRIRA, 217,068 people lost an immediate permanent resident family member to deportation.¹² Over 5,000 children have been placed in foster care too often without the consultation or permission of their deported parents.¹³ Estimates are that an additional 15,000 children will enter the foster care system in the next five years because of deportations, at a cost of \$26,000 per child per year.¹⁴ Studies have shown high rates of depression and post-traumatic stress disorder among children who lost a parent to deportation.¹⁵

Deportations of Asian Americans and Pacific Islanders

Asian American and Pacific Islander communities are disproportionately impacted by IIRIRA. One and a half million refugees from Cambodia, Vietnam, and Laos came to the United States as refugees during the 1980s. Their children were very young when they arrived and grew up as Americans. Refugees face a number of hurdles in the United States, including being resettled in neighborhoods with high crime and unemployment rates, language barriers, and mental health needs stemming from the war.

Adjustment was particularly difficult for Cambodian refugees who fled a genocide in which one third of the country was killed. Ninety-nine percent of Cambodian refugees faced starvation, 90 percent lost a close relative in the genocide, and 70 percent continue to suffer from depression.¹⁶ Faced with these difficulties, many of the younger refugees who had grown up in the United States turned to gangs as surrogate families.

Today, Southeast Asians and Pacific Islanders are deported at a rate three times higher than other immigrants.¹⁷ Many are deported to countries in which they have never set foot. Under IIRIRA, immigration judges are not allowed to consider their rehabilitation, hardship to children, or lack of ties to their home countries. Upon deportation, deportees

¹¹ Seth Wessler, *Nearly 205K Deportations of Parents of U.S. Citizens in Just Over Two Years*, COLORLINES: NEWS FOR ACTION (Dec. 17, 2012), http://colorlines.com/archives/2012/12/us_deports_more_than_200k_parents.html.

¹² *In the Child's Best Interest?: The Consequences of Losing a Lawful Immigrant Parent to Deportation*, INTERNATIONAL HUMAN RIGHTS LAW CLINIC, EARL WARREN INSTITUTE ON RACE, ETHNICITY AND DIVERSITY, AND IMMIGRATION LAW CLINIC (March 2010), http://www.law.berkeley.edu/files/Human_Rights_report.pdf.

¹³ *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*, APPLIED RESEARCH CENTER: RACIAL JUSTICE THROUGH MEDIA, RESEARCH AND ACTIVISM (Nov. 2011), <http://arc.org/shatteredfamilies>.

¹⁴ *How Today's Immigration Enforcement Policies Impact Children, Families, and Communities*, CENTER FOR AMERICAN PROGRESS (Aug. 20, 2012), <http://www.americanprogress.org/issues/immigration/report/2012/08/20/27082/how-todays-immigration-enforcement-policies-impact-children-families-and-communities/>.

¹⁵ Urban Institute, *Paying the Price: Impact of Immigration Raids on America's Children*, THE NATIONAL COUNCIL OF LA RAZA (2007), http://www.urban.org/UploadedPDF/411566_immigration_raids.pdf.

¹⁶ Grant N. Marshall et al., *Mental Health of Cambodian Refugees 2 Decades After Resettlement in the United States*, 294(5) JAMA 571 (2005); J. Kroll et al., *Depression and posttraumatic stress disorder in Southeast Asian refugees*, 146(12) AM J. PSYCHIATRY 1592 (1989).

¹⁷ Office of Immigration Statistics, *2010 Yearbook of Immigration Statistics*, U.S. DEPARTMENT OF HOMELAND SECURITY (2010).

face high levels of homelessness, depression, and suicide due to difficulties in acclimating to a foreign country and separation from family.

Immigrants who have rehabilitated and become contributing members of society should be given an opportunity to remain with their families. Take for example Farhan Ezad, a 40-year-old resident of Pennsylvania, and lawful permanent resident of the United States. After an arrest in 1995 over a \$15 drug deal while he was a sophomore at Rutgers University, Farhan Ezad completed a sentence of probation, graduated with a double major, launched a career, got married and raised four U.S. citizen children.¹⁸ Farhan never heard about the drug case again until 15 years later, when ICE agents conducted a 5 a.m. raid at his home to take him into custody for removal. He spent a week in federal custody before being released on \$10,000 immigration bond to await his removal hearing to Pakistan, a country his parents left when Farhan was only five years old.

Restore A Fair Day in Court

IIRIRA stripped judges in many cases from considering hardship to family members and rehabilitation. Judges are required to order deportations without the ability to consider any positive equities. Consider the case of Lundy Khoy, who came to the United States as a baby with her parents, fleeing genocide in Cambodia. While studying at George Mason University, Lundy was arrested for possession of several pills of ecstasy and, at her lawyer's advice, pled guilty and spent three months in jail, released early for good behavior.¹⁹ However, her single drug conviction constituted an aggravated felony, and made her subject to mandatory detention and deportation. In this case, her Immigration Judge could no longer consider that Lundy was a contributing member of society, had no ties to Cambodia, and a promising career in the United States. She was subsequently detained, ordered to leave the country, and since Cambodia was not accepting deportees, find another country.²⁰

As a result of the Antiterrorism and Effective Death Penalty Act and IIRIRA, long term permanent residents are deported daily for misdemeanor convictions or decades old convictions without receiving a fair day in court. Immigration Judges must be given the power to grant a second chance to immigrants after considering their criminal convictions as well as their rehabilitation, family ties, and length of time in the United States. In a country that values second chances, immigrants should not be judged based solely on their worst acts.

These numbers and stories reflect that far from a lack of immigration enforcement, the United States has seen unprecedented levels of immigration enforcement in the past

¹⁸ Derek Beres, *Homeland Security's Inhumane Deportations Continue*, The Huffington Post (Feb. 2011), http://www.huffingtonpost.com/derek-beres/homeland-securitys-inhuma_b_818244.html.

¹⁹ Jenny Doren, Lundy Khoy, *D.C. Woman Faces Deportation to Cambodia*, ABC 7 (Oct. 4, 2012), available at <http://www.wjla.com/articles/2012/10/lundykhoys-d-c-woman-faces-deportation-to-cambodia-80597.html>;

²⁰ Tara Bahrapour, *After Run-in with Law, Cambodian Immigrant's Permanent Residency is At Risk*, Wash. Post (Oct. 3, 2012), available at http://articles.washingtonpost.com/2012-10-03/local/35502391_1_green-cardholders-green-card-jay-stansell.

decade, which has facilitated the expulsion of many law-abiding and hard-working non-citizens. We need immigration legislation now that will enable undocumented immigrants to obtain citizenship, reunite families quickly, and protect the civil and human rights of all immigrants. We reject enforcement-focused policies that terrorize border communities, encourage profiling by state and local authorities, and incentivize detention and deportation without due process. Advancing Justice | AAJC and Advancing Justice | Los Angeles pledge to work with all members of Congress who want to make positive changes to our immigration laws.