

**Hearing of the House Judiciary Committee Subject: "America's Immigration System: Opportunities for Legal Immigration and Enforcement of Laws Against Illegal Immigration" Chaired by: Representative Robert Goodlatte (R-VA) Witnesses, First Panel: Vivek Wadhwa, Director of Research, Pratt School of Engineering, Duke University; Fellow, Stanford Law School; Vice President of Innovation and Research, Singularity University; Michael Teitelbaum, Senior Advisor and Fellow, Harvard Law School; Puneet Arora, Vice President, Immigration Voice; Julian Castro, Mayor of San Antonio, Texas; Witnesses, Second Panel: Julie Myers Wood, President, Guidepost Solutions LLC; Chris Crane, President, National Immigration and Customs Enforcement Council 118, American Federation of Government Employees; Jessica Vaughan, Director of Policy Studies, Center for Immigration Studies; Muzaffar Chishti, Director, Migration Policy Institute's Office, New York University Law School Office Location: 2141 Rayburn House Office Building, Washington, D.C. Time: 10:28 a.m. EST Date: Tuesday, February 5, 2013**

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## **Body**

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REPRESENTATIVE ROBERT GOODLATTE (R-VA): Good morning. This hearing of the Committee on the Judiciary on "America's **Immigration** System: Opportunities for **Legal Immigration** and Enforcement of Laws Against Illegal **Immigration**" will come to order.

Today we hold the first hearing of the Judiciary Committee in the 113th Congress. And I will recognize myself for an opening statement after I welcome the ranking member.

Good.

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This year Congress will engage in a momentous debate on immigration. This will be a massive undertaking, with implications for the future direction of our nation. As such, we must move forward methodically and evaluate this issue in stages, taking care to fully vet the pros and cons of each piece.

This debate is often emotionally charged. That is because it is not about abstract statistics and concepts but rather about real people with real problems trying to provide a better life for their families. This holds true for U.S. citizens, for legal residents and for those unlawfully residing in the United States. I urge the members of this committee to keep that in mind as we begin our examination.

America is a nation of immigrants. Everyone among us can go back a few or several generations to our own relatives who came to America in search for a better life for themselves and their families. But we are also a nation of laws.

I think we can all agree that our nation's immigration system is in desperate need of repair and it is not working as efficiently and fairly as it should be. The American people and members of Congress have a lot of questions about how our legal immigration should work. They have a lot of questions about why our immigration laws have not always been sufficiently enforced. And they have a lot of questions about how a large-scale legalization program would work, what it would cost and how it would prevent illegal immigration in the future.

Immigration reform must honor both our foundation of the rule of law and our history as a nation of immigrants. This issue is too complex and too important to not examine each piece in detail. We can't rush to judgment. That is why the committee's first hearing will begin to explore ways to fix our broken system. Future hearings will take place in the Immigration and Border Security Subcommittee under the leadership of Chairman Gowdy.

Today we will begin our examination of the U.S. immigration system by evaluating our current legal immigration system and ways to improve it as well as the history of the enforcement of our immigration laws. The United States has the most generous legal immigration system in the world, providing permanent residence to over a million immigrants a year, and yet all is not well. Prospective immigrant workers with approved petitions often have to wait years for green cards to become available. So do their employers. It has gotten so bad that the immigrant scholar Vivek Wadhwa has been -- who will be testifying before the committee today, states that, "If I were a young immigrant technologist in my mid-30s stuck on an H-1B visa in America and trapped in a middling job, I would probably have decided to return to Australia or India." What does this foretell for America's continued economic competitiveness?

Furthermore, legal permanent residents of the United States have to endure years of separation before they can be united with their spouses and minor children. Our laws also erect unnecessary hurdles for farmers who put food on America's tables. Our agriculture guest worker program is simply unworkable and needs to be reformed.

At the same time, we allocate many thousands of green cards on the basis of pure luck through the Diversity Visa lottery program, and we allocate many thousands of green cards to non-nuclear family members. Some characterize this as chain migration, which former Florida governor Jeb Bush has recently written does not promote the nation's economic interests.

It is instructive to note that while America selects about 12 percent of our legal immigrants on the basis of their education and skills, the other main immigrant-receiving countries of Australia, the United Kingdom and Canada each select over 60 percent of their immigrants on this basis.

These are just a few of the issues plaguing our legal immigration system, not to mention the larger question of how to address the estimated 10 million individuals unlawfully present in the U.S. Whether or not America should become more like our global competitors, we do need to have a serious conversation about the goals of America's legal immigration system.

Today we will also discuss the extent to which past and present administrations have enforced our immigration laws and whether we believe those efforts have been sufficient and effective. This is a crucial question. The year

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1986 was the last time Congress passed comprehensive immigration reform. At that time, Congress granted legal status to millions who were unlawfully present in exchange for new laws against the employment of illegal immigrants in order to prevent the need for future amnesties. However, these employer sanctions were never seriously implemented or enforced. Even Alan Simpson, the Senate author of the 1986 legislation, has concluded that despite the best of intentions, the law did not satisfy its expectations or its promises.

This committee needs to take the time to learn from the past so that our efforts to reform our immigration laws do not repeat the same mistakes. Regardless of the conclusions of this national conversation, I think we can all agree that America will remain true to our heritage as a nation of immigrants as well as a nation of laws.

I look forward to the testimony of all of today's witnesses, and now I turn to our ranking member, the gentleman from Michigan, Mr. Conyers.

REPRESENTATIVE JOHN CONYERS (D-MI): Thank you, Chairman Goodlatte. This is an important hearing, and you started off on a very important analysis of where we are. And I'm not here to critique your presentation but to make my own. But I could summarize what I think we're going to be addressing in three phrases: One, comprehensive; two, a path to citizenship and three, border security more than ever.

Well, let's take the one we can most easily agree on is border security. It's improving. It is -- well, there's always somebody that's going to get through. But I think that we have a general consensus about the ways that we may do a better job.

And I would like to just throw out that there may be a few members of the House Judiciary Committee that would like to go to the border and examine this and talk with those who are responsible for it. And I propose, with the chairman, that we continue this discussion as these hearings proceed.

Now, the notion of comprehensive immigration has been pushed around and bandied about, but the fact of the matter is that this is one big challenge that I don't think we can handle on a piecemeal basis. I'm a -- my experience with this subject tells me that with 10 (million), 11 million undocumented people living among -- we've got to approach this in terms of a more holistic way.

Now, I think that there must be an earned legalization process that is fair but firm and that is -- that is not -- that is not subject to a lot of manipulation.

And you know, to my colleagues, there's, in some quarters in -- among our citizens, more agreement than there is sometimes in this body. And I'm hoping -- and I believe that it can be done -- that this committee will rise above our political instincts and try to serve the nation on these -- American citizens in a very important way.

I hope no one uses the term "illegal immigrants" here today. Our citizens are not -- our -- the people in this country are not illegal. They are out of status. They are new Americans that are immigrants.

And I think that we can forge a path to citizenship that will be able to pass muster. We've got senatorial bipartisan support working very nicely thus far.

And if it pleases the chairman, I would like to yield the rest of my limited time -- little time I have left to the gentleman, Mr. Luis Gutierrez, who is now back on the committee and who I celebrate.

REP. GOODLATTE: Mr. Conyers, the time has expired. But in recognition of the return of Mr. Gutierrez and your generosity, we will yield him one minute to close your remarks.

REP. CONYERS: Thank you, sir.

REPRESENTATIVE LUIS GUTIERREZ (D-IL): Thank you so much, Mr. Conyers -- Congressman Conyers and Chairman Goodlatte.

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I expressed to Chairman Goodlatte that I'd come back to the committee, giving up 20 years of seniority on Financial Services, because I believe that this committee is that important. The chairman said to me, don't put too much pressure on. I just wanted to share that I didn't come here to undermine anyone's work and to challenge anybody's work but to work in a collaborative spirit with you, Chairman Goodlatte, with my colleagues here, to frame a comprehensive immigration solution to our broken immigration system.

I want to welcome the witnesses that are here today and just to share with everyone, this issue is important to me. And I didn't come here with an engineering degree, with a Ph.D. My mom had a sixth- grade education, my dad didn't graduate from high school, but I think they did pretty well with their son. And I've come here simply to say that while I don't hold any of these prestigious degrees either, that immigrants have come here to do and to sweat and to toil in this country, and that if we could just (start/part ?) from the premise, and that is, as Gandhi might have said today -- right? -- let's have politics with principles because the absence of one really leads us down a very treacherous road that I don't think America wants to live in.

So I thank you, Chairman, Goodlatte. And I really look forward to working with all of my wonderful colleagues here, and especially, obviously, Zoe Lofgren and Mr. Gowdy. I am looking forward to that subcommittee experience with the both of you. Thank you so much for allowing me to express myself here this morning.

REP. GOODLATEE: We're glad to have you back, Mr. Gutierrez.

And now it is my pleasure to recognize the chairman of the Immigration Subcommittee, the gentleman from South Carolina, Mr. Gowdy, for his opening statement.

REPRESENTATIVE TREY GOWDY (R-SC): Thank you, Mr. Chairman.

A couple of years ago, a young African author spoke at a high school in South Carolina. Mr. Chairman, she was a beautiful, talented young woman. And when she lifted her arm to brush away the hair from our eyes, I saw something I have never seen before, at least not in this country, which was someone's hands that had been cut off with a machete. When she was 12 years old, living in Sierra Leone, rebel soldiers came to her village during the civil war. She tried to run, she tried to hide, she asked God to let her die, but the soldiers found her. And they cut off her hands and mockingly told her to go to the president and ask for another pair. And that 12-year-old girl, Mr. Chairman, remembered thinking to herself, what's a president?

Collectively, Mr. Chairman, we all understand why people want to come to this country -- to escape persecution, to taste freedom and liberty, to know that hard work and education and a level playing field can combine forces to transform lives. Escaping conflict and hardship is one thing, Mr. Chairman. Picking a new home is another. And America is picked because we are a country that embraces justice, we reward fairness, we're a nation of laws. The poorest of the poor has the same standing in court as the richest of the rich. We believe in the even application of the law because law provides order, structure, predictability and security.

And what we cannot become is a nation where the law is enforced selectively or not at all. What we cannot become, Mr. Chairman, is a country where the law is applied to some of the people some of the time. The president from time to time, Mr. Chairman, says that he wants a country where everyone plays by the same rules. With respect, they aren't called rules in this country; they're called laws. And each of us takes an oath to enforce them, including those with which we may disagree, because when the law is ignored or applied in an uneven way, we begin to see the erosion of the very foundation upon which this republic was built. And make no mistake, Mr. Chairman, as surely as today one may benefit from the noncompliance or non- enforcement of a law, that same person will be clamoring to have the law enforced in another capacity.

So we seek to harmonize two foundational precepts, Mr. Chairman. Number one is humanity, and number two is respect for the rule of law. And history is whispering, as you noted, Mr. Chairman, that we have traveled this road before. In 1986, we were told that immigration had been settled once and for all. We were told that in exchange for secure borders and employment verification, those who entered the country illegally would not suffer the full

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panoply of legal consequences. In the minds of many, Mr. Chairman, the country got amnesty but is still waiting 25 years later on the border security and the employment verification.

So here we are back again asking our fellow citizens to trust us. And many, despite ourselves, Mr. Chairman, remain open to legislative expressions of humanity and grace, but they will be watching skeptically to see if we are serious about enforcing the rule of law. Are we serious about ending the insidious practice of human trafficking? Are we serious about punishing those who prey on folks with false promises and fraudulent documents?

Are we serious about border security and employment verification? Are we serious about making this the last, last time we have this conversation, or are we simply playing political games with people's lives and undercutting the respect for the rule of law, which ironically is the very reason they seek to come to this country in the first place? We shall see.

I yield back.

REP. GOODLATTE: I thank the gentleman. And it's now my pleasure to recognize the gentlewoman from California, Ms. Lofgren, the ranking member of the Immigration Subcommittee.

REPRESENTATIVE ZOE LOFGREN (D-CA): Thank you, Mr. Chairman, and I congratulate you on holding this hearing, our committee's first hearing on our broken immigration system. I appreciate that gesture, as I do your recent public statements that you're open to reform and that America does not need a trail of tears to the border. I congratulate Mr. Gowdy as well on his chairmanship, and I look forward to working with him to find that balance between respect for the rule of law as well as our morality and humanity. I look forward to working with both of you in a bipartisan manner on these reform efforts.

But as we move forward, we need to recognize that our broken system does immeasurable harm every day that it goes unreformed. A trail of tears to the border is not that far off from the system we currently have. Every day our system tears families apart, husbands from their wives, parents from their children. If we want a moral and humane system, we have a lot of work to do.

America is ready for us to do that work. I participated in the immigration debate during my 18 years in Congress, and long before that as an immigration attorney and law professor, teaching immigration law. Today the country is past the point of debating whether we need reform. They're simply counting on us to get it done.

And the growing bipartisan consensus means I think that we can get it done. Conservative leaders from Jeb Bush and Karl Rove to Sean Hannity and Bill O'Reilly have signaled support for comprehensive reform efforts, including a path for undocumented immigrants. Even Rush Limbaugh told Senator Marco Rubio that his efforts for immigration reform are admirable and noteworthy and recognize reality.

We've also seen members in both parties in the House and Senate voice strong support for immigration reform. We know of the bipartisan blueprint for immigration released last week by eight senators, and there are similar bipartisan discussions in the House. It will take such bipartisanship to solve this problem, and I'm hopeful that this is the year we finally enact top-to-bottom reform of our immigration laws.

As we'll hear today, our current system is dysfunctional in many ways, keeping families apart for decades and hindering economic growth and American global competitiveness. Designing a sensible legal immigration system is critical to preserving the rule of law. We need a legal immigration system that works so that workers and families who want to come here are able to go through that system rather than around it.

Yet despite the incredible need to reform the system, all we've done is enforce the heck out of it, especially over the last several years. We're now removing record numbers of undocumented immigrants each year while attempted border crossings are at their lowest levels in more than 40 years. According to experts, net migration from Mexico is now zero and likely lower than that. Every year we spend more money on immigration enforcement, nearly \$18

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billion per year, than on all other federal law enforcements combined. All of this enforcement hasn't solved the problem, and it should not be used to delay top-to-bottom reform of our laws.

What needs to be done is not that complicated. We know -- we know a reform bill must include additional border enforcement as well as employment eligibility verification to secure the workforce. We need to reform our employment visa system so that tech companies, farmers and other U.S. businesses have access to needed workers. And we need to reform the family system to help keep families together. We also need to provide a way for 10 or 11 million undocumented immigrants to come out of the shadows, get right with the law in a way that is fair and practical.

A few words of caution. First, partial legalization, as some are suggesting, is a dangerous path; we'd only look at France and Germany to see how unwise it is to create a permanent underclass. What makes America special? It's that people come here, assimilate and become American, with all of the rights and responsibilities that citizenship bestows. With the exception of slavery and the Chinese Exclusion Act, our laws have never barred persons from becoming citizens, and we should not start now.

Second, we must not fall into the trap of calling for piecemeal reform. As Governor Jeb Bush recently wrote in The Wall Street Journal, Congress should avoid such quick fixes and commit itself instead to comprehensive immigration reform. Immigration, as he points out, is a system, and it needs systematic overhaul.

Finally, we must make it easier to keep critical workers who can keep America competitive and grow our economy, but we should not do so by closing the door on family-based immigrants. Family unity has been the bedrock of our immigration system since the Immigration and Nationality Act was enacted in 1952.

In addition to strengthening American families, family-based immigration plays an important role in bolstering our economy. Research shows that immigrants, most of whom come here through the family system, are twice as likely to start businesses in the U.S. as native-born people, and immigrant businesses, including small nontech businesses, have grown at 2.5 times the national average.

I often say I'm glad that Google is in Mountain View rather than Moscow. Like Intel and Yahoo!, Google was founded by an immigrant, but it's worth noting that none of the founders of these companies came to the United States because of their skills. Sergey Brin, Jerry Yang, Andy Grove all came here through our family-based system or because they were refugees or the children of refugees. What made these founders special were the traits they share with immigrants of all kinds: entrepreneurship, risk-taking, a desire for a better life. These are among the most admired values in our country, as it should be, because it's the secret sauce that makes America great.

From Alexander Hamilton to Arnew -- Andrew Carnegie to Albert Einstein, we are a nation forged by immigrants. It's time we fully embraced that immigration is good for our country. It's time we do our part to devise a way for the people who have enough get-up-and-go to get up and go and come to our shores, and bring their talents and contributions to our society and to our economy, and to become Americans with us.

Thank you very much, Mr. Chairman, and I yield back.

REP. GOODLATTE: I thank the gentlewoman.

Without objection, all other members' opening statements will be made a part of the record, and we'll turn now to our very distinguished panel -- first panel of witnesses, and I'll begin by introducing that first panel.

Our first witness on this panel is Mr. Vivek Wadhwa, a visiting scholar the University of California, Berkeley; a senior research associate at Harvard Law School; and director of research at the Center for Entrepreneurship and Research Commercialization at Duke University. He is also a faculty member and adviser at Singularity University and writes a regular column for both The Washington Post and Bloomberg Businessweek.

Last year his book "The Immigrant Exodus: Why America Is Losing the Global Race to Capture Entrepreneurial Talent" was named a Book of the Year by the Economist magazine.

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Mr. Wadhwa received his bachelor's degree from the University of Canberra in Australia and received his MBA from New York University's Stern School of Business, and we thank him for coming today.

Our next witness is Mr. Michael Teitelbaum, who recent -- who currently serves as the senior director of the Alfred P. Sloan Foundation. From 1980 to 1990 he served as one of 12 commissioners of the U.S. Commission for the Study of International Migration and Cooperative Economic Development. Prior to this, he served as a commissioner of the U.S. Commission on Immigration Reform, which completed its work in December 1997.

Mr. Teitelbaum received his bachelor's degree from Reed College and subsequently earned his Ph.D. in demography from Oxford University, where he was a Rhodes scholar. We're glad to have him joining us today.

The third member of this first panel is Dr. Puneet Arora, currently serving as the vice president for Immigration Voice, a coalition of 75,000 highly skilled foreign professionals. He also serves as the medical director for Genentech, a biotech firm in San Francisco, California. Dr. Arora joined Genentech, then Amgen, in 2008, as clinical research medical director. He has been a volunteer with Immigration Voice since 2006 and leads the physicians' chapter as well as the Minnesota and Southern California chapters.

Dr. Arora received his medical degree from the All India Institute of Medical Sciences in 1994. He completed his residency training in internal medicine at Southern Illinois School of Medicine in 1999 and received fellowship training in endocrinology, diabetes and metabolism at New York University's School of Medicine. He practiced in a medical underserved area and was subsequently granted a national interest waiver for permanent residence in the United States by USCIS.

We thank Dr. Arora for serving as a witness today as well.

Our final witness is the Honorable Julian Castro, mayor of the -- of San Antonio, Texas. First elected in 2009 and re-elected in 2011, Mayor Casto (ph) -- Castro earned his undergraduate degree from Stanford University with honors and distinction in 1996 and a juris doctorate from Harvard Law School in 2000. In 2001, at the age of 26, Castro became the youngest elected city councilman at that time in San Antonio history. Mayor Castro's brother Joaquin serves in the U.S. House of Representatives.

We are pleased to have the mayor with us today, and I will turn to the gentlewoman from Texas, Ms. Jackson Lee, for 15 seconds of additional welcome to the mayor.

REPRESENTATIVE SHEILA JACKSON LEE (D-TX): Thank you, Mr. Chairman. Thank you very much.

Mayor Castro is particularly placed -- well-placed and unique for this role as a witness today. I'd like to welcome him as a fellow Texan. I know that his brother, a congressperson, member of the United States House of Representatives, has already done so, but as a mayor of one of the world's international cities who sees people coming from all backgrounds, you are well-placed to understand what immigration and the opportunities and contributions that immigrants and those who come to this country for a better opportunity can contribute. And I thank you so very much for your leadership of your city and your presence here today. Welcome, fellow Texan.

I yield back, Mr. Chairman.

REP. GOODLATTE: Thank you, Ms. Jackson Lee. And I now turn to the former chairman of the committee and the gentleman from San Antonio, Texas, Mr. Smith, for a comparably calculated 15 seconds of welcome.

REPRESENTATIVE LAMAR SMITH (R-TX): Thank you, Mr. Chairman. I'll try to stick to the 15.

I, too, wanted to welcome the mayor of my hometown, San Antonio. Mayor, as we both know, San Antonio is a wonderfully livable tricultural city, and you have done a great job representing us in so many ways, so welcome today. And also I want to say to you that I enjoy serving with your brother in Congress, who is sitting behind you as well. So we'll talk more and look forward to your testimony as well.

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REP. GOODLATTE: Welcome to all of our witnesses, and we'll begin with Mr. Wadhwa.

VIVEK WADHWA: Chairman Goodlatte, members of the House committee, thank you for giving me a chance to speak to you.

You know, being here in D.C., it's very -- a little bit pessimistic. Everything about here -- we worry about China, whether they're going to rule the future. We worry about shortages. We worry about everything in the world. And when you're worried about, you know, a lack of resources, shortages, and you worry about countries like China taking over the world, you become very pessimistic. You begin to really wonder if there are shortages of engineers or a glut of engineers. In fact, some of the debates we'll have is are there too many -- are we graduating too many scientists?

All of this is based on a perspective of yesterday. You know, the United States has a way of reinventing itself. Every 30 or 40 years, we get really, really worried about ourselves, and we start developing an inferiority complex, wondering why the world -- rest of the world is better than we are. And then we wake up and realize that, hey, we're ahead again.

The United States is in the middle of another reinvention right now. As we speak, we're in the middle of a next major rebound. Technology is changing the entire landscape and giving America its edge back, so much so that -- let's start with manufacturing. I'll walk you -- give you a crash course in our special technologies. You know, just like we saw oil being something we worried about -- we worried about running out of oil -- now you have newspapers writing about Saudi America. Fracking came along. Within five years, it changed our entire perspective of oil. That's just one small thing.

Now look at computing. Five years ago, none of you would ever have used smartphones or been on Twitter or social media. Now all of us do that. Well, practically all of us do that. But the point is that we carry in our pockets more computing power than existed the day we were born. Think about it. Thirty years ago, we would have banned this device because it was more powerful than a Cray supercomputer. Today sits in our pocket waiting for us to check emails. That's how fast computing has advanced.

The same thing is happening in manufacturing, if you look at the advances in robotics, in artificial intelligence, in 3-D printing. Within the next five to seven years, my prediction is that China -- China's manufacturing industry will be toast, that it'll start coming back to America like we've never imagined before.

You know, we have debates about health care. We worry about multitrillion-dollars deficits and our system becoming bankrupt. Health care is advancing like you can't imagine. Between digital medicine and genomics, there are major advances happening. There's a quantified -- (inaudible). You know, for example, I'm a heart patient.

My iPhone case is an EKG machine. I hope none of you have ever had heart problems and never had to get an EKG done. They're really painful. I touch the two leads on my iPhone; it does a complete EKG for me. I can mail that EKG to my cardiologist. The way technology is going, two or three years from now I won't need a cardiologist to read my EKG; it'll be read by a computer on the cloud.

This same type of technology is being built in many other areas, which means we have preventative medicine. We are -- we'll be able to save, you know, tremendous amounts of money on curing disease because we'll prevent it. This is happening regardless of what we do. This is happening at light speed.

You also have advances happening in other fields. For example, in California, we have the Google self-driving car. By the time it's released later in this decade, it's going to change the faces of cities. A third of the land use in cities is for parking. We get stuck in traffic jams. Thirty thousand highway deaths -- all of these things can be eliminated by one new invention. Also, 90 percent of the energy we use on transportation can be reduced by automated self-driving vehicles.



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There are major advances happening in education. These technologies are still expensive right now. In India, they're going to be shipping -- they're going to be giving kids in school and teachers tablets which are bigger than this, as sophisticated as the iPhone 1 was, for \$20. Within the next five years you're going to have another 3 billion people coming on the Internet worldwide. Look at the revolution that telephones and then social media created in the Middle East. In China, the government is quaking because if people are connected; they can talk to each other. Imagine what happens over the next five or seven years when the entire world comes online with technology.

These are sort of earth-changing things that are happening, and it's all because of technology. And who is driving technology? Skilled immigrants are, people like me, people -- engineers, scientists. It's a whole assortment of people that are driving these changes. And guess what? Until recently 52 percent of the startups in Silicon Valley, the most innovative place on this planet, were immigrants. So the people who are driving this boom I'm talking about, this technology which is reinventing America, are skilled immigrants.

Representative Gutierrez, I understand what you said about your parents not having been educated and the fact that things were very different. In an era in which, you know, skilled labor didn't have as much value as today, it made sense that -- we definitely need the unskilled workers. There's no doubt about that. But in this new era, it's all about skill. The people who are making this happen are engineers, scientists, doctors, most importantly entrepreneurs.

So we have a choice right now. We can either trip up the entrepreneurs who are going to reinvent America and save the world, or we can fix this problem instantly and create a better world, because we have the ability right now to solve humanity's grand challenges. We can create unlimited energy, unlimited water, unlimited food. We can create security which protects us from threats. We can do all of these amazing things right now using technology, and all within the next five or seven years. I can almost guarantee that five years from now we're going to be debating how do we distribute some of the abundance we're creating, because just like we're talking about oil being abundant, we're going to be talking about many other things becoming abundant. We'll have different debates over here.

But it's imperative that we, you know, allow Silicon Valley, our entrepreneurs, our technologists, to do their magic and to save us. A strong America is important for the world. We can solve the world's grand challenges. And immigration is one of the keys to making it happen.

Thank you.

REP. GOODLATTE: Thank you, Mr. Wadhwa.

Mr. Teitelbaum, welcome.

MICHAEL TEITELBAUM: Thank you, Mr. Chairman, Ranking Member Conyers, members of the Judiciary.

Thank you for inviting me to report on the recommendations of the U.S. Commission on Immigration Reform. It was a commission established by the Immigration Act of 1990, and it's often called the Jordan commission, after its chair, Barbara Jordan, Congresswoman Jordan, who was of course a distinguished member of this very committee. Eight of the members of the commission were appointed by the House and Senate majority and minority leadership, and the chair was appointed by the president. The mandate was very broad, and you have in your written testimony from me a copy of the executive summary of the commission report, the final report, which includes the mandate, so I won't repeat that given the time.

Now, as the chair has said, these are contentious and emotional disagreements on these issues. So I wanted to tell you that the members -- the nine members of this commission included among them almost all perspectives on immigration and refugee issues, and I told my wife there was little chance that this commission was going to be able to reach any substantial majority agreement on anything. Ultimately, that commission -- all of its recommendations, which you have before you in the written testimony -- all of them were unanimous or unanimous less one.

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Since we're focusing on legal immigration today, let me try to, very quickly in the time I have, summarize the commission recommendations on that part of its mandate. The commission was a strong supporter for a properly regulated legal immigration system that serves the national interest, and it decried hostility and discrimination against immigrants as antithetical to the traditions and interests of the United States.

It said that a well-regulated immigration system enhances the potential benefits of immigration, but if it were not well-regulated, it would not. The commission said that there was a need to set priorities in immigration because there was -- there was much more demand than there was available visas. It should set priorities and it should deliver on those priorities.

And with respect to the national interest, it said these were the three priorities: unification of immediate or nuclear families, as one of the members has already spoken to, admission of those highly- skilled workers who are legitimately needed to support the international competitiveness of the U.S. workforce, as the previous witness has just mentioned, and refugee admissions, which haven't yet been mentioned a great deal -- refugee admissions and other actions that affirm U.S. commitments to provide refuge to the persecuted. And the number of visas should flow from those priorities.

The third point was -- from the commission -- the third recommendation and finding was that the policies that it was reviewing in the 1990s were broadly consistent with these three priorities, but they included elements among them that were creating serious problems in the 1990s and that needed thoughtful attention.

A fourth recommendation was that priorities in the family category should be established. And the commission concluded that the priority should be placed on the expeditious admission of immediate or nuclear family members in this order: spouses and minor children of U.S. citizens, number one; parents of U.S. citizens, number two, and spouses and minor children of legal permanent immigrants, number three.

And it therefore recommended a reallocation of the visas in the family-based system from lower-priority categories outside of those priorities -- those were the adult children and adult siblings of U.S. citizens and the so-called diversity visas to the highest-priority categories that I just listed. The problem with the lower-priority categories is, they had never been given very many visas, and there was enormous demand, and therefore, very large backlogs in those categories.

So the recommendation there was that we should stop trying to manage immigration by backlog. In effect, we are making promises that we can't keep, and instead, focus on prompt admission of the highest- priority categories. And had that been done, all of those categories would have been admitted very promptly -- within one year of application. But of course, it didn't happen. And in the absence of such actions, these backlogs have actually become longer and more extensive.

The fifth recommendation was that a well-regulated admissions system for skilled immigrants is in the national interest. And we already heard Vivek Wadhwa talk about that. So I won't say a lot about it, but it's consistent with what he said. They contribute -- when needed, they contribute to the global competitiveness of the U.S. workforce. And then there's the second point, which is that we want immigrants to do well in the United States. We want them to prosper. And if they're skilled, they're more likely to prosper than if they're not.

However, then -- this was a bit of a controversial recommendation -- the commission found that the labor certification process for this category did not protect U.S. workers from unfair employment competition, and does not serve the national interest. So it advocated a new and more market-driven approach for selection among those categories.

The sixth recommendation was that admission of low-skilled and unskilled workers is not in the national interest. It recommended against the continuation of the small number of visas for -- employment-based visas for low-skilled and unskilled workers. It could find no compelling evidence that employers who offer adequate remuneration would face difficulties in hiring from the large pools of low-skilled and unskilled workers in the U.S. workforce. And of

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course, large numbers of such workers would be continuing to flow -- much larger than the number of visas in this category -- continue to flow under the family and refugee visa categories.

Seventh, that admission of large numbers of temporary or guest workers in agriculture and other fields, the commission said, would be a grievous mistake.

The commission found that such programs lead to particularly harmful effects. Guest workers are vulnerable to exploitation, and their presence in large numbers depresses the wages and working conditions of U.S. workers which, by the way, includes recent immigrants -- recent --

REP. GOODLATTE: (Off mic) -- want to go ahead and just summarize each of the last two points because I know you do want to get all mine in --

MR. TEITELBAUM: Right, right.

REP. GOODLATTE: -- but we are out of time.

MR. TEITELBAUM: I mentioned the refugee thing, and the commission recommended a well-regulated resettlement program. And finally, it recommended more flexibility and adaptability of immigration policies needed as circumstances changed. So in my testimony you'll see an example of another country with quite a lot of similarities to the U.S. in which they've come up with a way to have a more flexible system that is based on rigorous analysis of where the needed employment base visas might be. And I'll suspend at that point, (Mr. Goodlatte ?).

REP. GOODLATTE: Thank you. And what country is that?

MR. TEITELBAUM: That's the United Kingdom.

REP. GOODLATTE: Thank you.

Dr. Arora, welcome.

DR. PUNEET ARORA: Thank you. Distinguished Chairman Goodlatte --

REP. GOODLATTE: You should hit the button on your microphone and pull it close.

DR. ARORA: Thank you.

REP. GOODLATTE: Pull it close to you. Pull the microphone close to you.

DR. ARORA: Distinguished Chairman Goodlatte, Ranking Member Conyers and members of this committee, on behalf of Immigration Voice and the many highly skilled professionals and their families waiting for permanent residence status to the United States, I thank you for this opportunity to contribute my views towards immigration reform.

Immigration Voice is a grass-roots organization of highly skilled foreign men and women that have come together to advocate for a change in the employment-based green card system. Today I would like to talk to you about the problems faced by 1 million highly skilled foreign professionals and their families, future Americans, most of whom have been gainfully employed in the United States for a decade or more but find themselves in lines for a green card.

Our community is invested in America through our diligence, innovations and productivity. Our children are Americans. This is our home.

My journey through the employment-based backlog began in 1996 with a medical residency program at the Southern Illinois University School of Medicine in Springfield, followed by a fellowship in endocrinology, diabetes and metabolism at the New York University School of Medicine and then to the Mayo Clinic in Rochester,

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Minnesota, for a fellowship in advanced diabetes. In 2003, I joined a clinical practice with the HealthPartners Medical Group in St. Paul, Minnesota, and as assistant professor of medicine at the University of Minnesota Medical School. My practice was in a medically underserved area with a substantial population of indigent patients. Even so, my National Interest Waiver was significantly delayed.

In 2008, I was offered the position of clinical research medical director at EnGen, the world's largest biotechnology company. I was able to accept this offer only because of a small window of relief offered in July of 2007 that allowed me to gain work authorization. Many of my colleagues, in (immigrationwise ?), were not so fortunate, and still today they continue to lack the ability to change jobs without losing their place in the green card line.

I now work for Genentech as medical director for early development, and at the end of the -- of 2011, my green card application was finally approved after more than 15 years of life in the United States. And now, as I continue to work for citizenship, I count myself as fortunate.

Today, USCIS is just now adjudicating applications for applicants like me from the year 2004. Spending a decade or more waiting for permanent residency takes its toll on professionals and on their families. Children age out, and they have to secure their own visas to go to college.

Traveling abroad or just maintaining legal status takes a constant infusion of time and money to renew documents. Scientists often cannot get grants. And sadly, even motivated parents cannot adopt children.

These problems all generally arise from what we term the double backlog: the green card shortage backlog and the poor-country backlog. And I want to make a few brief points on both these.

We have the largest and the fastest-growing highly skilled economy in the world. It's America's fastest-growing export. We are fighting over green card numbers here for highly educated people, each of whom is a net job creator, according to the American Enterprise Institute, while America is (bleeding ?) some of the best minds from its borders, many of whom were trained in U.S. schools.

As parents of American children, we see firsthand that America is struggling to produce qualified students in STEM, and I worry, as the father of two wonderful girls. We have heard proposals for increased fees to pay for STEM programs in the States, and we support that. It can only help, and all help in this matter is welcome.

On the second part of the double backlog, I want to start by thanking this committee, and especially Representatives Chaffetz, Smith and Lofgren, for their amazing bipartisan work on poor-country elimination. We fell short in the Senate on process in spite of overwhelming support. Regardless, we know that just changing the poor-country quota alone will not fix the overall shortage of green cards, but it will help to alleviate some of the burdens for America's most experienced, highly skilled green card applicants. And again, we sincerely appreciate your efforts in this regard.

REP. GOODLATTE: Thank you, Dr. Arora.

Mayor Castro, we're pleased to have you with us.

MAYOR JULIAN CASTRO: Thank you very much, Chairman Goodlatte; and of course to Representative Jackson Lee and my hometown Representative Smith, thank you for having me; to the Ranking Member Conyers, as well as the members of the committee.

I come to you today as many things, as an American, as an optimist, the grandson of an immigrant orphan from Mexico who found opportunity in our great country and as mayor of the nation's seventh-largest city, a community that looks like the Texas and the America of tomorrow.

Immigration for all of us is more than a political issue. It's who were are as Americans. From Plymouth Rock to Ellis Island and Galveston, Texas, to the sandy shores of Florida and the rocky coast of California, immigrants have made ours the great country in the world.

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Today, however, our immigration system is badly broken. But there is hope. This hearing, and more importantly, the bipartisan legislation that I believe can be enacted because of it, shows that we are on the cusp of real progress.

The president and a growing number of bipartisan lawmakers have laid the framework for what Americans support: comprehensive, common-sense reform. We must do at least three things: further strengthen border security, streamline the legal immigration process so that law-abiding companies can get the workers they need in this 21st-century global economy and create a path to citizenship to bring the estimated 11 million undocumented immigrants in this country out of the shadows and into the full light of the American dream.

In Texas, we know firsthand that this administration has put more boots on the ground along the border than at any other time in our history, which has led to unprecedented success in removing dangerous individuals with criminal records. But Democrats and Republicans can agree that the work to ensure America's safety and security is ongoing, and should be a part of any future legislative agenda.

The reforms that you have on the table are also pro-family and pro-business. Outdated visa allocations that separate husbands and wives, mothers and children, and brothers and sisters for years and sometimes decades make no sense.

It also makes no sense that while some employers choose to flout the rule of law and exploit employees, other companies who want to play by the rules are handcuffed by rigid employment ceilings and burdensome regulations. Every year, as competition increases across the globe, American companies throw up their hands and watch engineers, nurses and entrepreneurs who were trained in American universities leave in frustration only to invent new products, heal the sick and innovate in other countries.

What Americans deserve is a system that works, a system that's efficient, that's accountable -- that, in our nation's best interest, puts the undocumented immigrants already here on a road to earn citizenship. Those immigrants take on many faces from Virginia to North Carolina to Utah.

In San Antonio, those faces include students like Benita Velez (sp). Benita (sp), like many so-called dreamers, was brought to this country as a child from Mexico. She learned English, played by the rules and achieved astounding academic success, even becoming a valedictorian of my alma mater, Thomas Jefferson High School in San Antonio.

She was a National Merit Scholar and Benita (sp) earned a Bachelor's degree by the time she was 20 years old. By any measure, Benita's (sp) an American success story. But under current immigration law, she's in limbo. America is her home in every single sense of the word except under our broken immigration system.

Since the signing of the Declaration of Independence, America has distinguished itself as the land of opportunity, the place where the human spirit is free to reach its full potential. In this 21st century global economy, we need Benita (sp) and immigrants like her to be competitive. But we all know that as one generation of Americans has passed on to the next, this great nation has drawn tremendous strength from immigrants whether they came from Germany or Italy or India or Mexico. A hearing is a great start but a hearing is not enough.

Let's rise above the political fray. Let's once again show that no challenge is too big for America. Ladies and gentlemen, America is watching. Let's get this done. Thank you.

REP. GOODLATTE: Thank you, Mayor Castro. Dr. Arora, you gave an excellent statement and I thought it was full and complete but apparently I called you before your time was expired and maybe before your statement was finished. Did you want to summarize your statement?

MR. ARORA: Thank you. I just have a little bit left so I'm just going to complete it. The benefits of removing per-country limits will accrue to only one nation in this world -- the United States of America. Ultimately, we do not care how you fix the system. We just want it fixed. Not in five years, not in ten years. Now, this year.

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On that note, there are so many proposals out there for broader high-skilled immigration reform. They include recapturing unused visas, providing additional U.S. STEM visas, exemptions for spouses and children, early filing, exemptions for physicians who provide service in under served areas, and we support all of these.

We're extremely encouraged by the introduction of the Immigration Innovation Act of 2013 in the Senate and we really hope that a similar bipartisan bill will be introduced in the House. This innovation economy is global and the ripe export markets and the foreign professionals in America creating products for these markets will not wait forever.

Our futures are tied to the United States as are those of our children. The growth of America's economy and the availability of jobs for Americans are of great significance to us and our families. We want nothing more than to see America prosper and grow while still remaining the most welcoming nation on the face of this earth. On behalf of immigration -- (inaudible) -- again my sincerest gratitude for this opportunity and the very patient hearing you've given me today. Thank you.

REP. GOODLATTE: Thank you, Dr. Arora, and I'll begin the questioning with you, Mr. Wadhwa. Which do you believe is a greater factor in encouraging foreign students and workers on temporary visas to return home, difficulties receiving green cards in the U.S. or expanding opportunities in their home countries?

MR. WADHWA: They're both. In fact, when we surveyed several hundred returnees they said it was greater opportunities. But I know in dealing with my students what happens is that they look for jobs because they want to stay here for two or three years after they graduate. They can't get jobs because companies can't get H1B visas or they're worried about hiring foreigners because of the backlash. So they don't have the jobs.

REP. GOODLATTE: I've got another question for you and I'm going to go quickly because I have several I want to ask in a short period of time. As I noted in my opening statement, other primary immigrant- receiving countries like the U.K. and Canada and Australia select over 60 percent of their immigrants based on their education and skills while the United States selects little more than 10 percent on this basis. Which type of immigration system do you think makes the most sense for America?

MR. WADHWA: We need both because you have to have families as well. But right now we need more skilled --

REP. GOODLATTE: We're talking about ratios here. Percentage --

MR. WADHWA: I would increase the ratio of skilled immigrants dramatically.

REP. GOODLATTE: Great. OK. Thank you. Next, Mr. Teitelbaum, I see that the Jordan Commission recommended eliminating the diversity lottery program. Since the Jordan Commission's recommendations were issued somewhere in the magnitude of 800,000 diversity green cards have been issued. Can these green cards have been better utilized for another higher priority?

MR. TEITELBAUM: That was, indeed, the recommendation that it should be used for higher priority categories.

REP. GOODLATTE: And then to approach the second question, I asked Mr. Wadhwa from a different vantage point -- the Jordan Commission also stated that, quote, "Unless there is a compelling national interest to do otherwise, immigrants should be chosen on the basis of the skills they contribute to the U.S. economy. The commission believes that the admission of nuclear family members and refugees provide such a compelling national interest. Reunification of adult children and siblings of adult citizens solely because of their family relationship is not as compelling."

Isn't this what some refer to as chain migration and isn't it true that over 2.5 million siblings of U.S. citizens are now on a waiting list for green cards and some will have to wait over two decades? What does this say about the credibility of that aspect of our immigration system?

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MR. TEITELBAUM: Yes, that is true. That is what we refer to as management by backlogs in which you make promises that cannot be fulfilled and you get these enormous and very long backlogs that are built up. So our recommendation was that those -- these numbers be reallocated to the high priority -- higher priority categories that we mentioned and then there would be immediate admission of those people and no backlogs in those categories.

REP. GOODLATTE: Thank you, and you -- Mayor Castro, you state that comprehensive immigration reform should do three things -- secure the border, streamline the legal immigration process and provide a path to citizenship for 11 million illegal immigrants. Do you think that interior enforcement should play a role to discourage future immigration by those not documented by making jobs to them unavailable? Should that be a part of that comprehensive immigration reform?

MR. CASTRO: Yeah, it's a great question. I do believe that enforcement both in terms of active enforcement at our borders and under this administration there's been tremendous progress with regard to enforcement. In fact, the triggers in the 2007 proposal have just about all been met. But going forward, of course, enforcement is part of the conversation.

REP. GOODLATTE: And one of the -- one of the aspects of enforcement that doesn't get as much attention here, although it does get attention in some of the states which have attempted to do things about it, is the fact that a large percentage of people who are not lawfully in the United States entered legally on student visas, visitors visas, business visas, then overstayed their visas. And so the border and securing the border is not a component in dealing with that aspect of unlawful immigration.

It has to be done in the interior of the country with verification programs with regard to employment, with cooperation amongst various law enforcement authorities and so on. Do you think that should be part of the process?

MR. CASTRO: I think we agree that we can make the system work better for everyone including for employers, including at our airports in each and every way. Both in terms of border security and interior security, comprehensive immigration reform gives us the opportunity to make this work better at every single juncture.

REP. GOODLATTE: And I want to give you an opportunity to answer the question of the day and that is this. Are there options that we should consider between the extremes of mass deportation and a pathway to citizenship for those not lawfully present in the United States?

MAYOR CASTRO: Well, let me say that I do believe that a pathway to citizenship should be the option that the Congress selects. I don't see that as an extreme option. In fact, as one of the representatives pointed out, if we look at our history, generally what we found is that Congress over time has chosen that option, that path to citizenship. So I see that -- I would -- I would disagree with the characterization of that as the extreme. The extreme, I would say -- just to fill that out -- would be open borders. Nobody agrees with open. Everyone agrees that we need to secure our border, that the United States needs to improve --

REP. GOODLATTE: I think -- I think we agree on that. But the question is what to do about the --

MAYOR CASTRO: Well, I --

REP. GOODLATTE: -- 10 million or more people who are not lawfully here. And you and do you think others open to finding some ground between a pathway to citizenship and the current law, which would be to require deportation in many circumstances, whether that's being enforced today or not?

MAYOR CASTRO: I believe that, as the president has pointed out, as the senators who have worked on this have pointed out, from both parties, that a path to citizenship is the best option. Now, I also understand that -- in terms of getting at what you may be thinking about -- a guest worker program in the future has also been put out there. I know that there is some concerns about how you would set that up. But I think if you want to deal with issues going forward, that may be one way to do it. However, in terms of the 11 million folks who are here -- certainly, putting

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them on a path to citizenship, ensuring that after they pay taxes, they pay a fine, they learn English, they get to the back of the line; that's the best option.

REP. GOODLATTE: All right, thank you. The gentleman from Michigan is recognized.

REP. CONYERS: Thank you, Chairman Goodlatte. And I want to thank all the witnesses on the first panel. You've done a good job. We may not have settled much, but that's the way these things start out, isn't it?

I just wanted to see if we could get a little more agreement on Chairman Goodlatte's last question -- what do we do with 11 million people that are already here? Is there any of you that still have reservations about a path to citizenship that is firm and fair? We're not going to jail them or send them back. Can we hit a small chord of agreement on that one question? What do you think, Dr. Arora?

MR. ARORA: We believe that a balanced approach to this is really important, one that's fair and is a win-win situation for everyone. Like I said before, we tend to be focused on issues that we are very familiar with -- having been through the employment-based immigration system. But certainly, we'd like to see a situation where Congress comes together and agrees on something that can go and get passed by the Senate and signed by the president, and actually solve some of these problems in a balanced program. We'd like to not view immigration as a zero-sum game, and I think we all agree that it doesn't have to be that way.

REP. CONYERS: Sure. Mr. Wadhwa, do you think that among reasonable people with strong, differing views -- can come up with elements of a path to citizenship that would get us through this very difficult problem?

MR. WADHWA: You know, I think the low-hanging fruit here is their children. I don't believe any decent human being would argue that those children should be deported. We should give them citizenship immediately, without thinking twice.

And then the issue is about the law. I mean, that's a very strong point that Representative Gowdy made; maybe what you do is you give them indefinite permanent resident status instead of citizenship. There's other ways of slicing this. They want to be here. They want to raise their children. But we don't have to -- you know, we don't have to discuss deporting them; we just have to legalize them so they can pay taxes, participate as regular U.S. citizens do, without calling them citizens. There's a way.

REP. CONYERS: Mayor Castro, I know some of my colleagues are a little reluctant about permanent indefinite status. You know, this is one of the things that makes this country great. You can become a citizen. You're either born here or you earn your way in as a -- as an American. And we're all citizens equally. And so I have just a little bit of reluctance about having somebody here, an immigrant, permanently.

MAYOR CASTRO: To my mind, it would be unprecedented for us to create a class of folks who are stuck in this kind of limbo, who are not allowed to become citizens -- but almost everything up to that line. We draw our strength as Americans from citizenship. That is the essence of who we are. Throughout the history of this nation, the biggest challenges we've faced have been when we created second-class citizens, much less second-class noncitizens. And so I believe that a path to citizenship is the best option.

REP. CONYERS: Mr. Teitelbaum, have we reached a state where in terms of border security we're -- I get the impression we're doing a little better. The rates are going down. Fewer people are coming over. We're spending tons of money. What do you see in that area that we might want to look at, if Chairman Goodlatte agrees that we should send some Judiciary Committee members down for a serious examination -- after having talked with security people here, before we go there?

MR. TEITELBAUM: Are you asking me to speak on behalf of the Commission on Immigration Reform, or would I -

REP. CONYERS: Your personal view, sir.



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MR. TEITELBAUM: Well, I've traveled along that border many times. It is -- there is no such thing as the average border situation along that border. There are huge variations across that border as to what is happening. And my impression is, from the data I've seen, that the number of attempted crossings has declined. There are more boots on the ground, as someone else said. There's also a deep, deep recession in the United States since 2008 and more rapid economic growth south of the border. So you've got competing explanations of what is going on there, and I don't think we can actually answer your question, Mr. Ranking Minority Member, as to whether the enforcement efforts are the primary cause of that trend.

REP. CONYERS: Can you give them a good -- a good grade so far?

MR. TEITELBAUM: Can I do what?

REP. CONYERS: Can you give them a fair grade so far?

MR. TEITELBAUM: A fair grade?

REP. CONYERS: Yes.

MR. TEITELBAUM: I think there have been serious efforts -- increased efforts along the border. I don't think there have been serious efforts in the interior, as one of the other members mentioned. If you don't have interior enforcement it really doesn't matter how good your border enforcement is, you will still -- people will find a way around the barrier, if they can find work easily in the United States.

REP. CONYERS: Thank you, sir. Thanks, Mr. Chairman.

REP. GOODLATTE: Thank the gentleman. It's now my pleasure to recognize the gentleman from Texas, Mr. Smith.

REPRESENTATIVE LAMAR SMITH (R-TX): Thank you, Mr. Chairman. And Mr. Chairman, thank you too for your thoughtful approach to the subject at hand. One thing that I think all members can agree upon -- and I assume all panelists as well -- is that immigrants work hard, they create jobs and they set a daily example of how to achieve the American dream. Immigration in fact has made our country great. As the chairman pointed out a minute ago, America's the most generous country in the world. We admit 1 million legal immigrants every year; that's about as many as every other country combined. So there's not even a close second when it comes to our generosity. I do think that generosity gives us the credibility to say that we need to devise an immigration system that is in the best interest of America and Americans.

One way in my view to improve our legal immigration system -- and that's the subject at hand -- is to admit more immigrants on the basis of their skills that America needs today. We admit only about 6 percent of the legal immigrants now on the basis of their skills; that happens to be I think the lowest percentage of any industrialized country in the world. So I'd like to get us back to where we -- where we emphasize and encourage immigrants who have the skills that America needs.

But we need to do so in a way that does not jeopardize the jobs of Americans who are in this country, who are working, either citizens or legal immigrants. We don't want to jeopardize their jobs or depress their wages.

So my question for Mr. Wadhwa and maybe Mr. Teitelbaum is this: How do we admit skilled immigrants without hurting American workers?

MR. WADHWA: First of all, if you look at all the data, every single study that's been done, it shows that when you bring skilled immigrants in they create jobs. And right now, we're in an innovation economy. Skilled immigrants are more important than ever, not only to create jobs, but to make us innovative and help us solve major problems.

So bring the right people in and you will make the pie bigger for everyone, and we can bring in more unskilled as well because we will have a bigger economy. We need them.

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The population of America will decline unless we, you know, keep immigration going, at least at the pace that it is.

REP. SMITH: Thank you. I'm not sure Mr. Teitelbaum is going to agree with you on the low-skilled, but Mr. Teitelbaum.

MR. TEITELBAUM: Yes. Well, I would say, in answer to your question, one way is not to admit larger numbers as temporary admissions than you have visas for permanent admissions or you will negatively influence the U.S. workforce.

And the second is a much more effective means of assessing the effects of admissions of skilled workers in particular areas on U.S. workers. So you don't want to, I would say -- this is a personal statement, not for the commission -- you don't want to admit all STEM workers because the tight labor markets are in some parts of STEM, but definitely not in other parts of STEM.

And this committee has actually reflected that in I guess it was your bill, Mr. Chairman, that was passed one time or two times, in reflecting that difference at the Ph.D. level. That was very smart of you.

REP. SMITH: (Chuckles.) OK. Thank you, Mr. Teitelbaum.

And Dr. Arora, any comments on that?

MR. ARORA: Yes. Thanks, Mr. Smith. I think that there's a couple of pretty important things here. You brought up a very good point. And it's important to protect American workers and at the same time have a robust immigration system where skilled immigrants can come in and fill real needs.

And one of the problems that we have today is that we've restricted the mobility of the skilled workers that come into the country. They -- they're trapped in jobs for long periods where promotions can be denied, where they have no way of going to another employer that's willing to offer a market wage or advancement based on the experience that they've gained over a period of time and towards the skills that are really required where the demand for jobs is.

And I think that these long periods of limbo in the restrictions on job mobility and this lack of reliance on the market to tell us what the demand is is a problem.

REP. SMITH: OK. Thank you, Dr. Arora.

Mayor Castro, let me follow up with a question that the chairman was asking you a minute ago. Do you see any compromise area between the current status quo and the path to citizenship for virtually all the 11-million-or-more illegal immigrants in the country today?

MAYOR CASTRO: I see the compromise as a recognition that a path to citizenship will be earned citizenship. In other words, that they'll have to pay a fine --

REP. SMITH: But you don't -- in other words, a path to citizenship, regardless, one way or the other.

MAYOR CASTRO: Well, I believe that's the best option. And I think history has borne out that that has served the United States best.

REP. SMITH: OK. Let me ask all panelists this question. And maybe, since my time is up, almost up, I'll say this: Is there any witness today who does not agree that we ought to have a system that requires employers to check to make sure that they are hiring legal workers? Is there anyone who would disagree with that system?

MR. TEITELBAUM: It was a recommendation of the U.S. Commission on Immigration Reform.

REP. SMITH: Right. Mr. Teitelbaum, you and I worked together to try to implement the commission's recommendations, and we came awfully close until the Clinton administration reversed their endorsement.

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But everybody agrees then with some kind of system to make sure that employers only hire legal workers. Is that correct?

OK, thank you.

Thank you, Mr. Chairman.

REP. GOODLATTE: I thank the gentleman.

The gentleman from New York, Mr. Nadler is recognized for five minutes.

REPRESENTATIVE JERROLD NADLER (D-NY): Thank you, Mr. Chairman.

Mayor Castro, your testimony said that there were still at least three things in an immigration reform: further strengthen border security, streamline the legal immigration process so that law-abiding companies can get the workers they need, and create a path to citizenship for the estimated 11 million undocumented immigrants.

It seems to me that there's one further thing that any good immigration reform should do, and that is to eliminate unjustified invidious discrimination that is present in the system.

And once -- one such discrimination is certainly the fact that people other than gay and lesbian people can sponsor their spouses for immigration into the United States so that you don't keep them separated, whereas under our laws, of course, gay and lesbian people cannot marry other gay and lesbian people, at least the federal government won't recognize it, a few states will, so that the laws work a, what I would call, a cruelty on people, an unnecessary cruelty. Because under our laws, it may be that the lover or partner of an American citizen can't be here and under the laws of his foreign country, it may be that the American can't go there, and you are keeping people apart.

Now, there is legislation called the Uniting American Families Act which would establish an equivalency so that the question of gay marriage apart, which is really a separate question, we will not have the cruelty of keeping loving couples apart by allowing a gay person or a lesbian person to sponsor his or her partner for immigration.

This has -- we're reintroducing that bill, by the way -- it has broad bipartisan, it has support of Republicans as well as Democrats, church leaders, members of the Hispanic Caucus and now, recently, the president of the United States.

Do you think this is a good or essential piece of a comprehensive immigration reform?

MAYOR CASTRO: I believe that it would be a good piece for comprehensive immigration reform. And as you suggest, I believe that there would be significant support for that. I myself support marriage equality, but even for folks who support, for instance, only civil unions and certain rights that partners would have, I believe this is right in that vein and that it makes sense.

REP. NADLER: Thank you. And I just want to make clear that this is not -- not -- the question of gay marriage. If you had gay marriage, you wouldn't -- it would be moot. But this is a question of enabling people to be together who otherwise cannot be, for no purpose at all, purposeless cruelty, which the United States should never engage in.

I had a second question for you, and that you note in your testimony that the immigration laws are broken across the board, harming businesses and separating families. There are some who support the idea of increasing the number of green cards in the employment-based system -- we've heard that -- but only if a commensurate number of green cards are eliminated from the family-based system. Do you buy into this zero-sum approach? And can we be a nation that support both business groups and keeping families together?

MAYOR CASTRO: Thank you for the question, Representative. I agree with Dr. Arora that this not a zero-sum game. There's no reason that we need to choose between these. I believe that we should have both employment-

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based and continue our family-based allocation as well as, of course, addressing the issue of high-skilled immigrants and other-skilled immigrants.

I would also frankly suggest that being able to pick crops in the sun, under the hot sun for 12, 14 hours a day, to do back-breaking work is a kind of skill, maybe not what we would call a high skill, but certainly a skill that many, many folks either do not or cannot do.

And so to answer your question, I believe that that is a false dichotomy.

REP. NADLER: Thank you. And finally, I have one question for Mr. Teitelbaum.

Mr. Teitelbaum, you say that some of the commission's strongest recommendations were against temporary-worker programs, noting that admitting large numbers of temporary workers in agriculture and other fields would be, quote, "a grievous mistake."

I must say I'm very ambivalent about this. On the one hand, I worry about a guest worker program's bidding down U.S. wages for American workers. On the other hand, the share of the native-born workforce without a high school diploma was around 50 percent in the 1940s and '50s, and it's now down to about 6 percent.

And as the native-born have grown better educated, U.S. workers have been less willing to engage in farm work, but the demand for farm labor has not decreased.

So my question is, if we still have a need for farm labor, the giant reduction of the population of native workers likely to look for work in this sector, do we have a need for a guest worker program? Is it naive to think that if we cut out foreign workers that these jobs will just be filled by American workers? And is such a program in fact cutting down on, you know, bidding down American wages?

MR. TEITELBAUM: Again, this is going to be my thoughts, not the commission. The commission was recommending against large-scale temporary worker programs for the reasons I indicated. I agreed with that recommendation. I believe it's still to be true.

There is a very large population in the United States of low and unskilled workers, many of whom are unemployed and relatively unemployable. The conditions of work offered in some of the jobs you're talking about are really not very attractive compared to their alternative sources of income as citizens; and therefore, I think you have a situation in which the market disposes towards dependence upon unauthorized migrants.

In addition, you have decisions made by employers as to where to invest or where to plant and what plants to plant. Are they labor-intensive plants or not labor-intensive plants, based upon the assumption of continued access to this kind of labor? So you've got a kind of mutual-dependency, if you will, situation in which it is correct, as the growers might say, if you took away my workforce now, all my plants, all my crops would rot in the field. But if you -- if they were pretty certain they weren't going to have that future workforce in the future, they would make different decisions about what crops to grow and where to grow them, but why should they if they assume they're going to have that workforce?

REP. GOODLATTE: The time of the gentleman has expired.

The chair recognizes the gentleman from Alabama, Mr. Bachus for five minutes.

REPRESENTATIVE SPENCER BACHUS (R-AL): Thank you. And let me ask each one of you for a yes or no answer, if you can give it. If you can't, I'll permit you to pass.

MR. : Yes or no?

REP. BACHUS: Yes, if you can. If you want to pass, you know, can't answer it. Do you think our immigration policies ought to be based on our own national interest? In other words, what's best for America?

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MR. WADHWA: Yes.

MR. TEITELBAUM: Yes.

MR. ARORA: Yes.

MAYOR CASTRO: (Off mic.) Absolutely, sure.

REP. BACHUS: So we all agree on that. Now, do we all agree that attracting high-skilled, legal immigrants is in our best interest? You know, the chairman mentioned Australia and Canada. And obviously, high-skilled workers in mathematics, sciences, technology, they've actually created jobs in those countries. They've created jobs for native Australians, native Canadians. It's brought down their unemployment rate.

But do all of you agree that that's in our best interest and that there's less contentious issues with our highly skilled workers?

MR. WADHWA: Double yes.

MR. TEITELBAUM: In principle, yes. But you must be careful not to deter American kids from going into those fields --

REP. BACHUS: Oh, absolutely.

MR. TEITELBAUM: -- by taking that action. So you just have to do it right.

REP. BACHUS: Right. But it is less contentious than with our undocumented, unskilled workers. Would you agree?

MR. : Yes.

MS. : Yes.

REP. BACHUS: So yes?

MS. : Yes.

REP. BACHUS: And Mayor?

MAYOR CASTRO: Yes, I agree to the need to encourage high-skilled immigration, sure.

REP. BACHUS: Now, the chairman mentioned that some countries -- and these are countries, all of which have significantly lower unemployment rates than America -- are actually attempting to attract entrepreneurs, engineers, mathematicians, scientists, people skilled in technology.

And I think we all agree we've all seen cases of these people being trained, some of them at University of Alabama-Birmingham, and then going back to India, some going back to China, and starting jobs which compete and take jobs away from our people, and that that's really a tragedy, and that Germany doesn't do that. Chile doesn't do that. Australia doesn't do that. Canada didn't do that.

So should we design a system that prioritizes, not excludes others, but prioritizes those individuals?

MR. WADHWA: Yes.

MR. TEITELBAUM: Once again, as long as it does not deter U.S. kids from going into --

REP. BACHUS: Oh, and let me say that with those caveats -- and also, in certain areas where, if there are Americans that can fill those positions --

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MR. TEITELBAUM: The general point, Congressman, is you might end up with fewer people net --

REP. BACHUS: Yes.

MR. TEITELBAUM: -- if you discourage the inflow of people from the largest source of those occupations, who are American citizens.

REP. BACHUS: Sure. OK.

MR. WADHWA: We believe, yes, that there is a need to reform the way highly skilled immigration is done today.

REP. BACHUS: All right. Mayor.

MAYOR CASTRO: I believe there's a need to reform highly -- immigration for highly skilled workers.

REP. BACHUS: Yes.

MAYOR CASTRO: But I also believe there's a need to reform the entire system --

REP. BACHUS: Oh, absolutely.

MAYOR CASTRO: -- (inaudible).

REP. BACHUS: We all agree on it. But I think that -- my point is, and I think each of you would agree, it's going to be a much easier lift to solve the problem with highly skilled workers. This house has passed on one occasion -- could have on two occasions -- a bill which would address that. And the present system for our highly skilled entrepreneurs is diametrically opposed to what's done in Canada, Australia, with great success and created hundreds of thousands of jobs there and actually has put Americans out of work because we refused to do that here.

And Ms. Lofgren and I agree on that, I mean, I think 99 percent or 100 percent. I think that the gentleman from Michigan, the former chair, and I agree. And I think we could pass a bill which would take that off the table. When you take comprehensive, then we're dealing with certain issues like full citizenship. And whatever else we disagree on, I think we would agree on that that's a more toxic, contentious issue, granting full amnesty.

And I would hope that by comprehensive, we could address those on two different paths, because we can pass something and solve the problem, which is putting Americans out of work and is enabling other countries to compete successfully and take jobs away from us.

And I would just hope that you all would all agree with that, that let's not let the more contentious issues and this idea of comprehensive reform prevent us from this year, this month, you know, in the next two or three months, passing something to address what is a horrible situation in this country, and that's we're training people to go back to their countries and compete against us.

And we've mentioned Google, Intel, eBay, Microsoft. All of those countries -- companies -- the CEOs say for every one of those people I hire or keep in America, I can hire three Americans too.

MR. WADHWA: (Inaudible) -- the DREAM Act quite easily; that there is widespread agreement on.

REP. BACHUS: OK.

REP. GOODLATTE: The time of the gentleman has expired.

The chair recognizes the gentleman from North Carolina, Mr. Watt.

REPRESENTATIVE MEL WATT (D-NC): Thank you, Mr. Chairman.

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Let me say at the outset, so that nobody's misled, I'm a strong supporter of a system that encourages high-skilled workers, but the composition of this panel may leave the impression that I hope is not the one that we intend to leave, that that's all that immigration reform is about. And so I want to be clear that Google, Yahoo, Intel, eBay, were all founded and run by immigrants, but none of them came here under a skilled-worker visa program. They came here as family-based immigrants, refugees, or children of refugees.

And so just to be absolutely clear on this, this emphasis that seems to be being placed on high-skilled visas and reform just -- are we clear that that's not to the exclusion of other kinds of immigration reform and encouragement of other immigrants?

And if I can get clarity on that from all four witnesses, I just want that on the record so that --

MR. WADHWA: I completely agree with that.

REP. WATT: -- we're not misled.

MR. WADHWA: We can't lose time on the skills, because right now the U.S.'s economy is in a slump. We're in the middle of a major reinvention. Our competitors are rising. Immigrants are fleeing. I wrote an entire book about the immigrant exodus.

We have to fix the immediate problem of skilled immigrants, the million skilled immigrants legally here waiting for green cards. We don't talk about them. We need to fix that ASAP, and we need to do the other things you're talking about, without doubt. But we can't wait on the million, because they're leaving. And America is bleeding talent right now.

REP. WATT: But if we're doing all of this immediately, I don't want to do that to the exclusion of doing the rest of immigration reform. That's the point I want.

And Mr. Teitelbaum, just to be clear, you all's recommendation, I guess, that you're not encouraging low-skilled or unskilled workers, that's not -- that recommendation was not about eliminating other kinds of non-skill-based immigration either, was it?

MR. TEITELBAUM: No. The -- you may remember the main recommendation on family-based immigration set recommended establishment of these priorities and the rapid admission of people in these priority groups.

REP. WATT: OK.

MR. TEITELBAUM: And that's by far the biggest category of legal immigrants.

REP. WATT: And Dr. Arora and Mayor Castro, if I can get you all to be as clear. And I'm just trying to document a record here so nobody comes back later and says this hearing was only about highly skilled -- high-skilled visas, high-skilled worker admissions to the country. I mean, I think that would be a gross misperception of what we should be coming away with. So Dr. Arora and Mr. Castro, if you can help me clarify the record, I'd be appreciative to you.

MR. ARORA: Congressman, we are a grassroots organization, and we've supported a comprehensive bill in the past. And if Congress is to come up with a doable bill that you can all agree on, we would be very happy to back it and support it.

We -- in the end, we'd like to see these problems solved. Whether you decide to do them in steps and individual bills or you take an approach that everything can be done together, we leave up to your judgment. But we realize that it's a complex problem and there are many parts to this.

REP. WATT: Mr. Castro.

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MAYOR CASTRO: Well, I absolutely believe that this issue of immigration reform should be addressed comprehensively. And I would also add that even though it might seem, as was said, easy to do just one part of this, the STEM bill, which was supposed to be easy, did not get through the Senate. Probably the better option is to address this comprehensively at one time that will impact the entire system in a positive way.

REP. WATT: All right, thank you. I appreciate the clarification.

And with that, Mr. Chairman, I won't even go to another question, because my time is about to expire.

REP. GOODLATTE: We appreciate the diligence of the gentleman from North Carolina and commend that to all the members.

And let me turn now to the gentleman from Virginia, Mr. Forbes, for five minutes.

REPRESENTATIVE RANDY FORBES (R-VA): Thank you, Mr. Chairman.

Thank all of you for your testimony. And I only have five minutes. I'm going to try to be succinct, and ask you in your answers to do so as well.

And Mayor, I know you've studied this issue a lot, you've prepared for this hearing, or you wouldn't be here. And let me just ask you, if I gave you this pen and asked you to go back, take as long as you needed and draft this comprehensive piece of legislation; you brought it back before us and we passed it out of here, and we passed it out of the Senate, and the president signed it in to law -- we all know that there all know that there will be some people that disagree with portions of it, some people who try to circumvent it, some people who break it.

I want you to fast-forward now. You're a young man, and 10 years from now we ask you to come back and testify before us. And we found that the people that circumvented that law were either 10 or 10 million. Should we be prepared to draft a new path of citizenship for those 10 million people that circumvented the law that you wrote?

MAYOR CASTRO: Thank you very much for the question. And I know that this has been a concern with regard to the 1986 law. And in fact, I'm very pleased that the bipartisan effort so far -- what's been proposed by the president and the Senate -- includes stronger interior enforcement --

REP. FORBES: Yeah, and I don't want to interrupt you -- you can put all you want on the record. But I'm saying, you've written a law, we do everything we can; despite our best efforts, there will be people who break that law and circumvent it. It may not be 10 million; it may be a million. But for those individuals, should we be expected to 10 years from now write a new path of citizenship for those individuals, however many there might be?

MAYOR CASTRO: With all due respect, Representative, I just don't think that that's a question that can be answered right now. It's such a hypothetical question. I believe that if the Congress does an excellent job now, that you --

REP. CASTRO: Mayor, are you saying that you don't believe that there will be any people who circumvent the law, no matter how well we write it? Is that your testimony?

MAYOR CASTRO: No, I wouldn't disagree with you that there may be folks who circumvent it.

REP. FORBES: And as to those individuals, should we be prepared at some point in time -- 10 years down the road or whenever -- to be prepared to write a new path of citizenship for that?

MAYOR CASTRO: I believe that that's a question, hopefully, that won't have to be answered in any significant measure by a Congress in the future if you do the job right this time.

REP. FORBES: So you believe if we do the job right, there will not be individuals who circumvent that law down the road? And the reason I say that, Mayor, is we've got to ask these tough questions. It's easy to talk about comprehensive reform if we don't ask and answer those tough questions.



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Let me give you another one. The ranking member said there's so much that we agree on -- and I agree with that comprehensively -- but we can't just take a concept like comprehensive and not look at the detail, because sometimes the devil's in the details. When you talk about a lot of individuals who are here and not documented; are here not *legal*, or illegally, one of the things for us is most of them are hardworking, good people -- you would attest to that -- but not all of them. And there are a few of them here -- for example, testimony we've had before this committee of the rise in gang activity that we've had in the country; we had testimony that 85 percent of one gang, the individuals were here illegally.

Now, as to just that group, I want to ask you this question. If we have someone here who is here illegally and not one of those hardworking people but someone who's a member of a violent criminal gang, should we be prepared to deport them before they commit a criminal act, or should they also have a path to citizenship?

MAYOR CASTRO: Thanks for the question. I think there's agreement across the board that if someone has committed a violent crime --

REP. FORBES: No, no, before they've committed a violent criminal act, they are here illegally, and they are a member of a violent criminal gang. Should we be able to deport them before they commit that violent criminal act, or should they also be able to have a path to citizenship?

MAYOR CASTRO: You mean if you determine them guilty before they've committed a crime?

REP. FORBES: Not guilty. I'm saying they're here illegally; they didn't come here legally, and they acknowledge and we prove that they are a member of a violent criminal gang. Should we be able to remove them from the country before they commit another -- or before they commit a violent criminal act?

MAYOR CASTRO: I would just say that I believe that ensuring that America is free of folks who have committed violent crimes, that that is and should be a priority. With regard to the hypothetical of people who might commit a crime or might not commit a crime, you know, I readily concede that I'm not in law enforcement; I'm not a technical expert in that regard. But I do believe that folks who have committed a violent crime should be deported.

REP. FORBES: But -- and Mayor, the reason I tell you this -- this exact situation happened in Boston. And a lady was -- and a young girl was raped and brutally beaten (for ?) individuals who were here illegally, member of violent criminal gangs. And temporary protected status protected them.

So at some point in time, we've -- we passed legislation -- I hear the Senate refused to pass it.

And so with that, Mr. Chairman, I see that my time is expired. But Mayor, they're the kind of questions that we need answers for. And unfortunately, that's going to be part of what we have to ferret out over the next several weeks and months.

And with that, Mr. Chairman, I yield back.

REP. GOODLATTE: I thank the gentleman.

The chair recognizes the gentlewoman from California, Ms. Lofgren, for five minutes.

REPRESENTATIVE ZOE LOFGREN (D-CA): Thank you, Mr. Chairman. Before my questions, I would like to ask unanimous consent to place in the record 22 statements from various individuals, including religious organizations, social organizations, labor organizations; as well as an op-ed from the Washington Times today from Matt Staver, the dean of a law school at Liberty University.

REP. GOODLATTE: Well, seeing as Liberty University is a fine institution in the 6th Congressional District of Virginia -- (laughter) -- and I think very highly of Dean Staver, we'll admit all of those without objection to the record.

REP. LOFGREN: Thank you very much.

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REP. BACHUS: Mr. Chairman, could I have unanimous consent to introduce an article that appeared in Saturday's Wall Street Journal on our declining birthrates?

REP. GOODLATTE: Without objection, that will be made a part of the record as well.

And while we're at it, if the gentlewoman will spend -- we'll give you your full five minutes, but I would also ask unanimous consent that a joint statement by the Comprehensive Immigration Reform Coalition and the National Hispanic Christian Leadership Conference, of which Dean Staver is a member, be also made a part of the record. Without objection, all of these documents will be put in the record.

And the gentlewoman is recognized for five minutes.

REP. LOFGREN: Thank you, Mr. Chairman.

And, you know, it's been so interesting to listen to the questions so far. You know, in fact, a person can be found deportable now not just if you're convicted of an offense but if you have admitted to committing all the elements of a criminal offense even though you haven't been convicted. So in the hypothetical that was earlier posed, that -- you would have to change the law to deal with that situation.

You know, I think we have a unique opportunity here to come together and come up with a situation where another Congress 20 years from now won't be dealing with the same problem. I -- Dr. Richard Land, who was the president of the Southern Baptist Convention, was a witness before the subcommittee a number of years ago. And I always quote him because I don't want to steal his line. He said for many years, there were two signs of the southern border: one said "no trespassing," and the other said "help wanted."

And our situation after 1986 -- we did the Reagan amnesty, but we made no provisions to meet the economic or familial needs of the country. And so you have a situation now where we have 2 million migrant farm workers, and, like, 80 (percent) or 90 percent of them are here without their papers. They are providing a vital service to the United States. You could do E-Verify and find out they're not properly here, and American agriculture would collapse. So that's not going to be helpful.

What we need to do is provide a system that will actually meet our needs, both in the economy -- whether it's high-tech, whether it's agriculture -- that also respects the needs for American families to be united. And I would just add, it is not my belief that my son and daughter are a chain migration. My son and daughter are part of my nuclear family. And I think that's true for Americans who have sons and daughters abroad.

I think it would be such a tragedy if we became sidetracked on whether or not the 11 million here who respond to the "help wanted" sign at the border can never become right with the law and never be -- have the aspiration to become an American. We're not talking about giving U.S. citizenship to anybody. What we're saying is over some period of time that's arduous, you might gain legal permanent residence in the United States. And then if you pay thousands of dollars, learn everything there is to know about the American government, learn English so well you can pass the test and then swear to defend the Constitution and be willing to go fight for your country -- only in that case could you become an American citizen.

So I just think that -- looking back to Matt Staver, the dean, in today's newspaper article, he said that we should include appropriate penalties, waiting periods, background checks, evidence of moral character, a commitment to full participation in American society through learning English; but yet for hardworking undocumented neighbors who aspire to be fully American, it must end with citizenship, not a permanent second-class status. And I think that we should -- I hope that people will read Dean Staver's op-ed, because it's really very compelling.

Now, I'd like to ask you -- and first, thanks to all the people for being here. You've all been excellent witnesses. But Mayor Castro, you have talked about immigration. Your grandparents, I guess -- just like mine -- were immigrants. But one of the arguments that's not been made here but it's made sometimes in the country is that somehow today's immigrants are different from the old immigrants, the good immigrants from before. I mean, the German

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immigrants, it was said, when they came wouldn't really learn English; or, you know, the Irish didn't need to apply; the Italians were somehow morally not the same as the people they were joining. Now that all seems preposterous.

Have you seen any evidence that today's immigrants from Latin America are any less meritorious than the immigrants from our American past, any less willing to learn English, become patriotic Americans? Can you -- can you guide us on that question?

MAYOR CASTRO: Thank you for the question, Representative. This generation of immigrants, I'm convinced, is just as hardworking, just as patriotic, just as faith-oriented as immigrants of generations before that helped build up the great country that we live in today. I know that there has been sometimes unfortunately that type of characterization. But in San Antonio, I see folks like Benita Veliz, who graduated valedictorian of her high school class, national merit scholar, graduated from college at the age of 20 -- big dreams -- wants to be productive for the country. That's the caliber of immigrant, whether it's someone like Benita or it's someone who is working very hard in the agriculture industry, working 12, 14 hours a day. These are hardworking folks that are positively contributing to the progress of our nation.

REP. LOFGREN: Thank you.

And I see my time has expired, Mr. Chairman. I don't want to abuse your patience.

REP. GOODLATTE: I thank the gentlewoman.

The committee is going to take a very brief recess. So those of you who need to accommodate yourselves, you'll have five minutes to do so. So the committee will stand in recess until -- well, we'll make it till 12:20.

(Recess.)

REP. GOODLATTE: The committee will reconvene. (Pause.) We will continue our questioning by members of the committee, and the chair now turns to the gentleman from Iowa, Mr. King, for five minutes.

REPRESENTATIVE STEVE KING (R-IA): Well, thank you, Mr. Chairman. I thank the witnesses for your testimony, and this has been an engaging hearing, and I'm looking forward to your answers and the rest of the testimony. I'd turn first to Mr. Wadhwa. Yours was, I think -- Mr. Wadhwa, I'm over here on your left -- yours was, I think, the most engaging. And when you talked about the inspiration that comes from the inventions that we have and how it can transform not just American society but global society, and has.

But what I noticed is a dialogue that's crept into almost all of American society is we're not separating the term -- the term "immigrant" now means, as I listen to the panel, if I were just a casual observer here, I wouldn't know whether we're talking about legal or illegal immigrants. And I didn't actually know whether you were, and so could you define that for me and let me know what your intentions were with your testimony?

VIVEK WADHWA: You know, what I've been researching and talking about is the people who came here lawfully, came through the front door, came on student visas or H1-B visas who have started companies, who have boosted entrepreneurship. I have documented the statistics: We have 52 percent Silicon Valley, 25 percent nationwide, with the numbers having dropped -- (inaudible) -- researchers recently that we're strangling immigrant entrepreneurship because we won't give them visas.

I'm talking about lawful, skilled immigrants. Now, in this arena, we keep talking about the 11 million, 10 million undocumented, unskilled workers, the illegal workers. We don't talk about the 1 million skilled immigrants who are trapped in limbo who are doctors, scientists, lawyers who can't get visas.

REP. KING: So I'm really -- as I listen to your testimony, I should be focusing on you're talking about legal immigrants and their contribution as skilled workers.

MR. WADHWA: Exactly.

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REP. KING: And the chairman mentioned about 10 percent of our legal immigration is based upon merit, and the balance of that is really out of our control. And I remember the hearings that we've had here in this room -- that number falls pretty good. It's between 7 and 11 percent. I agree with that. And your advocacy is that we should take a number of the legal immigrants and focus on the skilled- worked side of this, which would be STEM, which I support. I think that's the right direction to go.

And I'd turn to Mayor Castro, and I recall you mentioning that it's not a zero-sum game, that we can have both skilled workers and unskilled workers and family reunification. And a zero-sum game always gets my attention because we have about, what, 6.3 billion people on the planet. So that would be the universe that you've addressed, I think, but do you believe that there should be a limit to the number of people brought into the United States, especially if we could all have them be legal? And what is that number?

MAYOR CASTRO: Thank you for the question. First, let me say that, you know, I won't say that I could set a number for you right here, Representative King. I will say, of course, like every country, there are only a certain number of folks who will be permitted to enter the United States. But I just don't believe that it is a zero- sum game. I do think that the answer is to increase the number of high-skilled immigrants that we have but also to put the folks who are already here --

REP. KING: But Mayor Castro, then what I'm hearing here is that you wouldn't put a limit on any of those groups; you would just fill up those categories, essentially, by the demand, and that demand is potentially the entire population of the planet. Let me ask you another question, and that is do you believe that an immigration policy in this country should be established to enhance the economic, social, and cultural wellbeing of the United States?

MAYOR CASTRO: Well, I think that you and I agree that our immigration policy should enhance the economic, social wellbeing of the United States.

REP. KING: Thank you, and that's from the --

MAYOR CASTRO: I believe that it has been shown that immigrants -- high-skilled immigrants and what you would consider low-skilled immigrants -- do benefit the economic progress of the United States.

REP. KING: Thank you. And I'd turn to Mr. Teitelbaum, and I just recall the gentlelady from California saying that the agriculture would collapse if, all of a sudden, we didn't have the, quote, "immigrant labor," to do that. Did you agree with that, or do you care to illuminate that subject a little for us, please?

MR. TEITELBAUM: Again, this is my comment, not the commission's comment, but if you suddenly removed the entire workforce of fruit and vegetable agriculture in California and the Southwest, it would collapse, but that's not the question. The question really is, should you continue to depend on continuing inflows of people to be the workforce of that industry?

REP. KING: Would you agree, Mr. Teitelbaum, that there are many businesses in this country that have been predicated upon the presumption that there would be unskilled and often illegal labor to fill those ranks and that our economic structure that we see in the United States would be dramatically different if the promise of the '86 amnesty act had been upheld?

MR. TEITELBAUM: Yes. There are many industries -- I have talked to a lot of the farmers in those areas, and they tell me that they make their decisions about what crops to plant based upon the assumption they'll continue to have access.

REP. KING: And I've watched that happen in my district. Thank you to the witnesses. Thank you, Mr. Chairman. I yield back.

REP. GOODLATTE: I thank the gentleman. The chair recognizes the gentlewoman from Texas, Ms. Jackson Lee, for five minutes.

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REPRESENTATIVE SHEILA JACKSON LEE (D-TX): I thank the chair very much. Let me particularly thank all of you for your time here today -- very important process that we're going through, and if I've ever felt the spirit of the greatness of America and what we are capable of doing, it is today and it is now because of all of your testimonies.

I want to put into the record quickly that in this year, 2012, relating to border security -- I also serve on the Homeland Security Committee -- that border patrol agents have apprehended 356,873 in 2012, under President Obama's administration, and the budget has doubled from \$6.3 billion to \$11.7 billion. I think that's an important note to make for this record as we look at how we balance security and comprehensive immigration reform.

I absolutely believe, in spite of your different interests, that we cannot suffer a piecemeal process. It must be a comprehensive process. Mr. Wadhwa, let me thank you for your intellect and genius, and let me ask this question very quickly: Those individuals who have come who are now technological giants, many of them were trained in America's institutions of higher learning -- is that not accurate?

MR. WADHWA: Correct.

REP. JACKSON LEE: And so the likes of -- these two are American citizens -- but Mark Zuckerberg went through Harvard. I think he paused for a little bit. Bill Gates went through Harvard. But a number of those of which you speak -- Google, Yahoo, et cetera -- went through the nation's institutions of higher learning.

Could it not also be that the children of those who have different skills ultimately go through the Stanfords, Harvards, Princetons and ultimately be the same kind of geniuses that immigrants have been -- or, when I say immigrants, those youngsters that you speak of? So that if you happen to be the child of an unskilled, undocumented person, you could also ascend to genius by going to those schools?

MR. WADHWA: I 100 percent agree. And my children are going to outdo me.

REP. JACKSON LEE: Is it also true that many flock to the United States because of institutions of higher learning that are the -- have the excellent professors such as yourself?

MR. WADHWA: Absolutely.

REP. JACKSON LEE: And it is also a commitment of America to make sure that those individuals that may not necessarily be the children of first-generation immigrants but those who look to this hearing and say, what's going to happen to me -- should we look to the promise of America for everyone -- African Americans, Asians, Hispanics, Anglos? Should that be the promise of America?

MR. WADHWA: I agree with that as well.

REP. JACKSON LEE: And would you commit then, when you educate our technological -- (inaudible) -- our geniuses, that they should look to making sure everyone has an opportunity?

MR. WADHWA: There's no disagreement on any of these points.

REP. JACKSON LEE: So when we talk about comprehensive immigration reform, is it an important message that no one be left out?

MR. WADHWA: I agree. But the issue of timing -- right now the skilled immigrants issue is critical because we are bleeding. We need the talent. We need innovation to cure the economy. This is why I emphasize it over everything else.

REP. JACKSON LEE: And we thank you for that. Let me make you a commitment. I'm right there with you. We've put these skilled immigrants right there with the comprehensive immigration reform, and we will roll forward together. You're absolutely right. You have my commitment.

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Mayor Castro, if I might ask you a question about two issues. Working with immigrant issues, let me first of all say how endearing the DREAM Act youngsters are. Spend a lot of time with them in my office; literally saw a mother fall on the ground screaming in my office when we were able to say that we might have a deferred circumstance. Tragically saw a person who had a serious neurological issue be expelled from one of our public hospitals while her husband paid taxes -- sales taxes, other taxes of which that hospital facility was built on, and her child was a documented individual.

Can you speak to the horror of us not doing comprehensive immigration reforms, the pains of those kinds of stories? If we put a face on those kinds of stories -- and can you relate it to the diversity of your city that includes African Americans and others who have come together and worked together and have shown productivity when we work together?

MAYOR CASTRO: Yeah. Well, I'm very proud of San Antonio. Over the years people from different backgrounds, many immigrants have come and built up one of the nation's leading cities today.

But you're right. I hear the stories -- I've met with the DREAMers -- of folks oftentimes who were doing in high school. They find out that they're not here documented. They call the United States home. America is the only country that they have ever called home. They're as patriotic as anybody else. They worry every day about their parents. They worry about themselves and whether they're going to be trapped with very little future, despite the fact that they have great talent and a lot to offer the country. It rips families apart at the seams to be in this kind of limbo, and it injures communities because we're not fully able to take advantage of the brainpower of those young people.

I believe that brainpower is the currency of success in this 21st century economy. I also believe with you that that brainpower comes from many different quarters.

My grandmother came to San Antonio through Eagle Pass, Texas in 1922 as a six-year-old orphan. She wasn't a high-skilled worker. But two generations later, you know, her grandson is the mayor of the city and the other grandson is the congressman from San Antonio.

These are the stories that we have to pay heed to when we think about the need to do this comprehensively.

REP. GOODLATTE: The time of the gentlewoman has expired.

REP. JACKSON LEE: Thank you.

REP. GOODLATTE: The gentleman from Texas, Mr. Gohmert, is recognized for five minutes.

REPRESENTATIVE LOUIE GOHMERT (R-TX): Thank you, Mr. Chairman. And thank you to the witnesses for being here today. Yeah, I'm down here on the chairman's far right. Imagine that. (Laughter.)

Mayor, you're right. We do have to put faces on things. And like when I saw the president with children gathered around him, as he's often doing now, I think about the financial burden we are putting on our children -- the first generation in American history that is actually making things worse for future generations. Instead of sacrificing ourselves we are spending money like crazy, and part of it is health care. We have just had "Obamacare" a couple years ago passed, and now seniors are seeing the massive cuts that are affecting their ability to get health care.

One of the problems it seems with our economy -- or the overspending with the burden on health care -- is that even though people in business, the chamber wants to look the other way sometimes on people coming in illegally if they're working, providing cheap labor, is that the rest of Americans are paying for the health care of those who come in if they're coming in illegally. And so the health care -- it's free to those individuals, but somebody is paying it.

I just wondered about -- you know, as we hear farmers -- and apparently it is essential that they have immigrant workers come in, harvest crops. We've heard that over and over. Would any of you have any problem with saying,

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OK, you want to bring in temporary workers to harvest your crop, then you need an umbrella health insurance policy that covers the people that you're bringing in to work temporarily?

I'm looking for grounds for compromise where we can work something out so we accommodate those who need temporary workers and yet not continue to muss the system. Would anybody be offended by a requirement that an employer to bring in temporary workers provide an umbrella health insurance policy? Anybody?

MR. : Well, I would just say, Representative Gohmert, that, you know, I had not given that thought, but I do believe that we need to address the 11 million folks who are already here.

And with regard to future workforce needs that --

REP. GOHMERT: Well, and I understand that, Mayor, but that's not the direction of my question. And since my time is limited I do need to move on.

But you've all agreed that our policy should be what is in the best interest of the United States. We've been -- we've heard before there may be a million -- excuse me, 1.5 billion that want to come to the United States. Obviously that would overwhelm our system and then nobody would want to come here because we would be bankrupt.

But we often talk about all those who cross our borders illegally, but as the chairman has pointed out before, 40 percent of the people who are unlawfully in the country right now came in lawfully and have overstayed their visa, their means of coming in legally.

Does anybody on the panel believe we should advertise to the world, if you come in temporarily on a visa, you don't have to leave? I mean, it may sound like a silly question but that's a concern of mine that we may be advertising.

When Steve King and I had gone over to talk with folks about -- and they don't like the term "illegal immigration" in England; they told us it's "irregular migration" -- it sounds like something else -- but anyway, whether it's irregular migration or illegal immigration, they said they have a law that provides if you come into England, you have to swear that you will not accept any government benefits for a period of five years. As they said, since it's all about the best interests of our country, we need to make sure people coming in contribute before they take out.

Would anybody have a problem if we had such a prohibition? We welcome you in -- whatever comprehensive agreement gets worked out -- to have an agreement you don't get benefits until you're here at least five years contributing to the system? Anybody have a problem with that?

MR. WADHWA: We have to provide medical benefits regardless of who we bring in. That's just a must for every human being.

REP. GOHMERT: OK. So whoever we bring in we're going to give free health care. Is that your --

MR. WADHWA: No, they have to pay for health care. They pay insurance.

REP. GOHMERT: So if somebody coming in pays for it, they're not getting free health care.

MR. WADHWA: It can't be free. It should be paid for.

REP. GOHMERT: All right. Thank you.

MR. : I would also just say, Mr. Representative, that as, you know, a legal firm, that residents right now, as I understand it, don't qualify for traditional welfare or health care. So I believe that a lot of that has been resolved by the law that's in place.

REP. GOHMERT: But you're probably aware that we do have government agencies that actually go out and recruit people for government benefits, whether they're here legally or illegally, which is something else we need to look at.

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But I really appreciate your time. I see my time's expired. Thank you.

REP. GOODLATTE: Thank the gentleman.

The gentlewoman from California, Ms. Chu, is recognized for five minutes.

REPRESENTATIVE JUDY CHU (D-CA): First let me just reiterate that point. There's a five-year ban on benefits for legal permanent residents, so they cannot just come in and get the health benefits. So that is totally a myth that's out there.

But I'd like to ask some questions pertaining to families and comprehensive immigration reform. Mayor Castro, one of the immigration priorities for the congressional agencies -- (inaudible) -- American Caucus and the Congressional Hispanic Caucus is that comprehensive immigration reform protects the unity and sanctity of families by ensuring that the families are reunited.

Under the current immigration system, there's a significant backlog. Adult -- children of U.S. citizens who live in the Philippines have been waiting for 20 years to be reunited with their parents, and adult children living in Mexico have been waiting 19 years to be reunited with families. Americans really, I believe, shouldn't have to choose between a country and building a life with their children.

So Mayor Castro, as the grandson of an immigrant and a public servant, how problematic is it that families are being split apart, and why are families good for our economy and our nation?

MAYOR CASTRO: Well, thank you for the question. This has always -- this has long been the policy of the United States, for good reasons. Families make each individual stronger. It's the basis, I think, of much of the strength of our communities, the economic progress, the moral progress that we've made. You know, we hear stories every now and then of folks who have a dying relative in another country, someone they've been waiting to try and bring over for years or someone who is here undocumented who is deathly afraid of going across the border to go visit a dying mother or dying father, just can't do it because they know what the risk is.

We are stronger because we've had this family-based system, and part of what we have to do for folks who have -- who are citizens, who are here legally as well, is to clear that backlog. We need to invest to clear that backlog and make sure that we can strengthen this.

REP. CHU: Thank you for that. And I want to ask also about the families of H-1B workers.

Mr. Vivek Wadhwa, you talked about our -- the need for our highly skilled workers, and I totally agree. Even with unemployment at historically high levels, a large number of jobs are going unfulfilled because of a lack of qualified workers in science, technology, engineering and math, and that's why I do support the creation of STEM visas and improvements to our current employment-based green card system.

But in your testimony, you talked about how the family members of H-1B workers, our skilled workers, live as second-class citizens -- that their spouses are not allowed to work and, depending on the state in which they live, they might not be able to get driver's licenses or open a bank account. And because of this, these workers are getting frustrated and returning home.

So how does the fairness with the families and loved ones of highly skilled workers impact our ability to bring engineers and scientists to the U.S.? Does it serve as a deterrent not to have something in place?

MR. WADHWA: Yeah. You know, I hate to say this, but the women in Saudi Arabia have more rights than the spouses or the wives of H-1B workers. It's unhuman, the way we treat them. They're highly skilled, in many cases. In some states they can't get a driver's license, which means that they're confined to the home. What sort of a country is this which brings people in, highly skilled immigrants, and doesn't give them equal rights? This is wrong. It has to be fixed.



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And what happens is that after being here two or three years, they get increasingly frustrated. This is one of the reasons why people leave here, and they have such marital problems, because their wives are equally productive people. They're not allowed to work because of the current laws. It must be fixed.

REP. CHU: Thank you for that.

Mr. Arora, you had a very compelling story about coming here as one of the best and the brightest students, and then you became a leader in the biotech field, working for Amgen and now for Genentech. And -- but yet it took you 15 years to get your permanent status, and yet you had a wife and now you have two beautiful young children.

You talked about certain solutions, and that could continue family-based immigration and make sure that immigrant families are able to work together and through their combined forces, pay taxes, buy homes and start job-creating businesses.

I was interested in one of -- one of your solutions, which is that spouses and children of employment-based immigrant visa recipients are -- that they are exempted from the employment-based caps. Could you talk more about that?

MR. ARORA: Thank you. When you become a citizen -- which of course in my case, for example, after 15 years I'm now -- my character is being checked for the next five years to see if I'm -- I can be a citizen. During this period -- and I know people who've been through this -- if you get -- if you get married, for example -- and I had a colleague like this -- you can't bring your spouse into the country for a period of five years because that's the backlog for immediate families.

And my family is here with me, so I want to say that I understand the importance of your family being with you. It's really important.

Now, in the -- during these very long waits, if you're on an H-1, as Mr. Wadhwa has just stated, there are certain states that will restrict the ability of your spouse to do so much that it becomes difficult as a family unit to continue your work or to continue this wait in a meaningful manner. I count myself as very fortunate. In 2007, for that one month when the State Department decided to allow everyone to file adjustment of status, I was able to get employment authorization, which means that my wife could get the same. But anyone on an H-1B status does not have that privilege.

Not only that, they --

REP. GOODLATTE: Dr. Arora, you're going to have to summarize. Her time has expired long ago.

MR. ARORA: I agree with you completely. It's a big problem, and I want to echo what -- (inaudible).

REP. GOODLATTE: I thank the gentleman. The time of the gentlewoman has expired. The chair would ask the gentleman from Texas, when I recognize him, if he would yield 30 seconds to me so that I might --

I recognize the gentleman from Texas, and if he would yield to me.

(Cross talk.)

REP. : I would yield 30 seconds.

REP. GOODLATTE: I appreciate that. I just want to clarify for the record a statement made earlier, some disagreement here. We found, in writing the STEM visa bill last year, that when we extended an additional provision that allowed people who are waiting lists for visas to come to the United States, we had to provide additional pay- fors. Because we looked at "Obamacare," the Patient Protection and Affordability Care Act, and found that it provides benefits to anyone who is lawfully present in the United States.

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So even without permanent resident status, this is going to be a major issue we'll have to deal with as we look at immigration reform, because individuals on that will qualify for benefits which could be, as you know, for as many as 10 million people, very, very expensive.

And I thank the gentleman and yield back to the gentleman from Texas.

REP. : Thank you, Mr. Chairman.

Thank you, gentlemen, for being here. The issue of immigration, to me, covers many questions, not just one or two. There are multi-faceted questions to be answered across the board, and I want to focus on a couple of those in the next few minutes.

We have the issue of skilled workers coming to the United States. We train them; they go home, they compete against the United States. Now, that's one of the issues that we have. Specifically, because of my location in the Houston area, Mayor, which you're familiar with, we also have the fact that the system, to me, is broken. It allows for abuse.

And I'm not talking about people who are coming here to better themselves. I'm talking about the criminals who come into the United States, mainly the drug cartels and their operations, and how they now have become so sophisticated that they can cross the border into Texas, that they've engaged now in human trafficking. And, unfortunately, Houston has become the -- one of the hubs in the United States for the dispersement of trafficked people.

We have the issue of 20 percent of the people in federal penitentiaries, when they committed the crime they were unlawfully in the United States. Border Security is -- covers those particular issues. And we have the other issues as well, but I'd like to concentrate specifically on trying to secure the border. I'm one of those that doesn't believe the border is secure; otherwise, we wouldn't have all these organized crime problems that have now been created in the United States.

At the border in Texas, as you know, there's the ability for a person -- different subject -- to come in and cross the border daily to go to school, to work, the 25-mile border visa system.

And they use some type of card similar to this where they are allowed to cross into the United States daily.

Do you think, Mayor, because of your location in San Antonio, that if we had a better legal entry visa, whether it's a card with the biometrics, fingerprint, photograph, the different electronic things that we can put when a person comes into the United States -- "slides and glides," so to speak -- we know who that person is, they have permission to go to Oregon for six months, if that would help the overall issue of specifically knowing who comes in lawfully or not. What do you think about that?

MAYOR CASTRO: Well, I certainly think there's room for that as a piece of it, sure. I think that with the use of technology the systems that we've been developing have been improving. I also would say, as you know, that in Texas included, the dedication of boots to the ground, of manpower at the border has been accelerated over the last few years under President Bush and President Obama like never before. And we've doubled the number of enforcement agents down there since 2004. Apprehensions are at a 40-year low.

So I would agree that it's part of a comprehensive approach that the kinds of things that you're talking about should be a part of the discussion, perhaps part of the legislation, but that doesn't get to the issue of the folks who are here already.

REP. : Reclaiming my time, I understand that that is one of the questions that has to be addressed but it's not the only question that has to be addressed, because there are many, many issues -- even legal immigration. My office, because of where we are, our caseworkers spend more time on helping people get here the right way than anything else they do, except maybe working with the military. And as has been pointed out by my friends on the

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other side, that's a big problem, where people have to wait for years to just come in the right way. That has to be fixed as well.

One comment I'd make on the apprehensions, that I know that apprehensions may be down, that doesn't mean that the border is more secure. It just means that apprehensions are down. Less people are being apprehended. You can look at that a couple of different ways. And in Texas, the governor of the state, as you know, is doing more than ever before in the state to help border security as well.

So anybody else want to weigh in on improving the legal visa system so that it is more secure, because that is a concern. As pointed out, many people come in the United States the right way; they never go home. I mean, why would they? They're in Texas. Why would they leave, you know? (Laughter.) And they're in San Antonio or Houston.

MAYOR CASTRO: Well, I certainly agree with you there.

REP. : Anybody else want to weigh in on that? I understand I'm out of time.

MR. ARORA: We may well need a biometric -- we may well need a biometric ID system in the United States.

REP. : I can't hear you.

MR. ARORA: I said we may well need a biometric ID system in the United States. India is IDing its entire population of 1 billion people by retina scans and fingerprints. We may need something like this in the United States to -- I mean, we have enough -- right now there is no such thing as privacy anymore anyway. We might as well face it and say, okay, if you're going to work here, you have to work legally.

The Canadians do that. I asked a Canadian minister how is it that they manage the immigrants and he says, because even if illegal immigrants come here, they can't work. Therefore there's pressure on people to legalize and do things by the book. We may have to bite the bullet over here.

REP. : Thank you, Mr. Chairman. I yield back my time.

REP. GOODLATTE: The chair thanks the gentleman and turns now to the gentlewoman from -- you tell me. (Chuckles.) Oh, from California. The gentlewoman from California, with my apologies, is recognized for five minutes.

REP. LOFGREN: Thank you, Mr. Chair.

I wanted to ask a couple of questions, and this of Mayor Castro. And you may or may not know the answer but maybe, you know, you can tell me. When we talk about a pathway to citizenship and we talk about people who are undocumented being here and having to go at the end of the line, and what they would have to do -- pay their taxes, pay fines, whatever.

Sometimes I think when that conversation comes up, it's as though that would only take a couple of months. And I think -- well, first of all, I do support a pathway to citizenship. I don't want to be shy about that. But I wanted to know if you had some thought as to how long that would take.

MAYOR CASTRO: It's a great question.

REP. LOFGREN: If somebody goes to the back of the line, you know.

MAYOR CASTRO: Thank you for the question.

First, I would just say that earlier the question was asked about, well, what is the compromise? The compromise is the fact that this is earned citizenship, that one would be fined, one would have to learn English, pay back taxes, go

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to the back of the line, and that line is a long line. The fact is, as Dr. Arora said, that for folks who are legally applying, that that takes too long right now. It takes sometimes over a decade or longer.

And so, for anyone who thinks that this would be some sort of automatic application that somebody would be in in a couple of months, that's not the case at all. This is a years-long process and it's also earned. And that's an important point to be made.

REP. LOFGREN: Thank you. I appreciate that.

You know, another area that I'm concerned about, and I would like to know how this might be impacting your city, a lot of research -- an issue that I work on is foster care. And because of the deportations that have taken place over the last few years, there are anywhere to 5(,000) to 6,000 children who have been placed in foster care because their parents have been deported. The children were citizens. And I wanted to know if that is affecting your city and what your thoughts might be on how we would include a resolution for that situation as we do comprehensive immigration reform.

MAYOR CASTRO: Sure. In any community the size of San Antonio you do have examples of families that have been torn apart. And certainly I hope that in this legislation we can find a way in addressing immigration reform comprehensively to deal with those types of situations.

I remember that George Bush, when he was governor of Texas, used to say that family values don't end at the Rio Grande. And that's certainly true still, that keeping the family together has been so much a part of the progress of America. And so my hope is that that can be addressed.

REP. LOFGREN: Absolutely. And I think when we talk about family values, we really have to consider this. And so one of the issues that I would be concerned about is those people that have been deported, how do we reunite them with their children?

I was in -- we did a listening tour in Miami and I went to a residential facility for foster youth. And there were a group of children that were arriving that day in Miami from California who were being sent to live in Miami. So not only are they completely disconnected from their parents but any environment that they might have known. And what's to happen to those kids?

So when we're thinking about resources of our country, our government could wind up supporting those children all of their lives because we have disconnected them from their family. So I think it's important issue that we factor in when we do comprehensive immigration reform. Thank you. I appreciate that.

Mr. Teitelbaum, I wanted to ask you a question because you made reference to -- one of the previous members had asked you about the agricultural industry. And coming from California, clearly that's a major industry. And you said something about how if unskilled workers were not allowed in the country or were removed, that maybe growers would make different decisions about what they would grow. And I was wondering if you could give a couple of examples, because I can't think of crops that would not require farm workers. And how would a state like California, that feeds a good percentage of the country, then make decisions about certain crops?

MR. TEITELBAUM: I can give you a very memorable example, visiting a farm or ranch that had a very large number of apricot trees that had to be hand-picked. And I was talking with the farmer and asking him what his situation was on labor. He said, well, all of these people are undocumented and I don't pay them very much so I can afford to hand-pick these apricots. You have to hand-pick apricots. They're a very fragile fruit.

So I said, well, what would you do if you didn't have that labor force or the price went up substantially? He said, well, we're already losing money on our apricots to apricots coming in to the port of San Francisco from Turkey that are undercutting what we can sell them for. I'm probably going to do this anyway, but if it happened the way you described I would certainly do it -- I would cut down all these apricot trees and I would plant walnut trees. They would grow great on this land. And with a walnut tree, you put a tarp under the tree, you bring up a mechanical

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shaker, you shake the tree, all the walnuts fall on the tarp and you've harvested the tree in about 10 minutes. You still need some labor but a lot less labor. That's pretty typical, I think.

REP. LOFGREN: Okay, so I would just suggest that you would devastate the economy of California if California then only switched over to crops that did not require the labor of farm workers.

MR. TEITELBAUM: Well, it will require some farm workers always.

REP. LOFGREN: Right.

MR. TEITELBAUM: But the question is how intensive is the labor needed for a given crop. It varies.

REP. LOFGREN: So walnuts. Do you have any other examples of crops that do not require farm work?

MR. TEITELBAUM: There are many crops that are labor intensive and many crops that are not. I mean, wheat is not labor intensive.

REP. LOFGREN: Mmm hmm. OK. Well, thank you. I yield back down my time.

REP. GOODLATTE: I thank the gentlewoman and the chair is pleased to recognize the chairman of the Immigration and Border Security Subcommittee, the gentleman from South Carolina, Mr. Gowdy.

REPRESENTATIVE TREY GOWDY (R-SC): Thank you, Mr. Chairman. Mr. Mayor, I want to make sure I understand you correctly and fully. Can you support a path to legal status that does not end in citizenship?

MAYOR CASTRO: No. I support a pathway to citizenship. I believe that our -- (inaudible) --

REP. GOWDY: So there's no -- there's no form of legal status that you would support short of full-fledged citizenship?

MAYOR CASTRO: I just don't believe that's in the nation's best interest.

REP. GOWDY: So the answer is no?

MAYOR CASTRO: I believe that a pathway to full citizenship is what the Congress ought to enact. So sure.

REP. GOWDY: OK. And I think you earlier referenced that as a compromise, and I'm curious. A compromise between what? Because I don't hear anyone advocating for full-fledged citizenship without background checks or full-fledged citizenship without back taxes or full-fledged citizenship without fines. So it's a compromise between what?

MAYOR CASTRO: Well, I think you would agree with me, Mr. Chairman, that this point that you're at right now that you're talking about -- these, you know, the fact that they would have to pay a fine, that they would go to -- back to the end of the line, that they would have to learn English, that has been worked up as a compromise between senators from different parties and perhaps House members.

REP. GOWDY: But my question to you is that represents a compromise between what? Because I don't know anyone who's advocating against that. So you represent that as being a compromise. A compromise strikes me as a balance between two competing principles. I don't hear anyone advocating for full-fledged citizenship with no conditions (pressing it ?) at all. So how is that a compromise?

MAYOR CASTRO: It's a compromise, in my mind, because senators from different parties, as Americans want folks to do from different parties, came together and put together a framework. I'm sure they had their divergent views. So if we went to the beginning of the process then I'm sure there was more divergence in their views. What was put on the table, including the planks that you just stated, represents a compromise position.

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REP. GOWDY: What about those who are currently here who do not desire citizenship? Would it be forced upon them or could they opt out?

MAYOR CASTRO: Well, I believe that throughout our history it, you know, has been left up to the individual.

REP. GOWDY: So you don't have to accept?

MAYOR CASTRO: I don't think anybody's talking about forcing folks to become --

REP. GOWDY: So you do not -- because the polls I've seen there's a large percentage that just want to work legally. They don't desire to be full-fledged citizens. So you would not force that upon them?

MAYOR CASTRO: What I hear are an enormous number of people who want to be full American citizens. They're patriotic people. They want to serve in the military. They want to be productive for the country. They want to be full-fledged citizens, and I believe that that's in the best interest of the nation. I don't believe that we should -- I guess the alternative would be should we -- (inaudible) --

REP. GOWDY: And there is not a legal status short of citizenship that you could accept under any compromise? There was the compromise you made reference to as a Senate compromise. There's no compromise short of full-fledged citizenship that you could endorse?

MAYOR CASTRO: Well, of course, at the end of the day, this is in your hands at Congress.

REP. GOWDY: But I'm asking you.

MAYOR CASTRO: I know, and I believe that the compromise that's been worked out by the senators then may be worked on by the House members, that represents a great compromise and that Americans can support that.

REP. GOWDY: What are some of the elements of the background check that you would be most interested in? Because the word background check means different things to different people. I assume it's more than just an NCIC check to see whether or not someone suffered a felony conviction. What do you mean by background check?

MAYOR CASTRO: Well, and I readily acknowledge, you know, I'm not a technical expert, not in law enforcement and so I would leave -- I understand you all are going to have a panel that's going to deal with enforcement. I would leave that -- (inaudible).

REP. GOWDY: But you are an attorney. You are an attorney, very well -- very well-trained attorney. So what --

MAYOR CASTRO: Not a very good law school, though.

REP. GOWDY: If you were -- better than most of the members of Judiciary, I suspect, your grades were. So what would you include in that background check? Because Mr. Forbes asked you -- I thought it was a very good question -- if you set the -- if you set the bar at felony convictions that's a pretty high standard. For those who are under investigation by the bureau or someone else and they're -- you can maybe meet the level of probable cause but not beyond a reasonable doubt, would you be willing to exclude them from this path?

MAYOR CASTRO: Well, I think that what's been discussed does go beyond just folks who have been convicted of a felony. I understand that there may be some instances but that's going to be case specific. I think that kind of thing needs to be adjudicated. You know -- you know, somewhere between assuming that somebody has committed a crime and recognizing that there are circumstances where someone does present a danger to the United States and should not be in the country, I do think that there's leeway there.

REP. GOWDY: OK.

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MAYOR CASTRO: I would grant you that. And these are the kinds of things that -- I don't disagree with the general point that, you know, this is not easy. This is -- this is detailed. It's important work. But I believe at the end of the day that the compromise -- the general principles of the compromise that has been worked out in the Senate are the ones that are the best option for the United States.

REP. GOWDY: My very last question to you because I'm out of time is this. This is not our country's first foray into amnesty and you talked about citizenship and all -- and all the benefits that that confers on folks. One of the benefits it confers is that you have the protection of the law. So how would you explain to folks in my district or Congressman Labrador's who really do place a high value on respect for the rule of law while we're doing this again if it hasn't worked in the past?

MAYOR CASTRO: Well, I think you and I would agree that as many folks have said we are a nation of laws. We draw our strength from the fact that we're a nation of laws. At the same time, we're also a nation of immigrants and we've progressed as a nation because we're pragmatic and we understand that these 11 million folks (who ?) are here that this has to be addressed.

It's in our national security interest. It's in our national economic interest. So I do think that we can find a way to punish these folks for not coming in here legally but at the same time address the pragmatic issue that's in front of us.

REP. GOODLATTE: I thank the gentleman. The chair recognizes the gentleman from Louisiana, Mr. Richmond, for five minutes.

REP. RICHMOND: Thank you, Mr. Chairman. Earlier the question was posed to each of you all and you all were given the ability to just say yes or no and I thought it was unfair. But the question was should America do what's in America's best interest when talking about immigration, and I guess the question -- the part that was left out is do you consider a cost benefit analysis on each person as the only factor in what's in America's best interest.

So if they're only going to come and be very successful business owners and create jobs, is that the only factor we should look at when determining what's in America's best interest? And we can start with you, Mr. Wadhwa.

MR. WADHWA: There needs to be a balance over here because if we just bring people in and there are no jobs for them we're going to create a complete mess. They lose and we lose. What I've been arguing for is bring in a crop of highly-skilled immigrants who can help this country become competitive, who can create new technologies, who can create jobs, make the pie bigger so we can bring the other people in.

REP. RICHMOND: But that shouldn't be the only factor is my question, yes?

MR. WADHWA: That should not be the only one because you have to bring their families in as well. This is something Congress -- (inaudible) -- talking about.

REP. RICHMOND: And I'll have a follow-up. I have a follow-up for you, Mr. Teitelbaum. Should it be the only factor?

MR. TEITELBAUM: No, it shouldn't be. Can I say more than no?

REP. RICHMOND: If it's quick.

MR. TEITELBAUM: The family category doesn't have that criteria and it's the dominant category in legal immigration. So if you focus in on the skills based or the employment based that's a different -- that's a small category in total.

REP. RICHMOND: No, and I agree with that.

MR. TEITELBAUM: Yeah.

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MR. ARORA: No, I agree with what both of them said. The balance is important. The balance have always (been true in ?) this immigration system.

REP. RICHMOND: And Mr. Mayor?

MAYOR CASTRO: We need a balanced approach.

REP. RICHMOND: And the reason why I posed the question is because -- and Mr. Wadhwa, you brought it up first -- that why don't we just get the skilled labor part done first. Well, politically and just being very practical about it, if we got the skilled labor part done first do you think we would ever come behind it and finish the job? I think it has to be a comprehensive approach or we'll never get to the hard part.

So that was probably my biggest concern, especially when I hear the conversation about the category for diversity being maybe reduced or eliminated completely when diversity adds something to this country and we should -- we should never forget it. And if we go back to the Declaration of Independence, you know, one of the facts that was used to talk about the king was the fact that he was preventing people from coming to the country and being able to migrate here.

And then if we look at the Statue of Liberty when it says give me, you know, your tired and your poor, what I don't want people to take away from this hearing is that all of a sudden we forgot about the tired and the poor and the people who are striving for a better -- a better life.

So those are probably my biggest concerns, when we look at just the precedent we set.

And we have economic problems, and we're getting out of them like we always do. And we'll always prosper because we're resilient. But the question becomes, what about the moral ground that we would cede if we just say we're going to forget about 11 million people, we're only going to focus on skilled workers, we're not going to take care of spouses and equal protection under the laws and all those things. Do you worry about that?

MR. WADHWA: I do. And this -- but the thing is that right now the country is in a mess. Our economy is in horrible shape. We have -- we have a brain drain going on for the first time in its history. It's never, ever happened before. We've never -- America has always been a land of immigrants, not emigrants. It's happening right now. If we wait three years to fix the skills problem, we'll lose a couple of hundred thousand more great people who could be healing our economy. And if -- unless -- until the economy heals, the American public will not be receptive to the unskilled workers.

So it's a mess right now. And all I'm talking about is let's agree on what we agree on; get that over and done with. Let's agree on the skills. Let's agree on the Dream Act. Let's give some kind of a green card to the undocumented workers while we decide on the issue of citizenship -- that is so toxic right now that I'm not optimistic we can solve that problem. Maybe we will. I hope we will. Maybe I'll be wrong. But in the meantime, let's agree on what we agree on and make things easier for everyone.

I'm saying, give these undocumented workers a green card so that they -- my father has a green card, for example. He hasn't got his citizenship. He has lived here for 30 years, happily, without having that problem. You don't have to have citizenship to, you know, do what's right for people. Let's solve the problem when it can be solved.

REP. RICHMOND: (Off mic.)

MR. TEITELBAUM: Yes. My wife lived here for 25 years on a green card, until she decided to naturalize. And the only difference was she couldn't vote in the school board elections, which annoyed her.

The Statue of Liberty is on the cover of all of the Commission on Immigration Reform reports. And on the Diversity Visas, I think if you look at the composition, the national origin and other composition of current legal immigration to the U.S., it is very diverse. When that provision was passed, there was concern it was not diverse enough. Since then, it has become very diverse. And these are adding 55,000 visas but are getting 8 million applications



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each year, randomly allocated by computerized lottery. That's a somewhat odd way to set priorities. The commission said we should set priorities and we should deliver on them. And the Diversity Visa program -- it felt then, and I think would say now -- it does not rise to that level of priority compared to the other priorities.

REP. GOODLATTE: Time of the gentleman has expired. And the chair recognizes the gentleman from Idaho, Mr. Labrador, for five minutes.

REPRESENTATIVE RAUL LABRADOR (R-ID): Thank you, Mr. Chairman. I'm excited that we're having this hearing. I think it's important that we modernize our immigration system. I think we all agree that we have a broken immigration system. But we need to find a solution to the -- to the problems that we have by being fair. We need to be fair to the millions of Americans that want to follow rule of law. We need to be fair to the millions of people that are waiting in line to come legally to the United States. And I think we do have to be fair to the 11 million people or so that are here in the United States illegally.

So I have a few questions about this, but first I want to go to Mr. Teitelbaum. You spoke about the sibling category in your report. Can you explain -- I actually agree with the conclusion of the report; I think we should get rid of the sibling category. Can you just explain a little bit -- and just short -- of why you think that's important?

MR. TEITELBAUM: It's -- there aren't enough visas allocated for the huge volume of applications. You've got a 2 million person waiting list -- and one of the members has already mentions what the wait times are, which vary from 12 to 20 years depending on the country. So if you're not going to manage by backlog -- which is what the commission said we should not be doing -- that's a category that is being managed by unconscionable backlogs.

REP. LABRADOR: And we could actually use those visas and allocate them through spouses and --

MR. TEITELBAUM: To the higher-priority --

REP. LABRADOR: To the higher priority --

MR. TEITELBAUM: Yes, indeed.

REP. LABRADOR: OK. But something I disagree with you on the report is the guest worker issue.

MR. TEITELBAUM: Yeah.

REP. LABRADOR: And I'm a little bit dumbfounded by it -- and I know this report came out a few years ago --

MR. TEITELBAUM: Fifteen -- 15 years ago.

REP. LABRADOR: Yeah. (Chuckles.) You know, in my state, in Idaho, we have a large dairy industry. And at least two dairy -- Idaho -- two Idaho dairy farmers have experienced I-9 audits in the last couple of years. They -- in one, 32 out of the 40 employees didn't qualify to work in the United States, and in the other one 47 out of 57 did not qualify. They went ahead, fired all those employees, and they went ahead and asked for people to come work at the dairy. They couldn't find a single person who applied for that position who spoke English. Now, they don't know if the people are legal or illegal because the people they hired have legal documents, and they haven't done another I-9 audit. But how can you say that we don't have a need when -- I mean, that's a large number of employees that were -- that needed to be hired, and not a single person who spoke English applied for the position.

MR. TEITELBAUM: I don't know the circumstances in Idaho, Congressman; I'm sorry. But I would say that it is true that in some agricultural areas employers -- particularly in rural areas, which is where agriculture is -- normally is anyway, are --

REP. LABRADOR: Yes. (Chuckles.) Typically.

MR. TEITELBAUM: -- well, not all of which -- but are -- have become dependent on the assumption they can recruit from this undocumented workforce. And even -- yeah --

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REP. LABRADOR: No, but this is -- this is different. This is somebody who had to fire everybody who was working at their dairy, and they couldn't find anybody who could be -- you know, who could speak English. I don't know what their status was.

I was an immigration lawyer for 15 years, and I found this same experience. In some of the agricultural areas -- in the dairy industry, agricultural area industry, it's hard to find American workers who want to do the job. And then your solution is just they should do something else; they should pick almonds instead of -- something else. But the reality is that we should let the market decide that, shouldn't we? You know, it seems to me that even in the example that you gave us, the owner of the farm had already decided that he wasn't going to pick the apricots anymore because the market was not working. And I think we need to do something about our guest workers. And so I disagree with you there.

Now, Mayor Castro --

MR. TEITELBAUM: With the -- with the commission.

REP. LABRADOR: With the commission; I apologize. Mayor Castro, I believe that -- I liked your words that we progress because we are pragmatic, but yet it seems to me that your solution is not pragmatic. You say that it has to be a pathway to citizenship or nothing else. Also, in my 15 years of experience as an immigration lawyer -- I talked to thousands and thousands of people who are here illegally, and what they want is they want to come out of the shadow, they want to be able to be legal, they want to be able to work, they want to be able to travel, they want to be able to feel like they're being treated with dignity. Not very many people told me, I want to be a citizen, I have to be a citizen in order to feel like I'm a dignified person. So if we can find a solution that is short of pathway to citizenship -- short of pathway to citizenship but better than just kicking 12 million people out, why is that not a good solution?

MAYOR CASTRO: Well, I would say that that's not the solution that's in the nation's best interest -- I think that's what I said -- and that that would be the most pragmatic solution. And one of the reasons that I believe that is that if we don't go down that route, that I'm convinced that we're more likely to find ourselves -- (audio break). So you know, if you ask me -- (audio break).

REP. LABRADOR: (Audio break.) And my time has run out. But the question that I have for you and for all advocates of immigration reform is whether you want a political solution or a policy solution. If we want a political solution, you guys are going to insist on pathway to citizenship; we're going to -- you're going to beat Republicans over the head on this issue. But if we want a policy solution, I think there's good will here in the House of Representatives for us to come together, actually have a pragmatic solution to this current problem that we have, and solve and modernize the immigration system for years to come. But thank you very much.

REP. GOODLATTE: I thank the gentleman. The gentleman from Illinois, Mr. Gutierrez, is recognized for five minutes.

REPRESENTATIVE LUIS GUTIERREZ (D-IL): Thank you very much, Mr. Chairman. First, I'd like to say that while we've been here, every minute, someone's been deported. Most of those deported have committed really no crime other than working in the United States, which is a misdemeanor the last time I checked. (Laughter.) They're raising their family, they're contributing. There's always the question about paying taxes. Well, they pay taxes. You can check with the Social Security department. There's this large fund that goes unaccounted for. That means they really don't know who to attribute that money to because people have contributed. I think we need to do comprehensive immigration reform so when they pay taxes it goes into the right account and it helps fund and fuel our economy.

I want the mayor and the state and the federal government to garner all of those tax dollars and not for it to be in the pocket of some unscrupulous employer that isn't -- that's taxing them, but they're not sending the money on. Plus, given the 1986 legislation, we all know that there was an increase in the earning ability of the undocumented once they became.

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I mean, everybody keeps talking about, you know, innovation -- let me give you a little innovation: We talk a lot about the uncertainty of the market and what we do as a Congress -- the uncertainty about what we do and what that causes for our financial markets. I just want everybody to think one moment, what do you think about the uncertainty in the lives of 11 million undocumented workers, when you give them certainty?

I'll tell you what I believe they're going to do. They're going to go buy that house that they've always been thinking about buying, but since they were undocumented, didn't. They're going to buy that car. We know that 75 percent of our economic activity in the United States is what? It's somebody going and purchasing something. I want you to think. I want you to think about people going to insurance agencies and to banks to open an account and to invest and to save.

And most importantly, as I and other baby boomers -- yes, I'm 59 years old and I'm part of that group of people that are going to be, hopefully soon, going into the sunset. What we have --

REP. GOODLATTE: How soon? (Laughter.)

REP. GUTIERREZ: And while we have a lot of people, we have the largest percentage of people ever before in the history of our nation that are leaving our workforce in the next 15 years. We need to replace them, and we need to replace these -- (inaudible).

Let me take a moment to say the following: There are undocumented people in this room. There are dreamers in this room. I'm happy that the president used his executive authority -- 500,000 of them are now safe from deportation, 150,000 of them -- one of them is in my office. And I've got to tell you something: He's not a burden. He got legalized. He came to my office. We hired him. He's working. He's paying taxes, huh? He's got health care.

How did he get health care? The way most of us get health care. I don't think we should look at immigrants and say, how are they going to get health care? Well, the same way members of Congress get health care. We get health care at our place of employment. That's the same place they're probably going to get health care, and if not -- so I want to say to everybody that is here, I want to quickly say to those that have come here -- and I'm sorry, I'm going to butcher your name, Dr. Wadhwa --

MR. WADHWA: Good enough.

REP. GUTIERREZ: -- good enough. And I want to say to Ms. Arora, to both of you, we have a bill. It was introduced by the gentlelady from California. For 10 years, I insisted that nothing happen on STEM or any other particular part of comprehensive immigration reform unless we did it all. But last year, I think in good faith and to show that we wanted to work with everybody, we said 50,000 -- I will not object. But they needed to be clean.

We didn't want you to get something while someone else lost something. We wanted to give it to you. And in our bill, 50,000 -- you get to come from the very first day with your wife. You get to come from the very first day with your children because we believe we should welcome you and your talents and at the same time not have to make a distinction between serving this country and bringing your talent and sacrificing the love and cherishing the fact that your family might not be there with you.

So we think that, that's important, and so I'm going to continue to work -- and I say to my colleagues on the other side of the aisle, we can resolve this and many other issues. Lastly, I want to say a special thank you to Mayor Castro. You just lit up our house. My wife and my daughter and my grandson, Lucito (ph) -- you lit us up with your speech at the Democratic Convention, with your leadership as mayor, with your poise, with the way it is -- you just make us all so proud -- and with your story.

And I would like to say to you that I'm so thankful that America gave your grandparents a chance and that you're here with us today because I know that not only San Antonio but Texas, the nation is better because of your service. Thank you so much for your testimony here today, and thank you, Mr. Chairman.

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REP. GOODLATTE: I thank the gentleman. The gentleman from California, Mr. Issa, is recognized for five minutes.

(Audience members chant "Undocumented is not OK.")

REP. GOODLATTE: The committee will have order. This is not the way -- this is not the way to make your point! All of those must leave.

Just so any of you are not in doubt about the rules of the committee, I want to make sure everybody knows that the House rules provide that the chairman of the committee may punish breaches of order and decorum by censure and exclusion from the hearing. We just, a moment ago, did not have order in the hearing room. Members of the audience must behave in an orderly fashion, or else they will be removed from the hearing room.

And let me just say, as an aside, that was not a good accent point to the excellent points made by the gentleman from Illinois. The way we will resolve this is through discussion and careful deliberation about the issues, not by disrupting efforts to educate the members of this committee and the public. And we'll resume the hearing, and the gentleman from California is recognized without penalty or the loss of any of his five minutes for that disruption.

REPRESENTATIVE DARRELL ISSA (R-CA): Mr. Chairman, could I get an extra minute for this one? (Laughter.)

REP. GOODLATTE: Maybe.

REP. ISSA: Well, first of all, in several ways, I want to associate myself with my good friend from Illinois. Luis, I'm one month, nine days older than you, but that doesn't mean that there's any real difference in us as baby boomers. We are going to exit the scene, and I don't want to exit the scene without resolving an immigration problem that predated my entrance and the gentleman's entrance into Congress.

That group of disruptions really didn't understand my politics. I do believe we can get to a substantial, if not complete, immigration reform bill. And I hope -- after 12 years on this committee of trying to get there, it's my fervent hope that this is that window of opportunity.

I do have some concerns from earlier. Mr. Teitelbaum, I want to associate myself with Ms. Lofgren. I heard you say, basically, that we should grow different crops in California as a resolution to needing labor that we can't seem to find. Is that pretty well correct?

MR. TEITELBAUM: No. What I'm saying is that farmers, and employers in general, make decisions incrementally, over time, based upon the availability of labor at what price.

REP. ISSA: Absolutely.

MR. TEITELBAUM: And so we have allowed -- we have allowed a system to evolve in which those farmers who have made those decisions based on that assumption are dependent on that continuing flow of labor. That's the nature of both temporary worker programs and undocumented --

REP. ISSA: Well, I want to challenge that for a moment. As a Californian, I was there in '86 when the law changed, and I've seen my farmers -- some that I represented in the past, some that I still represent -- flowers, tomatoes, strawberries. And then my wife's home up in Salinas County, Monterey County, literally, the majority of all lettuce comes from that one county -- the majority of all lettuce in America comes from that one county.

If we simply say that we can't have labor to pick that and that we need to make other decisions, it's fertile land. You're absolutely right -- we'll grow something else. And we will import our lettuce from another country. If the real question is do we have an effective program that gives opportunity to people outside the U.S. to come to the United States, work for a period of time and periodically return home in a non-immigrant -- in a migrant way -- if we have an ineffective program and we could have an effective program -- and I think that's the real question.

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In the '90s, when you were studying this, you were studying it at a time in which the problem had been fixed and it was getting re- broken as we spoke. You had migrant labor who had become, under the '86 law, permanent. And they were beginning to either be in the management ranks of agriculture or they were leaving agriculture. And that's pretty understandable. But isn't it true -- true in the '90s, true today -- that there are tens of millions of people outside the U.S. who would stand in line to get good-paying, by their standards, migrant jobs here in America that would do so under a set of rules that were fair to them and fair to us?

MR. TEITELBAUM: If they were fair? That's a big if, of course, because temporary worker programs generally have not had that character.

And then I would suggest --

REP. ISSA: Let me -- let me challenge that, because, you know, I want a successful resolution. And I believe a successful resolution is one, deal with people already here in an appropriate and comprehensive way; two, obviously, empower us to bring in the people who add to our economy; and three, deal with low-skilled jobs that in many cases, if people come to this country, they do them for a short period of time.

Is our standard today supposed to be an American wage for an American job, or -- and I want to go to Mr. Wadhwa -- or should it be a wage which is completely fair and greater than the wage someone would find in their home country for coming here and sufficient for them to not only earn a living but also go home with more money? And if that's the standard, then isn't that an achievable standard where it's a win-win? We can get our crops dealt with in a decent way, they can be better off for it, and we can have a flow of labor for that one portion that in fact would not be subject to chain migration?

MR. TEITELBAUM: The commission recommendation said that that was an attractive goal but not possible to achieve, number one. Number two --

REP. ISSA: That it was not possible -- not possible to achieve -- I'll go back to my premise, and I want to be quick. My premise was that we pay more than they would find in their home country but not necessarily what we're paying today with all the rules under the ag program of H-2A?

MR. TEITELBAUM: The other thing, Congressman, you might want to look at is the backlogs that have been generated that have lots of people, who are not particularly skilled, waiting. They're entitled in some sense to a visa, but they're in the backlog.

REP. ISSA: OK, well, I hear that you say it couldn't be done then and it wasn't going to work, but I worked with Mr. Berman on this committee believing that it could.

Is (there ?) anyone that has a different opinion there that would like to comment on the ability to take care of that one portion in a way in which Ms. Lofgren and I could see crops that, in fact, people want to eat be grown?

MR. : If you look at Canada, Canada has made their guest program -- guest worker program work very well. For low-skilled labor, that is not a bad solution; that's actually a good solution. For high-skilled labor, you can't do that, because you want the high- skilled workers -- (inaudible) -- and so on.

REP. ISSA: We want them here permanently, absolutely.

Thank you. Anyone else?

Thank you, Mr. Chairman. I appreciate your indulgence.

REP. GOODLATTE: I thank the gentleman.

The gentlewoman from Washington, Ms. DelBene, is recognized for five minutes.

REPRESENTATIVE SUZAN DELBENE (D-WA): Thank you, Mr. Chair.

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I come from a district that has lots of technology in the southern part of the district, home of Microsoft and many other technology companies, a lot of biomedical device companies and also a very rich agricultural industry of dairies and berries and specialty crops. So immigration is very, very important for many different aspects.

And I wanted to start with you, Mr. Wadhwa. And you talked -- we talked a lot about H-1B, but you also talked about a startup visa program. And I wondered if you could elaborate what you think needs to be in such a program and how that would work in conjunction with the H-1B program.

MR. WADHWA: The startup visa would do wonders for Seattle. It would do wonders for New York. It would do -- and even more for Silicon Valley. There are literally tens of thousands of companies that would be started almost overnight if we gave these entrepreneurs or would-be entrepreneurs the ability to do that.

Right now they can start companies -- if you're on an H-1B visa, you can start a company, but you can't work for it. This is brain-dead, right. So we would suddenly have a boom in entrepreneurship like we (haven't seen ?) before. There's no reason not to do it. This -- it should be done independently of everything else we're doing. Just get that done so we can fix the immediate problems.

Then there's the issues of H-1Bs. The big companies are lobbying very hard for it. They need it. I mean, there are debates about whether they take jobs away. In some parts of America, you don't need H-1Bs. In parts, where the skilled immigrants are, you do need H-1Bs. Brookings Institution did a great study on that. So we need those also.

But the more urgent thing there is to give green cards to the million already here on H-1B visas, who are stuck in limbo. Let them start their companies. Let them buy houses. Let them, you know, have -- enjoy the rights that Americans enjoy.

REP. DELBENE: We talk a lot about starting up companies, but also a lot of research of a lot of startup -- (inaudible) -- and entrepreneurs comes from great basic research that's happening at our universities. And so how do you think the relationship of our immigration program has an impact on the education we're able to deliver both in the medical area as well as in technology area?

MR. WADHWA: We have -- I think we're completely in sync on that. We need -- we need these researchers coming in and doing great research at our universities. And then we need people leaving universities and starting companies. That's the one thing we need to fix in the United States' system, is to commercialize more research, because that would, again, lead to a big boom in startups.

Right now it -- the system doesn't work, because the researchers can't get permanent resident visas. It's the same problem that everyone has, that we've basically slowed down American innovation for no reason whatsoever.

REP. DELBENE: Dr. Arora, we were talking about health care. And obviously we talk a lot about, kind of, technology, and we forget that there's many needs, not just in research in health care but across the health care system. I wondered if you wanted to elaborate on that a little bit.

MR. ARORA: Yes, with the -- it's clear from a number of workforce reports that with the baby boomer generation retiring and with a new health care environment, there's a severe shortage of health care workers at various levels of physicians, and certainly there's a -- (inaudible) -- aside from everything else, a number of areas that are simply not medically served appropriately. There are certain specialties that are underserved. There's issues of getting nurses to the right hospitals.

So there are -- there are a number of issues. It's also hard when you come in on a -- (inaudible) -- like mine -- I was on a J-1 exchange visitor visa -- to go into a research field if that's your desire. And it took me several years to make my way out to that because of the kinds of restrictions that are placed.

So we've always advocated that when you go through the immigration pathways, especially the skilled immigration pathways, there should be a great deal of portability and market-based characteristics to them so that

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people gravitate -- people with skills gravitate towards where the demands are and where their skills are appropriately needed and where they can contribute best.

And health care is no exception to that. I've had the privilege of working with Senator Conrad's office in the past on his Conrad 30 program, of which I am a graduate, I should say. And they're looking for permanent authorizations. They're looking for physicians who go to underserved areas and provide service, not to have to stand in these backlogs at the end of service. And those are all great ideas and should be a part of --

REP. DELBENE: Thank you. And then when you talk about agriculture, we've been talking a lot about seasonal workers. But I know in the example that my colleague from Idaho brought up earlier in the dairy world -- and we have many dairy farmers in my district -- these aren't seasonal workers; these are year-round workers so that folks are struggling to make sure they have a strong workforce.

And so do you feel differently about the ability to address those issues, Mr. Teitelbaum, versus the seasonal -- the seasonal workers? I mean, these are -- there is an economic driver to this too.

MR. TEITELBAUM: If they're year-round, then they're not really temporary workers. Seasonal is more temporary. So I think, again --

REP. DELBENE: But there's still a gap.

MR. TEITELBAUM: It -- yeah.

REP. DELBENE: There's still an employment gap.

MR. TEITELBAUM: It's got to -- you -- and you've got to consider whether the jobs are attractive enough for the underemployed U.S. workforce, who could be attracted if they were attractive. But I don't know what the conditions are in the -- in the farms and dairies that you're describing. So I can't comment on that.

REP. DELBENE: But you think it's merely a financial issue in terms of how much folks are paid versus the types of jobs and the skill involved in those jobs? As Mayor Castro said, these aren't necessarily low-skilled; they're different-skilled --

MR. TEITELBAUM: Well, Congresswoman, I did pick strawberries in the summer in Oregon not so far from your district.

REP. DELBENE: I think we went to the same school actually. So --

MR. TEITELBAUM: Did we?

REP. DELBENE: We did.

MR. TEITELBAUM: I didn't know that. It was an interesting, difficult, well-paid job for a -- for a college student in the summer. I don't think there are any jobs like that anymore. It's a different workforce that does the strawberry picking in Oregon now. So I think you can see that there's been a kind of shift in the origin of the workforce.

Did we really go to the same college?

REP. DELBENE: We did, in Portland.

But I think I've used all my time. Thank you.

MR. TEITELBAUM: Thank you.

REP. GOODLATTE: I thank the gentlewoman.

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And the gentleman from Texas, Mr. Farenthold, is recognized for five minutes.

REPRESENTATIVE BLAKE FARENTHOLD (R-TX): Thank you very much, Mr. Chairman. And it's good to have Mayor Castro here from San Antonio. San Antonio's a lot like my hometown, Corpus Christi. They just don't have the bay or the beach, but you do have a pretty good basketball team.

And I wanted to -- I wanted to visit with you a little bit, because I really do empathize -- we've got a big problem here, and I think we all agree that our immigration system is broken. We've done a lot of casework in our office, especially when we still had Brownsville as part of the district that I represent. And my heart is just broken by some of the family issues that I see. And also my heart is broken by the fact that many people who are in this country without proper documentation are basically an underclass that aren't afforded the full protection of the law.

You see them here illegally and you see a crime on the street, you're afraid to call the police for fear of you getting involved in it. And you're open to exploitation by unscrupulous employers. And it's a real problem and I think it needs to be addressed.

I've spoken with a lot of my Republican colleagues, some of my Democrat colleagues and a lot of folks back home about the issue, and it seems like the stumbling block for almost everybody is the pathway to citizenship that you've been talking about for such a long time. We look at the promises of the 1986 immigration reform when it granted citizenship to so many people -- that we were going to seal the border and make sure this was a one-time deal was the way -- and we see that that has failed.

My question to you is how do we not end up in the same situation 10, 20 years down the road if we do this again? My fear is that what we're saying by a pathway to citizenship is that, all right, you've come over here illegally -- let's say we seal the borders 100 percent; nobody can cross the border illegally. You're still going to have people overstaying their tourist visas; you'll still have people overstaying their student visas. And the natural belief is, all right, they've done it twice, let's just wait them out and they'll do it again. And we create this underclass of people who can't have a real job that are selling bootleg DVDs in the flea markets or, you know, working whatever underground economy they -- how do we craft this so we don't fall into the same trap?

MAYOR CASTRO: Well, thank you very much for the question, Representative Farenthold. Good to see a fellow Texan here -- south Texas.

First, I believe that as a nation we are stronger because we ask folks to take an oath, take an allegiance to the United States of America.

REP. FARENTHOLD: No question about it.

MAYOR CASTRO: And that involves full participation in the democracy and citizenship. I just cannot imagine an America where we consign these folks to an underclass status. In other words, we'd be telling them, you will never, ever, ever become a citizen of the United States --

REP. FARENTHOLD: All right. So what do we -- what do we put in the law to not invite people to where we're back doing this same thing again? That's my concern.

MAYOR CASTRO: Sure. First of all, I do think that the only way you're going to accomplish that is with a comprehensive approach. The one thing I know is that if you try and piecemeal it, the chances are that you will find yourself here 10, 15, 20 years from now.

But more specifically, I believe that this legislation should include enhanced border security, enhanced interior security, the ability to --

REP. FARENTHOLD: Would you support the proposal for a national biometric ID?



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MAYOR CASTRO: Well, I would support -- sure. I would support using some technology to help ensure that people are here who say they're going to -- you know, who are here are here legally.

REP. FARENTHOLD: I'm not sure -- I'm not sure I'm there on that, but go ahead.

MAYOR CASTRO: You know, whether it's that or something like it -- you know, there are people more qualified to speak than me on that.

But I would say that including an ability for employers to verify the legal status that is better, that is more comprehensive --

REP. FARENTHOLD: So -- again, we tried to do that and failed, and you're still not going to -- you're still going to have the underground employers if you've got people who are overstaying their student visa.

I just -- my concern -- and you've answered this -- different variations of this question time and time again. How do -- how do, by granting a pathway -- a very generous pathway to citizenship -- and maybe we tighten it up; maybe we find the compromise there -- but how do we avoid creating an incentive for people who continue to come here? That's what my constituents and most of the people that I'm talking to -- that's the big stumbling point.

MAYOR CASTRO: I think what you do is that you solve the issue that you have in front of you, that you improve the ability to keep folks out who shouldn't be here and to -- you know, to ensure that people don't overstay their visas. There are ways to work on that, to tighten that up.

REP. FARENTHOLD: I see -- I see I'm out of time, but, I mean, I just don't see how you do that without, you know, chipping everybody who comes over here to see the Statue of Liberty to track them. I'm really concerned about this.

MAYOR CASTRO: Throwing our hands up is not an option.

REP. FARENTHOLD: All right. Thank you very much. I yield back.

REP. GOODLATTE: The chair recognizes the gentleman from Florida, Mr. Garcia, for five minutes.

REPRESENTATIVE JOE GARCIA (D-FL): Thank you, Mr. Chairman.

Mayor Castro, I wanted to ask you, what type of computer repair did your grandparents engage in?

MAYOR CASTRO: (Laughs.) My grandmother actually ended up working as a maid, a cook and a babysitter.

REP. GARCIA: There we go. High skill, then.

I wonder what this hearing would be like if we were like Canadians, desperately seeking people to come to our country because we simply have no one who wants to be there. It's not like Texas where people just want to be in Texas, or Miami. I worry about it.

You know, I've heard your testimony, Mr. Wadhwa, and I worry about it because you seem to create a crisis that, after saying that our country is a mess, I hope you were just talking about our immigration system because what brings people to our country is precisely that opportunity. You would agree with me, correct?

MR. WADHWA: I agree. For the moment we are the only place that --

REP. GARCIA: And you'd agree with me that that suffering that you're talking about is also being visited on immigrants that are already in this country that don't have documentation -- families being separated, people being deported -- you'd agree that that's a bad situation.

MR. WADHWA: Agree.

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REP. GARCIA: Why do you think we should make that decision? Why should we decide on highly technical people which are barring down the door to come into our country and not decide for those who are -- (off mic) --

MR. WADHWA: (Off mic) -- to decide both, but right now the issue of the undocumented is toxic. America is divided.

REP. GARCIA: It's toxic because we give up on it, don't you think? I mean, if you had been given the choice to be fortunate enough to pick strawberries in the paradise of Oregon, would you have taken that choice?

MR. WADHWA: I might have if I knew my circumstances. But --

REP. GARCIA: No, but under your circumstances would you have taken that choice? And the answer is no, correct?

MR. WADHWA: What I'm saying is give them green cards, legalize them. The green card is a wonderful way of being here. The only difference between the green card and citizenship is the right to vote.

REP. GARCIA: It's called taxation without representation.

(Cross talk.)

REP. GARCIA: It was an essential element of our --

MR. WADHWA: That's why this battle is being fought, because the Republicans know that they're going to lose that battle if we legalize another 11 billion people. Let's call a spade a spade over here.

REP. GARCIA: That's -- the problem, Mr. Wadhwa, I think is that you make a choice --

(Cross talk.)

REP. GARCIA: You make a choice -- you make a choice that's very worrisome.

MR. WADHWA: -- gave undocumented workers the choice of a green card now or citizenship five years from now, everyone would accept green card immediately.

REP. GARCIA: No -- absolutely, people would choose that, just like people choose every day.

The other question I'd ask for you -- do you think there's some kind of paradise? The folks who have been here 10, 15 years, picking strawberries or potatoes or corn or apricots, that heavenly paradise of being an illegal worker -- do you think that's a particularly good circumstance for the last 10 or 15 years for the people who do this?

Do you think -- I'll ask you, Mr. Teitelbaum -- do you think that's a good thing? I mean, are they happy to do this, they want to be in this permanent underclass?

MR. TEITELBAUM: I do not think they --

REP. GARCIA: Right. And is there a history of any great country in the world that didn't have immigration headed towards its borders?

MR. TEITELBAUM: Say it again, sir?

REP. GARCIA: Is there a history, ever in human history, of a country that was successful and didn't have immigration? I mean, I believe that from the Babylonian Empire through the Roman, through the British and to today, every nation that's a winner nation has immigration. Correct?

MR. TEITELBAUM: The commission is a strong -- was a strong supporter of a substantial legal immigration system.

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REP. GARCIA: Do you remember what the Statue of Liberty, which covers the cover of your report, says?

MR. TEITELBAUM: Well, the statue doesn't say it. It's on the pediment.

REP. GARCIA: Correct.

MR. TEITELBAUM: I know the poem.

REP. GARCIA: Right.

MR. TEITELBAUM: It's by Emma Lazarus, and my daughter's -- my first daughter's name is Emma.

REP. GARCIA: I think -- I think we make a mistake here if we engage in this debate and think there's some paradise.

Mr. Arora, you've spent how many years trying to permanent -- make your status permanent?

MR. ARORA: More than 15.

REP. GARCIA: And you would agree that that is not a particularly favorable place to be. And you would agree that those who, even like yourself who are highly technical, making a good salary, but finding all these impediments is not a good thing for America's productivity.

MR. ARORA: No, it's not.

REP. GARCIA: And you would -- I would assume that because you want this status for yourself you would want it for all others who find themselves in a similar situation.

MR. ARORA: Yes.

REP. GARCIA: Look, I think that the issue here is that we mistake -- and the folks on the other side might be missing -- is that this is no paradise, that people work awfully hard on the American dream, and all they want is an opportunity. And I want to be clear here -- a pathway to citizenship doesn't mean that we're going to sign these guys up to be citizens. That is a choice that is made.

I'm sure in your city, Mayor, you would love more people to be registered to vote, but yet they're not, and that's a choice people make, just like citizenship, correct?

MAYOR CASTRO: Sure. That's correct.

REP. GARCIA: Thank you, Mr. Chairman. I yield back the remainder of my time.

REP. GOODLATTE: I thank the gentleman.

And then gentleman from North Carolina, Mr. Holding, is recognized for five minutes.

REPRESENTATIVE GEORGE HOLDING (R-NC): Mr. Castro, I recognize your resistance to finding a middle ground, something short of full citizenship, but I'd ask you, if you were an illegal immigrant and the United States was actually in the business of enforcing our immigration laws, and your choice was convicted criminal or almost-citizen, you would choose almost-citizen, wouldn't you?

MAYOR CASTRO: As I said before, do I believe that something is better than zero? Sure. I don't believe it's sufficient. I also don't believe that that addresses the entirety of the problem here.

REP. HOLDING: And redirecting your attention back to Mr. Forbes's question, which he thought was hypothetical, in that if you were given the opportunity to write the law and ensure that it passed, and we found ourselves 10 years

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later with a large population of illegal immigrants in the country, would you enforce the law or would you come back and find another pathway to citizenship?

I would suggest to you that it's not a hypothetical question, because it's precisely the question that we're dealing with right now. Twenty-five years ago we passed a comprehensive bill, and here we have a low estimate of 11 million illegals in the country; some estimates, many millions more.

The -- what is the mistake that we made in 1986 that we do not need to make this time around to ensure that we don't have to do this again?

MAYOR CASTRO: Well, I think one of the things that we can do, as was mentioned earlier, is to continue to enhance border security and also to work on interior security. Technology has benefited us during that time. So we have an opportunity here -- you have an opportunity here, the Congress has an opportunity, to pass a comprehensive, very well-thought-out bill. And, of course, nobody can guarantee -- and you're right; there probably will be some folks who fall into that category in the years to come. But --

REP. HOLDING: The mistake --

MAYOR CASTRO: -- the American people --

REP. HOLDING: -- that we made is we didn't enforce the law.

MAYOR CASTRO: Well, I think somebody else will have to speak to that. We can't just throw up our hands because we think we're going to have some challenges later. That's not an option. Doing nothing is not an option.

REP. HOLDING: I agree. Doing nothing is not an option. But I also think enforcing the law should have been done and had to be part of the future.

Mr. Wadhwa, my father-in-law is British. He's an engineer. And in the course of his career, he has managed worldwide construction for pharmaceutical companies, one based in the United Kingdom and one based in Switzerland.

And through all the years that I've known him, he has complained the most about the immigration laws of the United States and the difficulty it has been, not only for him at times to work in the United States, but for getting team members in from other countries to work on large construction projects, pharmaceutical manufacturing and research facilities here.

You have experience in Australia. Give us just a little snapshot of if one was a U.S. citizen, engineer, and wanted to go to Australia and manage a billion-dollar construction project, how much of a hassle would it be?

MR. WADHWA: Australia right now makes it very easy to come there. Canada is doing the same. If you're a skilled immigrant, they're welcoming, you know, immigrants to come over there. It's harder to get green cards in many other countries. But Australia I knew is different than Australia today. I had to fight to get Australian permanent residence, because they had a -- (inaudible) -- Australia policy.

Today they welcome anyone who graduates from the universities. They welcome foreigners to come and start companies. Your father-in-law is like everyone else in Silicon Valley. They're, you know, starved for talent. The companies are starved for talent. They want to hire the best and brightest from all over the world. But we won't let them.

It's like if the country were -- (inaudible). My colleague at Stanford, Dan Siciliano, talks about if the country was a game, if we were playing football as a country, we said the only people you can hire are people from within the company. We're basically locking out the world's best talent needlessly.

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REP. HOLDING: My district borders on the Research Triangle Park in North Carolina, and there are numerous high-tech companies there, and a number of very large software companies are there. And I've heard from them that when they have difficulty getting someone in the United States, often what they're able to do is just have them located in Canada and Skype in their input.

MR. WADHWA: That's what --

REP. HOLDING: And they pay the taxes in Canada. They don't pay the taxes in the United States.

MR. WADHWA: In Silicon Valley, that's commonly happening. They're setting up offshoring centers in India, China and Vancouver, everywhere else in the world except Silicon Valley. We want those people here so they can pay taxes here, they can interact, and they can start more companies after they finish their projects.

REP. HOLDING: Thank you very much.

I yield back.

REP. GOODLATTE: The gentleman from New York, Mr. Jeffries, is recognized for five minutes.

REPRESENTATIVE HAKEEM JEFFRIES (D-NY): Thank you, Mr. Chair.

Dr. Wadhwa, you have indicated throughout your testimony the need, perhaps for reasons of policy or for practical reasons, to emphasize, as we tackle this immigration issue, highly skilled visas.

Certainly you've distinguished yourself during your time here in America. You've founded a company, a thousand-plus employees. You've contributed to the academy. You've written a book. You've taught at some of our most significant and distinguished universities. You have contributed much to America.

Now, as it relates to our immigration policy, of course, there's an appropriate place to deal with the highly skilled immigrant issue. We also have a history of dealing with refugees with compassion. That makes sense for who we are and what we represent, our democratic values.

We have a history of making sure we grant visas in recognition of the fact that we need to draw from people from all across the world. That's the premise of the diversity visa program, that that makes us stronger; and, of course, inherently the need to emphasize and promote family unification, for reasons of fairness, for reasons of efficiency, for reasons that clearly make sense for the integrity of our democracy, as well as the well-being of our economy.

The gentlelady from California already has made the point that some of the most significant startup companies, the Silicon Valley success stories, were started by immigrants, whether that's Yahoo or whether that's Google, whether that's eBay, Intel, who did not come into this country through the highly skilled immigrant visa program but through other means of immigration.

Now, I think you gave an interview on November 20th, 2012 for publication at the Wharton School of Business, a very distinguished school in Pennsylvania, where you stated, "I was in New York in the 1960s as a child. And being in America is quite an experience. I left in the late '60s, but I'd always wanted to come back. The first chance I got was in 1980, when my father got transferred to the consulate in New York City."

Would you agree, based on your own experiences here in America, that the notion of family unification, of the unit being together, has been and should continue to be an integral part of what we do as it relates to comprehensive immigration reform?

MR. WADHWA: Without doubt, I agree with that. There's no dispute on that. The only thing I've been arguing is that (rather than ?) 120 (thousand), 140,000 visas for skilled immigrants, double it or even triple it for a few years, because we want to bring in an additional pool of skilled talent that can (heal ?) the economy and help us take advantage of all these technology advances I talked about.

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REP. JEFFRIES: Am I correct that your own experiences demonstrate the importance --

MR. WADHWA: Absolutely.

REP. JEFFRIES: -- of family unification as an immigration value.

MR. WADHWA: And you're absolutely right that the children of immigrants go much further than their parents do. All of -- (inaudible) -- correct.

REP. JEFFRIES: Now, there's been --

MR. WADHWA: (Inaudible.)

REP. JEFFRIES: Thank you. There's been this dichotomy that's been presented as how we find common ground in terms of the immigration reform debate. On the one hand, you've got mass deportation that was presented as an alternative. On the other, you've got a pathway to citizenship. But I believe, Mayor Castro, you've indicated you agree that that seems to be a false dichotomy, that the most appropriate construct is, on the one hand, mass deportation; on the other hand, open and unsecured borders.

And I believe that on both extremes, the overwhelming majority of Americans believe that neither is appropriate, for reasons of humanity or practicality. And so if that really is the appropriate construct, mass deportation on one hand, and on the other, open, unsecured borders, then the question is, how do we find common ground? How do we compromise based on those two wide-ranging extreme alternatives?

And would you agree that in that scenario, that a pathway to citizenship is one alternative, compromise, tough but possible, and ultimately obtainable, firm but humane, and that the only other possible compromise, which was raised by others on this panel, is permanent second-class status, notwithstanding the fact that those permanent second-class residents would have passed a background check, paid back taxes, paid a fine, perhaps gotten an education, perhaps served in the military, and gotten to the back of a very long line?

Could you just comment, Mayor Castro, on those possible compromise alternatives and what seems to be most consistent with who we are as Americans?

MAYOR CASTRO: I believe that you've laid it out well; that on the extremes you have mass deportation of 11 million people. That's not going to happen -- (inaudible); on the other hand, open up our borders -- (inaudible) -- bipartisan proposal and the president's proposal represents an effective compromise, remembering that this is earned citizenship.

The alternative truly is a recipe for creating a class of second- class noncitizens in the United States.

REP. GOODLATTE: Last, but not least, we have the gentleman from Georgia, Mr. Collins, recognized for five minutes.

REPRESENTATIVE DOUG COLLINS (R-GA): Thank you, Mr. Chairman. I think one of the good things about being last is that you get to listen. You get to hear a lot of questions. You get to hear -- and in this case, you get to hear a lot of hyperbole on both ends. And really, that's the question that I'm sitting here with right now. I've heard a lot of discussion and a lot of, well, if we don't do this, you know, if we don't pass this, it's horrific and these kinds of questions.

But just a brief moment: I come from northeast Georgia, a very agricultural district, but it's also on the border of Atlanta, so we get a lot of what I'll call the mixed blessing of both the need of immigration and the need for workers and the need for those industries -- dairy, poultry, other things. But we also deal with those of the hard-working taxpayers who've been there, who -- it is a transitional area -- who are concerned about their way of life and also concerned about being fair and honest and open with them.

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They have a deep faith. I believe, contrary to some that have said that the only way you can show your true faith -- I'm a pastor -- is by just opening up your arms and forgiving and not having any rule. I don't -- I believe you can hold both. I'm a lawyer, as well. I hold both grace and law. I think we've got to look at that.

The question that comes to mind here is -- I come from, also, a district of Georgia who have dealt with this issue. For some in this room, it may not have been a very good way, but we have dealt with it, and we have dealt with it in a way that is still in progress. And I think -- (inaudible) -- from a state perspective to say, what can we do because the federal government has not.

Now, what concerns me here is I keep hearing it's definitional. And I'm a little bit retentive on some things, and I'm the last one, so I'll just make these points: comprehensive immigration reform -- what I have become concerned about -- and I'll start with you, Mayor -- is when I hear "comprehensive" in this hearing today, what I hear is it's comprehensive if it has the specific outcome I like. It's not comprehensive if it doesn't lead to a specific end.

And I just have heard -- and just in recent testimony and questions here -- really that compromise between two untenable paths is not compromise. Compromise between two things that would never take place is not compromise. You're taking two extremes and basically saying, there's a compromise in the middle, and the reality is you're not compromising because those two would never exist. It's a fantasy.

You also have stated in this that you felt it was in the nation's best interest for a pathway to citizenship. That is correct?

MAYOR CASTRO: True.

REP. COLLINS: OK. The question I have here is, do you believe that all immigrants come to America across the border, legally or illegally, for the same reason? Yes or no?

MAYOR CASTRO: I believe that the vast majority of them come for the same reason, but I can't say that every single one of them comes here for the same reason, no.

REP. COLLINS: OK. So at least in the process of what we're looking at here, is there at least room for discussion -- and look, even in the diversity of my district, which is very conservative, there is a need for us to deal with all aspects of this, OK, from the security aspects to the legal aspects that we've talked about and we need to -- but also from the ones who are already here.

The question I have, though -- if we only insist on comprehensive, and we sort of -- I won't say demonize the process or say that we're not accomplishing what we're here for -- if the only way is to have a citizenship ending, then are we not doing a disservice to those who come here to work under liberty and have a deep love for the country they came for -- but they come here for economic reasons. And to give them something that -- it's been said here they lived here for 30 years on a green card. They lived here in a different way.

My concern is, is compromise, in your mind, only -- or comprehensive -- is the definition we're using here is comprehensive will only take place with a desired outcome at the end?

MAYOR CASTRO: I would say I used the word sufficient or effective. I think the only effective way to address this is to make it -- create a pathway to citizenship. Remember, also, you're talking about eight to 10 years before any one of these --

REP. COLLINS: Not my question. Not my question, Mayor. I'm dealing with the definition because this is what's going to get interesting over the next few months and as we go forward. If we only view comprehensive immigration reform under the guise of an outstanding outcome or an intended outcome, then I have a trouble with that because what we're setting ourselves up for, here, is one side may be coming to the table with honest, open ideas for reform, but if in the end, all we are hit with is, you didn't do comprehensive because we didn't get a desired result, that is a --

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MAYOR CASTRO: I disagree with the characterization.

REP. COLLINS: Well, I think it's what's been testified here, too, and especially when you basically state that you believe, in this nation's best interest, there's only one path and that should be citizenship, when really, there's also other alternatives that are out there. It is a best interest, but I don't think from a comprehensive standpoint, you can (tag the two ?). And that's what I have heard -- being the last one -- I have heard all throughout this process.

Look, I do not believe circumstances are easy here, as was testified earlier, for anyone who is here in a status that is not legal or a status in which they're hiding, as has been said, in the shadows. And I think this is whether it's high-tech industry or not. But also, the one thing I never want to lose sight of is there is hard-working taxpayers who have been here who are also having -- they do hard work as well. They get up and go to work every day. We have got to find a balance for the two, never forgetting what we're looking at. And that's my concern. Mr. Chairman, I yield back.

MR. WADHWA: You know, I believe that if we provided green cards to all the undocumented workers immediately, if we give their children citizenship, and if we fix the skilled immigrant problem, there will be consensus nationwide. And we don't have to get into these toxic battles about citizenship or not citizenship.

That can be decided a decade from now, when the economy has healed, things are different, America has evolved. It doesn't have to be all or none, immediately; it can be done over time. Right now, these people just want to be legalized. They just want the right to be able to live here with dignity. Let's give it to them immediately without wasting time. We're making this country suffer through needless debates when it can be resolved right now.

REP. COLLINS: I think we're definitely looking at it from a perspective of overall look, and I think I appreciate you coming here and testifying from your different point of views. I think, like I said, the main concern we've got to have here is, let's not trap ourselves into definitional reasons of comprehensive or other things that exclude or include and then in the end, we say, well, we didn't get it because it didn't fit my definition of what comprehensive means. Mr. Chairman, I yield back.

REP. GOODLATTE: I thank the gentleman for his questions, and I thank all the members of the committee for their questions to this first panel. And I especially thank the members of the panel. You've endured more than three hours of questions, and it's been a very enlightening discussion. So thank you for making the trip to Washington to participate, and we'll excuse you now and turn to our second panel. (Pause.)

If the members of this panel would make their way to the hallway, they can speak with folks out there, and that way our second panel can take their seats. (Pause.) I'd like to thank our first panel for their time and now turn to our second group of witnesses. (Off mic.) The hearing room will be in order.

Our first witness is Julie Myers Wood, president of Guidepost Solutions, LLC, an immigration investigation and compliance firm. Prior to her tenure at Guidepost, she served as the assistant secretary for the Department of Homeland Security for Immigration and Customs Enforcement, or ICE, for nearly three years. Under her leadership, the agency set new enforcement records with respect to immigration enforcement, export enforcement, and intellectual property rights. Ms. Wood earned a bachelor's degree at Baylor University and a J.D., cum laude, from Cornell Law School. She is a native of Shawnee, Kansas. Thank you, Ms. Wood, for taking the time to be with us today.

Our next witness is Mr. Chris Crane, who currently serves as the president of the National Immigration and Customs Enforcement Council 118, American Federation of Government Employees.

He has worked as an immigration enforcement agent for U.S. Immigration and Customs Enforcement at the U.S. Department of Homeland Security since 2003. Prior to his service at ICE, Mr. Crane served for 11 years in the United States Marine Corps. Chris, we thank you for your service and being with us today.



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Our third witness of this second panel is Jessica M. Vaughan, director of policy studies for the Center for Immigration Studies. She has been with the center since 1992 where her expertise is in immigration policy and operations, topics such as visa programs, immigration benefits and immigration law enforcement.

In addition, Ms. Vaughan is an instructor for senior law enforcement officer training seminars at Northwestern University's Center for Public Safety in Illinois. Ms. Vaughan has a master's degree from Georgetown University and earned her bachelor's degree in international studies at Washington College in Maryland. Ms. Vaughan, thank you for your participation today.

And our fourth and final witness of this second panel is Muzaffar Chishti -- is that close? -- director of the Migration Policy Institute's office at the New York University School of Law. His work focuses on U.S. immigration policy, the intersection of labor and immigration law, civil liberties and immigration integration. Prior to joining MPI, Mr. Chishti was director of the immigration project of the Union of Needletrades, Industrial and Textile Employees, UNITE.

Mr. Chishti has served on the board of directors of the National Immigration Law Center, the New York Immigration Coalition, and the Asian American Federation of New York, and served as chair of the board of directors of the National Immigration Forum and as a member of the American Bar Association's Coordinating Committee on Immigration. He holds a degree from St. Stephen's College in Delhi, India; the University of Delhi, Cornell Law School, and the Columbia School of International Affairs. And we are grateful that he would come and testify before the committee today.

All of you are welcome. We now have a vote, and I think rather than start in the midst of a relatively empty hearing room we are going to recess the committee. I will encourage members on both sides of the aisle to come back to hear your wise testimony. And the committee will stand in recess until the vote is over.

(Recess.)

REP. GOODLATTE: The committee will reconvene. We are working on encouraging other members to return for the second panel. But since the day is moving on, we think the hearing needs to move on as well.

So having introduced all the members of this panel, we'll start with Ms. Wood. Welcome.

JULIE MYERS WOOD: Thank you so much, Mr. Chairman. And members of the committee, I appreciate the opportunity to testify before you today about the enforcement of laws against illegal immigration.

Like many Americans, I believe that our immigration system is broken and needs reform. But like others, I served as the former head of Immigration and Customs Enforcement, the principal agency charged to enforce immigration laws, and so I have an insider's perspective of the challenges that face us and what we must do to make sure that we're not in the same position 20 years from now that we are right now: looking at a broken system put together with band-aids and trying to make do.

Since the 1986 amnesty, inconsistent enforcement coupled with an inefficient and restrictive pathway for legal access to the country have left us with this broken system. Many people concluded that it was just far simpler to come here illegally, to get a job and hope that the law would change to let them stay rather than wait in unreasonably long lines to come here legally. And of course, for some, there was no option to come legally.

Many employers grew very frustrated with the nearly decade-long wait for some petitions for workers with essential skills and just took their chances that enforcement would not target their business.

When considering legislative reform, we must consider how to avoid the mistakes of previous efforts. And these are not new problems.

When I first arrived at ICE in 2006, it was apparent to me that there were many areas where the promise of IRCA was not being realized, including managing illegal border crossings, identifying and deporting the illegal criminal

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alien population, reducing illegal employment, enforcing immigration court orders and effectively conducting national security enforcement.

And I want to take illegal employment as an example. I know the chairman talked about this in his opening remarks. And I think this is an area where law enforcement has not effectively addressed the problem. And, you know, when I first started at ICE in 2006, there was virtually no workplace enforcement although it was common knowledge -- everyone knew that the big magnet to come to the U.S. was jobs, INS was not focusing on that -- on that issue, and ICE had also not focused on it.

Fines, if any, were assessed under an outdated structure. They were subject to substantial legal wrangling and ended up being nothing more than just a slap on the wrist. For example, in 2002, the INS' last full year, it brought only 25 criminal cases in worksite investigations and only collected about \$72,000 through the administrative fine process.

So we tried to look at things differently. And we thought, how can we focus renewed effort on it? And we focused on employers, looking at could we bring criminal cases against employers. We also worked to revive the criminal -- (audio break) -- pursued a path of criminal case, which led to civil forfeitures in excess of \$30 million each year and prison terms for some egregious employers.

While these investigations were complex and time-intensive, the approach resulted in renewed awareness and cooperation from some high- risk industries. However, many companies in low-risk industries didn't think it was necessary to focus on I-9 or immigration compliance with this targeted approach.

This approach also included the apprehensions and removals of unauthorized workers, and who in many cases were using the names and Social Security numbers of U.S. citizens. The arrests and deportation of unauthorized workers consumed a lot of our time in trying to target employers and pursue this approach.

The current administration has shifted gears. They have focused on a civil fined approach, really kind of adopting an IRS-type model. Under this approach, more companies are subject to audits, about 4,000; and the general awareness of immigration compliance has increased significantly.

But this approach is also imperfect. The median cost as a penalty against a business is very small, under \$11,000 per company in fiscal year 2012. And the total civil fines for fiscal year 2011 were about 10 million (dollars). On occasion, the focus on civil audits has led to some perverse consequences. Some employers with no unauthorized workers at all were fined, while others that had a very high percentage of unauthorized workers didn't even receive a warning notice.

Under this new approach, the government essentially ignored the illegal workers, allowing them to stay and work in the United States. While some employers take the civil fine system very seriously, for others it's just a rounding error in their accounting systems.

To address the problem of unauthorized workers more successfully, new legislation shouldn't rely on what we've just done in the past. We've got to look anew at how we can stop illegal employment, and legislation should shift the burden from employers to the government and provide employers with clear guidance on who is work-authorized and who is not.

Of course, E-Verify should be made mandatory for all employees, but we shouldn't stop there. Although E-Verify has improved significantly in the past few years, gaps in the current program have still shifted much of the burden to employers. They become de-facto document detectives. And conscientious employers are effectively faced with a silent tax to pay for immigration compliance services, diverting money that would be far better spent hiring new employees.

More generally, if successful, reform must also think about the systemic problems that got us into this situation. For too long our agencies have been under-equipped to fight the challenge.

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We haven't had enough people, resources or technology.

We've also had inefficiencies in the removal system. An average case takes over two years to get through the courts in California. And we also have not addressed things regarding fundamental fairness, including protecting the rights of unaccompanied aliens and those with mental competency issues that may need counsel in order to pursue a fair treatment in immigration courts.

I appreciate the committee's interest in these issues and look forward to working with you.

REP. GOODLATTE: Thank you, Ms. Wood. Mr. Crane, welcome.

CHRIS CRANE: Thank you, sir. Good afternoon, Chairman and members of the committee.

In 2009, I reported supervisor misconduct directly to DHS Secretary Janet Napolitano and ICE Director John Morton. Almost immediately after I filed that report I applied for a promotion. ICE managers retaliated for my earlier reports to Napolitano by claiming that I had lied about my military training on my . The investigation that followed required that I provide military documents to prove that I had not lied on my resume. I provided the documents and I was cleared of all charges.

So as an officer who had already been through stringent background investigations, ICE and DHS still investigated me and still made me provide documentation to substantiate claims I had made on my resume. But as ICE agents go into jails every day and encounter illegal aliens arrested by local police, agents are under orders from DHS and ICE, the same DHS and ICE that investigated me, to simply take the word of the illegal alien that he graduated from college or high school or that he has a GED, and without investigation, without requiring the alien to provide a diploma or a transcript, the alien will simply be released under DACA without first proving he even qualifies for it.

Since ICE doesn't investigate these claims or require proof from the alien, is it any big surprise that many ICE agents report that everyone they encounter in jails claims that they are somehow qualified under DACA and that most are released because ICE agents are powerless to make the aliens prove they actually qualify? One agent recently told me a story of how he overheard one alien coaching another on how to get released by lying to ICE agents about having status under DACA.

Is this our answer, our big immigration reform, to make law enforcement a joke and let everyone lie to us and then release them? ICE Director John Morton, DHS Secretary Janet Napolitano, as leaders of law enforcement agencies, should be demanding that this stop and that the agency get back to sound law enforcement principles. But they won't, because this is not about effective law enforcement; it's not about fixing our immigration system. Clearly letting people lie to us and then allowing them to remain the U.S. based on those lies doesn't fix the system. This is about politics.

We currently have 11 (million) to 20 million illegal aliens in the United States. They got here one of two ways. They entered the United States illegally -- (audio break). So what is ICE doing about these overstays and illegal entries, as both lie at the very heart of our broken immigration system?

ICE has essentially prohibited its agents from enforcing these laws. ICE agents can't arrest aliens solely because they entered the United States illegally or because they overstayed their visas. It's basically not illegal anymore, generally speaking, not unless the alien has been convicted of a criminal offense.

Messaging is critical to any effort aimed at curbing illegal immigration. So what message do ICE practices send to the world? The message is: We don't enforce our laws. Come on over. And if you do get caught, lie to us. Lie about the day and year you entered, lie about going to high school. You won't be required to prove anything.

While there is certainly much more to be said on these and other issues, in closing I would like to provide a few bullet points on the state of ICE as an agency. Internally the agency, in my opinion, is falling apart. Morale is at an all-time low, according to recent federal surveys. The agency refuses to train their officers on these new policies,

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resulting in mass confusion and frustration. Everybody is doing something different. Nobody really knows what's going on.

As our officers are investigated by ICE for enforcing U.S. immigration law as they see other officers threatened with suspensions for making lawful arrests, increasingly officers feel that they have become the enemy of this administration, which certainly is not a healthy sign for any law enforcement organization.

That concludes my testimony. Thank you.

REP. GOODLATTE: Thank you, Mr. Crane, for that compelling testimony.

Ms. Vaughan, we're glad to have your testimony.

JESSICA VAUGHAN: Thank you for the opportunity to speak today on the enforcement of laws against illegal immigration. My remarks are going to focus on the extent of immigration law enforcement today and also on enforcement in the workplace.

There is no more important responsibility of our federal government than to secure our borders, and this includes enforcing laws against illegal immigration, which imposes enormous economic, fiscal and security burdens on American communities. In addition to displacing Americans and legal immigrants from jobs and depressing their wages, illegal immigration costs taxpayers about \$10 billion a year at the federal level and even more at the state and local level.

So every dollar invested in border security and immigration enforcement has both a public safety benefit and a fiscal benefit. We don't know exactly how much the federal government spends on immigration enforcement. DHS and its predecessor INS have never tracked immigration enforcement separately from the other responsibilities. We do know that in 2012 DHS received about \$20 million to fund CBP, ICE and US-VISIT. This allocation is about half of the amount that is spent on all other nonmilitary federal law enforcement activities, but only a small share of the \$20 million was spent on immigration law enforcement.

Much of what CBP and ICE do is customs enforcement, and many of the ports and field offices, most of what they do is customs related, whether it's cargo inspections or admission of visitors. So it's difficult to analyze how much immigration law enforcement is occurring simply by looking at what we spend on the agencies that perform that function. And I'd like to just touch on some of the other metrics.

The Border Patrol has traditionally used the volume of southwest border apprehensions as a key indicator. It's interesting; for a while we did see a sustained climb in the number of southwest border apprehensions, which some have held as a proxy for the number of illegal crossing attempts. But if that is the case, then we have reason for concern again. According to statistics just released by CBP, last year southwest border apprehensions went up by 9 percent.

For ICE we can look at prosecutions to gauge the volume of their work. Here again, according to various federal sources, after years of increases the numbers of immigration court filings have declined 25 percent since last year and 30 percent since 2009. The main metric used by the Obama administration to measure enforcement activity is the number of deportations, but as the president has said, these numbers are deceptive.

First of all, it's not clear that 400,000 is actually a record since the methodology has changed so much over the years. And it must be noted that the truly dramatic recent increases actually occurred between 2005 and 2009. Since then the numbers have flattened out noticeably and ICE arrests, as opposed to deportations, have been declining since 2008. When it comes right down to it, though, the only metric that really counts is not how many are coming and going but how many are actually staying. And according to our research, that number has remained stubbornly high.

In my view, one reason for that is because one key type of immigration law enforcement has been conspicuously lacking, and that is workplace enforcement. In 1986, workplace enforcement was a key part of the grand bargain of

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IRCA. The American people were promised that after the amnesty, future -- (audio break). Instead, it deliberately created a system that was built to fail. Many blamed Congress but executive branch officials were equally complicit. The regulations and policies they established essentially sand-bagged the enforcement process from the beginning in favor of the unscrupulous employers who hired illegal aliens.

The result was that employers failed to take the sanctions seriously and were able to absorb any meager penalties as a cost of doing business. Under the Clinton administration it got worse. The number of special agents in the Investigations Division was cut from 750 to about 500. By 2004, worksite enforcement actions dropped from few to almost none. That year only three employers were fined over the entire year in the entire country.

Finally Congress stepped in to provide an infusion of funding to revive the program and activity gradually increased over the next several years, peaking in 2008. It didn't last long. Soon after President Obama took office, new policies were adopted and worksite enforcement went the way of fugitive operations and local partnerships.

New policies focused on conducting paperwork audits of more companies, while deliberately avoiding contact with the illegal worker.

By almost every measure -- arrests, indictments, convictions and investigative hours -- worksite enforcement for substantive violations of the law have dropped dramatically. The number of audits and fines have gone up a lot, but most of these sanctions are for paperwork violations to the extent we can tell, because little information is actually released by ICE.

By failing to rigorously enforce the laws against hiring illegal aliens, the Obama administration, like others before it, is tacitly encouraging more illegal immigration that displaces U.S. workers, causes their wages to decline and erodes their quality of life.

Judging by their record, we can expect a similar result if lawmakers sign on to another so-called comprehensive immigration reform plan that gives amnesty first in exchange for promises of enforcement that will not be kept.

REP. BACHUS: Thank you.

Mr. Chishti.

MUZAFFAR CHISHTI: Thank you so much, Mr. Chairman and other members of the committee who are with us this afternoon.

I'll do my testimony in two parts -- first about immigration enforcement -- (inaudible) -- policy (ensued ?) recently issued a comprehensive report on immigration enforcement in the United States. I would urge that this be admitted into the record.

REP. BACHUS: Without objection.

MR. CHISHTI: Based on that report, by almost any metric that's publicly available, from staffing all the way to apprehensions and work-site enforcement, the level of immigration enforcement in the United States now stands at a record high. Nearly \$18 billion were spent in fiscal 2012 in the federal government's two main immigration enforcement agencies, ICE and CBP, and the US-VISIT program.

It's exactly 17.9 billion (dollars), which is 24 percent greater than the combined fiscal 2012 budgets for all other principal criminal federal law enforcement agencies, from the FBI, DEA, ATF, Secret Service and U.S. Marshals.

This major resource -- (inaudible) -- have led to notable -- (inaudible). Most significantly, Mr. Chairman, Border Patrol apprehensions fell by 78 percent between fiscal 2000 and 2012. That's 1.6 million to 365,000 people.

There has been dramatic increase in the number of non-citizens deported from the United States. DHS removed just under 392,000 people in 2011, more than double the number carried out by the INS in fiscal 2002. Since 1990,

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more than 4.4 million non-citizens have been deported from the United States; 42 percent of this, which is 1.9 million, of these have occurred since 2008.

Increased deportation has been accompanied by a parallel trend in increased prosecutions for criminal immigration offenses, and these are mostly illegal entries and illegal re-entry. Today immigration prosecutions make up more than half of all federal criminal prosecutions initiated.

CBP alone refers today more cases for prosecution than the FBI. And CBP and ICE together refer more cases for prosecution than all Department of Justice law enforcement agencies combined. The number of employers enrolled in the E-Verify program has gone up from 6,000 in 2005 to more than 353,000 today.

Finally, an equally important yet less visible change has been the development of new technology in databases that link immigration enforcement agencies' programs and systems. The system, called IDENT, administered by US-VISIT, has now become the world's largest biometric law enforcement database. It contains more than 148 million individuals' fingerprint records. It grows at 10 million new entries per year and reflects more than 2 billion individual entry -- (inaudible). The new database and the interoperability have been critical in the government's enforcement mission.

Quickly, let me turn to three key weaknesses associated with the Immigration Reform and Control Act the last time Congress dealt with comprehensive immigration reform. A key drawback of IRCA's legalization component was the law disqualified those who had arrived in the U.S. after January 1st, 1982, and did not provide an opportunity for immediate family members of the newly legalized population to obtain status.

This combination left a large number of people in mixed-status families and created the nucleus of the sizable post-1986 unauthorized population. For any new legalization program to be successful, Mr. Chairman, it should be as inclusive as possible. The law should not disqualify large sections of unauthorized population, as doing so both invites fraud and fails to address the full scope of the problem.

IRCA's ultimate failure was its narrow focus. The law did not anticipate or make provisions for future labor needs, especially in the low-skill labor market. And mechanisms for including flexibility in establishing the types and numbers of admissions for future flows does not exist.

To meet that need, we have recommended the creation of a provisional worker program which sort of bridges temporary and permanent immigration, and the creation of a select commission on immigration, which would set the level of people we need on a regular basis.

Lastly, IRCA failed to have a good defensible implementation program for -- at the worksite. In the absence of reliable mechanisms, employers -- (inaudible) -- documents presented by worker were frequently fraudulent. The development of E-Verify, along with declines in the system error rate I think provides us today a real opportunity of improving E-Verify.

But for us to make it mandatory, I think, is a big step. Today only 350,000 employers are currently enrolled in E-Verify. That covers only a small percentage of the nation's 7 million employers and more than 140 million workers. Extending it to all workplaces should be done in stages to assure that it's not unduly burdensome to employers and provides protection to lawful workers.

In conclusion, Mr. Chairman, the nation -- (audio interference) -- policy that has been advanced by many inside and outside the Congress as a condition for looking at larger reform has de facto become the nation's dominant immigration policy. Important as this enforcement is, enforcement alone is not sufficient to answer the broad challenges for both legal -- (audio interference).

I look forward to answering these challenges -- (inaudible) -- effective enforcement, but also enforceable laws that is -- (inaudible) -- immigration policy, the nation's economic and labor market needs, and future growth.

Thank you for allowing me to testify. I am willing to answer any questions.

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REP. BACHUS: Thank you.

Ms. Wood, I think your testimony -- could I summarize part of it? -- is that our enforcement mechanism is failing?

MS. WOOD: Yes. I think that we have not -- we've not done all we need to do. And I think the long period of inconsistent enforcement has caused people to build -- who are here illegally to build up very sympathetic equities and put us in a bad position. So if we're going to do this again, we've got to get enforcement right, and get it right from the get-go. Otherwise we'll be in the same position.

REP. BACHUS: You know, I've talked to people in the construction issue that have bid against companies that were using companies that were hiring large numbers of illegal workers, and sometimes bidding jobs for a half-million dollars less because of their savings on their wages alone. And, of course, that undermines what our own citizens who work in the trades can make.

And you mentioned \$10,000 as a fine. And I can tell you that I actually saw that about two years ago in Alabama. A firm that had a several-million-dollar construction contract was -- about a third of their employees were illegal, and they were fined \$10,000, although the profit from that job was probably close to a million dollars. So that obviously -- so many of the fines are sort of a slap on the wrist and just a part of doing business. Would that be a correct --

MS. WOOD: You know, I think that's the case. I think what the civil fines have done is broadened awareness. And so I think early on in the administration, you know, we did see increased awareness from companies across a broad spectrum of industries. And construction, you know, historically has had a lot of problems in this area.

But I think now, as a number of employers have gone through the audit process and end up with very low fines, they think, well, gee, it's just easier to keep going as is, versus getting on to E-Verify, paying attention, fully training our workers, and so on.

So, you know -- but I do think shifting the burden back to the government would make a big difference, because you're asking these document clerks, who are often earning \$10 or \$11 an hour, to, you know, look at, does this driver's license, the Social Security card, look good? It went through E-Verify OK, but do I think it's good? That's -- you know, that's a lot to ask. And the government should be doing this versus the employer.

REP. BACHUS: I see where one of the reasons that ICE -- (inaudible) -- work-site enforcement efforts under your leadership, to give the American people the confidence the enforcement component of any proposed comprehensive immigration reform would, in fact, be implemented.

What can Congress do to best assure that that continue or that that is the case?

MS. WOOD: So that we have confidence in our enforcement system? I think to look at our system overall and see kind of how is it funded.

Is it funded appropriately? Do we have the tools and technology we need, not only at the border but in the interior? You know, do -- things like an exit system -- you know, things like that. What are we doing to make sure that we have the tools that we need?

ICE has about 7,000 agents, so that's fewer than in many city police departments. And so I, with all respect to the great work done with NPI, we have a huge, huge -- ICE has a huge, huge task. And so you know, how can we give them the tools that we need?

And then I think looking at are there inefficiencies in the removal system. It shouldn't take two years to get, you know, a hearing date in California to determine whether or not I'm in the country illegally. You know, the system should move more quickly. There are things that we can do, including, you know, potentially expanding the use of voluntary returns, expanding the use of expedite or removal in other cases. You know, I think it would also make a difference and, you know, build confidence.

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REP. BACHUS: All right.

Mr. Crane, that -- your testimony was fascinating, and part of it was that you've actually been given instructions. And you're a member of -- you're a representative of an enforcement officers union. And is that a widespread practice for them to verbally tell you just to assume that everyone has a high school diploma or qualifies to be here?

MR. CRANE: Yes, sir. I mean, to some degree, especially -- and I've testified about this before over the last four years -- it's been a day-to-day roller coaster for us about who we can and cannot arrest. And for the most part those instructions do come verbally because they know that what they're doing isn't right and they don't want the American public to know what they're doing.

REP. BACHUS: And those instructions are basically don't make arrests.

MR. CRANE: Absolutely. And you know, a lot of people don't know this but ICE agents -- at least in the group that I work with that handle the immigration issues -- we're not allowed to go out and make arrests on the street. If I'm on duty and I walk into a restaurant or something and I see an immigration violation in front of me, I can't do anything about that. If I do I'll be disciplined for it, and I'll be disciplined for it again until I lose my job. And that's how it works.

And people don't understand that if we're ever going to fix this immigration problem we have to empower these officers to do their jobs. It's all about politics. They don't want something to be in the newspapers.

REP. BACHUS: Tell me a little about your law suit again that -- the basis of the law suit that you and other ICE agents filed against Homeland Security in the federal district court in Texas.

MR. CRANE: Well, just basically it's a lawsuit that says the federal government won't let us do our jobs. They won't let us enforce the laws that are on the books, and they've put us in this -- you know, between a rock and a hard spot, basically, to where we can either enforce the law and be disciplined and lose our jobs or we can ignore the law.

So we tried to work with the administration on this. We tried to work with the folks up at ICE and DHS and they wouldn't work with us and we had no other choice but to file a lawsuit.

REP. BACHUS: OK. Thank you. Ms. Lofgren?

REPRESENTATIVE ZOE LOFGREN (D-CA): Thanks to this panel.

I agree that the workplace fines ought to be increased after we reform the law so it works. And I think -- it's been stated that people who cheat, you know, end up getting an advantage over people who don't cheat, and that's not right. So I think that is something that we ought to come together to solve on a bipartisan basis.

I would note, however, that the amount of fines are way up. Ten million (dollars) may not be a lot, but in 2006 the amount of fines was zero, so it's better than it was and needs to be improved.

I am also interested, Mr. Chishti, on -- your institute has done scholarly work on that -- on this whole issue, and that's -- it's hard to get information that isn't politicized in a way because you just have the numbers. And one of the questions that we've had here today is why didn't the IRCA work, and I think the assumption is that it was lack of enforcement. And in fact sometimes enforcement was lacking, but that's not currently something we're seeing. And many of us thing part of the problem, just as Dr. Lan (sp) said, was that we didn't have any way for people who wanted to legitimately work to come in. I mean, people say get to the back of the line -- there is no line to get into. And so that I think is one of the major defects.

Some say, however, that the H2A program was in and of itself sufficient to deal with all the future flow issues. Do you think that's correct?



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MR. CHISHTI: I cut my teeth on the 1986 law and I know for sure that no one that I know of thought that the H2A program or the Replenishment Agricultural Worker program that was going to follow it was supposed to be the comprehensive response to our future labor market needs. That was confined to the needs of the agricultural sector.

And as you know further, Congresswoman, not a single person was admitted under the RAWs program.

The real weakness of IRCA was it was too narrow. It just focused on the issues of illegal immigration. And we were in a bit of a recession at the time in '86, but soon after IRCA was signed by President Reagan, there was a post-recession period where there was significant demand for all sectors of employment in the United States, and there were no legal channels for people to come.

But the supply and demand matched post-1986, but instead of using legal channels, the workers that we needed here were increasingly using illegal channels to meet the demand, and that's precisely the nucleus of our present 11 million unauthorized population.

REP. LOFGREN: So now we have a mess on our hands, and the question is, I really think, how do we clean up the mess we've found ourselves in and then create a system so no future mess is created for some future Congress to have to deal with. And I think that's the challenge that we face.

Part of that is how we treat employment immigration. I think there's broad agreement that somebody who has just gotten their Ph.D. in electrical engineering is going to go out and create companies and the like, but there are plenty of parts of the employment sector where we know, because there have been tests because of enforcement, that Americans are not lining up to do the work. I mean, for example -- I mean, the easiest example is migrant farm working. I mean, when you do enforcement actions farmers end up plowing over their fields.

We -- I think what we've learned is that after IRCA was enacted with its reliance on employer sanctions, there were evasive tactics taken. For example, employers created so-called contract employers or they used labor contractors or other middlemen.

Do you have advice for us as we craft future flow requirements to avoid -- you know, tricks to avoid employers going to those evasions so that we have a system that works for America and that is enforceable and will not lead to evasion?

MR. CHISHTI: Thank you so much. And I think these are also the kinds of questions that we saw on the first panel today -- Congressman Labrador's point about what did we do wrong in '86 and why can't we be in the same place. I mean, part of the reason is exactly the response to your question, is that we didn't have laws that match reality. And we know one thing about lawmaking -- if you have laws that do not correspond to reality, they do not work.

We enacted laws in '86 to clean up the slate. We thought about the people who wanted to be legalized, but we created no mechanism for future flows. We created an employment verification system but put huge amount of loopholes in it, including the loopholes that the congresswoman just talked about, where people, employers were able to circumvent the requirement to verify by hiring contractors, contract workers, by hiring, you know, people off the books.

Now, if we go -- if we're going to tackle the same problem this year we have to learn from 1986. First we have to build robust new streams of people to come exactly to meet the real labor market needs of the United States, which I think, you know, is throughout the whole spectrum of our occupations, not just high end to the low end. And they should be measured on the basis of real labor market needs and America's need for economic growth.

On the E-Verify, clearly there are good employers and bad employers. The good employers are following E-Verify. The bad employers, I would suggest to you, Congresswoman, are exactly the same who violated the sanctions law and are also the ones who violate our tax laws, who violate our labor protections laws. The important thing is to go

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after those employers. And one of the things I would recommend is that you build certain amount of labor protections into your next round of legislation.

It has sort of been the stepchild of this debate so far, about labor protections, and I would suggest that we -- the least we have to do is that an employer should not be able to invoke the defense of employer sanctions when they are violating labor laws of the country. We all know the Supreme Court issued a major decision on that case -- (inaudible) -- whereby undocumented workers were not found eligible for back pay. All that does is it provides incentive for employers to hire undocumented workers. That kind of incentive has to be taken away in our legal mechanism, and I would say Congress should legislatively try to remedy (and ensure that ?).

REP. GOODLATTE: Thank you. Mr. King?

REP. KING: Thank you, Mr. Chairman. I thank the witnesses for your testimony. It raises a series of questions for me. And listening to Mr. Chishti and your testimony, I'm curious if -- you talked about the violation of our tax laws and our labor laws, and I'm curious if you believe that employers should be able to deduct the -- as a business expense -- wages and benefits that they pay to people that cannot lawfully work in the United States.

MR. CHISHTI: Well, I think with respect to taxation all laws should be uniformly applied. If they are -- if they are hiring people -- whether they are hiring unauthorized or whether they are hiring people who are lawfully here, they should be subjected to the same tax regime --

REP. KING: OK, so if it's the same tax regime -- if --

MR. CHISHTI: Because then -- because then otherwise all you are doing, Congressman, is creating incentive to hire unauthorized.

REP. KING: So if Congress should clarify current law, that it's unlawful to knowingly and willfully hire people that can't lawfully work in the United States and that those expenses paid as wages and benefits would not be deductible -- if we did that and brought the IRS into this equation to help enforce the rule of law, wouldn't that be constructive even to your testimony?

MR. CHISHTI: If it does not create a further incentive for employers to hire unauthorized people, I think we should look at those also.

REP. KING: And if we gave the employers a safe harbor, if they used E-Verify, then we wouldn't have it mandatory, as I think you suggested we should not, that would allow it to be voluntary, and the employer could determine whether he wanted to take the IRS risk, could he not?

MR. CHISHTI: Yes -- Congressman, yeah, I -- sorry --

REP. KING: Want to give you an opportunity to examine -- examine this more thoroughly and -- but I imagine you will now at this point.

And I wanted to point -- or to ask the question, Mr. Crane -- and that being -- I just -- I listened to the gentlelady from California, should they have to reform the law so that it works? And that causes me to ask you this question: If we had enforced the laws that exist, would it work?

MR. CRANE: You're actually kind of reading my mind right now. I was sitting here pondering that idea, that I don't think we really even know that the laws that we have on the books right now weren't good laws; we just never enforced them. Until we decide that we're going to enforce whatever laws we have or make in the future, it's never going to work.

REP. KING: Thank you. And Ms. Wood, welcome back. Appreciate your testimony. And I heard Mr. Chishti talk about accumulated data of millions of people who were deported. When you hear that testimony, do you think of people that were -- that left the United States and -- actually left the United States, or were they just adjudicated for

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deportation? Do you break down that data in your mind as to what really happens with the population that he referenced in his testimony?

MS. WOOD: The -- well, I can't speak specifically to the numbers he provided in his testimony, but a big problem is a lot of times people are deported and they don't go home. And so the number of absconders, you know -- as you know -- went up to over 500,000, you know, in 2006. And the question is, are we then looking for those individuals? Are we arresting them and are we ordering them to leave the country -- on some cases, they may have very substantial equities, so they may be very sad stories -- or are we telling those people, now they have a path? And I think that's where I can't break down his numbers to address which situation is involved there.

REP. KING: But we might hear the term "deportation" and think of it in terms of it's always a -- something that's physically forced, when it access it is -- when actually, it's an adjudication process that might not cause a person to go anywhere except outside the courtroom. Is that true?

MS. WOOD: Yeah. I mean, someone can be ordered, deported and then stay in the United States, yes. And I just -- I don't know from his statistics which he's talking about.

REP. KING: I just remembered -- and I'd like to go back to you on this, but I'm -- I've gotten my curiosity answered on that -- and I just recall some data at one of the ports of entry where we asked him to go back and run the fingerprint data, to see. And there was one individual that had re-entered -- had re-entered 27 times back into the United States. So it isn't always a situation that something gets solved here either.

MS. WOOD: That's exactly right. And you know, sometimes the border patrol would deport, you know, somebody, or apprehend somebody 10 or 11 times in one night, right? And that would all count towards apprehensions. And so a lot of the numbers and statistics that the agencies use, you have to take that into account.

REP. KING: It might be more frustrating to be a Border Patrol agent than an ICE agent, then, rhetorically?

MS. WOOD: Well, I don't know -- I don't know about that. ICE agents have an incredibly hard job.

REP. KING: (Chuckles.) I agree, and I appreciate the work of our all agents. But I wanted to turn, in the seconds I have left, to Ms. Vaughan, and ask you that -- we have an E-Verify program now, and a proposal to make it permanent, that would not allow an employer to use E-Verify to check their current or legacy employees. And would you care to comment on that philosophy? Mine is, I think that employers should be able to at least voluntarily use E-Verify to verify their current employees as well as new hires, and I believe they also should be able to use E-Verify on prospective hires with a legitimate job offer.

MS. VAUGHAN: From what I've heard about a -- from a number of employers who are interested in using E-Verify, they would very much like -- especially staffing agencies; they say that, you know, it creates some difficulties for them to not be able to be sure if they can send someone out to a workplace while waiting for the E-Verify process to play out. So they would like to be able to use it prospectively.

And I think, yes, ultimately we should build a system that -- you know, it's phased in so that at some point employers are able to go through their entire payroll and vet all their existing employees. But there is already a system in place that allows them to do that, and that's SSNVS. A number of government agencies around the country have mandated use of that program. And they've frankly been quite surprised at what they've found, of the number of people already on the payroll who shouldn't be.

REP. KING: Appreciate you putting that into the record. Mr. Chairman, I yield back.

REP. GOODLATTE: Thank you, Mr. King. Ms. Jackson? Sheila -- wait -- Sheila Jackson Lee. (Chuckles.)

REPRESENTATIVE SHEILA JACKSON LEE (D-TX): Thank you very much, Mr. Chairman. First of all, I want to thank Mr. Crane for his service, and I want to thank also all of you for being here today. And I want to again ask the

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chairman if I might put into the record the entire article "Janet Napolitano, DHS Secretary, Touts Immigration Enforcement at Mexican Border" --

REP. GOODLATTE: Without objection.

REP. LEE: And again, those numbers indicate 356,873 apprehensions on the Mexican border in 2012, up 9 (percent) -- almost 9 percent. Thank you, Chairman, for that.

I just wanted to hear from Mr. Crane -- I did not hear -- you said you had to sue the federal government for what reason?

MR. CRANE: I'm sorry, ma'am; I didn't hear what you said.

REP. LEE: You had to sue the federal government for what reason? I'm sorry.

MR. CRANE: Essentially because the agency has told us that you can't enforce U.S. immigration law, and if you attempt to enforce that law we will discipline you basically repeatedly until you lose your job, until you're terminated?

REP. LEE: And is that dealing with the deferred adjudication for DREAM Act children? Is that that order that came out?

MR. CRANE: The adjudication for what, Ma'am?

REP. LEE: Did that deal specifically with the deferred adjudication for DREAM Act children? Is that the particular order you're speaking of?

MR. CRANE: We're speaking in the lawsuit about the prosecutorial discretion memorandum as well as DACA.

REP. LEE: And that's a prioritization that you focus more on those who would do us harm -- and deportation -- as opposed to separating families. That was the intent of that order, as I recollect. But that is the order that you speak of, where you were asked to prioritize the deportations?

MR. CRANE: I guess if you want to put it that way -- like I gave in my testimony earlier, we're actually going into jails and applying it to adult males. We don't go to schools. ICE agents can't go to schools. We don't mess with kids. We're going into jails and we're applying this rule, or this new policy, to criminals. And we're taking their word for it and not even requiring them to provide proof that they even qualify for the policy itself.

REP. LEE: If we pass comprehensive immigration reform and we established once and for all the parameters, and it was the law, that would be more helpful to law enforcement such as yourself; is that not correct?

MR. CRANE: I guess in theory it would be, Ma'am. I guess it would -- again, like everyone's testified today, what does comprehensive immigration reform really mean? But --

REP. LEE: It means that you would know the distinction between those who are here in the country legally and those are not -- those who complied had green cards, had status. And so you'd know the difference and you wouldn't have to speculate.

MR. CRANE: Well, I don't speculate, Ma'am. I mean, I'm trained. I know who's here legally and who isn't here legally.

REP. LEE: But you know that, sir, by the laws that the Congress of the United States passed.

MR. CRANE: Yes, Ma'am.

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REP. LEE: Well, if we were to pass a comprehensive immigration reform that included border security, had enforcement aspects delineated so that, as a trained ICE officer, you would know the distinction, that would be better for you?

MR. CRANE: The more distinction that we have under the law is always going to be better for us. But at the same time, we have to have political leaders stay out of our business, essentially, and let us enforce the laws that are on the books, which is what's not happening right now.

REP. LEE: Well, political leaders dictate what the laws are on the books. And I appreciate that. As I said, I'm grateful for your service, work very well with ICE officers and CBP -- ranking member on the Border Security Committee and Homeland Security -- and look forward to working with you extensively.

But my question, again -- and I just need a yes or no -- we have laws on the books that are clear to you as a law enforcement officer and help distinguish between those are here, not to do us harm or families that need to be reunited, and make it clear so you understand the distinction of enforcement and what your laws are that would help you do your job? Is that not correct?

MR. CRANE: If I understand the question correctly, yes, it would, ma'am.

REP. LEE: Thank you.

Mr. Chishti, let me pose a question to you very quickly. I have legislation that introduces something called the Visa -- Family Visa Appeals Board. As you well know, on the enforcement end, when we separate families, we don't give any option other than possibly through the court system as opposed to giving an option for an appeal, where they can actually deliberate, not be deported, provide the facts before they get into court. You've already mentioned that our courts are literally at a stranglehold.

Would a(n) interim visa appeal board on family reunification be a helpful process?

MR. CHISHTI: Well, you know, I think some review of decisions made by administrative agencies is always important. I think right now -- I think most of those cases actually do not go to immigration courts. I don't think that's where the backlog is. I think we probably could do well with a review at an interim level within the agency, which would look at denials of that kind.

I think more important probably -- and this is actually the decision that made -- that are made by consular posts abroad, because we don't right now have any consular which is meaningful -- that's where, I think, the changes in the law also need to take place.

REP. LEE: And that -- the thrust of the board of visa appeals would relate to that process as well, because that's where they're denied.

MR. CHISHTI: I think that would be helpful.

REP. LEE: Thank you very much.

With that, Mr. Chairman, I'd just like to put these facts into the record, please, if I might. I just want to indicate from Texas there are 1,022,000 undocumented workers; 7.2 percent of the workforce of Texas, which is 24 million. They generate 14.5 billion (dollars) in tax revenue from undocumented workers and 77.7 billion (dollars) gross state product of undocumented workers. It indicates that if we work with enforcement and work with a comprehensive approach, we can find ways for these individuals to invest in America and to add to America's growing economy. I think we cannot separate one from the other and we cannot suggest that we must do one more than the other.

REP. BACHUS: All right --

REP. LEE: I thank you, Mr. Chairman.

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REP. BACHUS: -- without objection.

REP. LEE: I yield back. Thank you.

REP. BACHUS: And I think you want to introduce into the record testimony that 7 percent of the workforce in Texas is illegal --

REP. LEE: Yes, sir, the document is "The Effects of Mass Deportation Versus Legalization" --

REP. BACHUS: All right, thank you.

REP. LEE: -- and it's produced by the North American Integration and Development Center, UCLA.

REP. BACHUS: Thank you.

Mr. Labrador.

REP. LEE: I ask unanimous consent. Thank you.

REPRESENTATIVE RAUL LABRADOR (R-ID): Thank you, Mr. Chairman. Thank you, panel, for being here today.

I want to see some immigration reform happen, but I want to make sure that we prevent having the problems that we had with the last immigration reform, and that's my main concern. You know, we spend a lot of time here talking about the 12 million, and that's not the only issue that we're facing. We need to have a robust, modern immigration system that works.

And speaking especially to the people that work in law enforcement, as I've spoken to the ICE agents in my district, they're concerned that any kind of immigration reform will actually lead to more fraud, lead to more document fraud, all those different things.

So I'm a big supporter of E-Verify. I'm a big supporter of making sure that we have a robust, you know, document system.

How can we prevent the fraud in the future if we're going to allow some immigration reform to happen here in Congress? What steps can we take to make sure that we don't have the problems -- and I'll ask all the panelists -- what do you think we can do to make sure that we don't have the document fraud that we had in the past? I still dealt as an immigration -- for the 15 years I was an immigration lawyer, I was dealing with cases that were 20 years old, 25 years old. They were still dealing with the documents that they submitted when they initially applied for -- you know, for the initial amnesty in 1986.

So could you all address that?

MS. WOOD: Well, I think a couple of things could make a big difference. First, you know, a biometric identification -- you know, considering that for all individuals certainly could help reduce, you know, the fraud. Even without that, you could improve E-Verify and really, again, put the burden on the government and not on the government to wade out and review the driver's license and the Social Security card. That could also reduce fraud.

You then --

REP. LABRADOR: Can you stop there? How do you put the burden on the government more than --

MS. WOOD: You put the -- you put the -- right now the burden is on the employer to do the I-9 --

REP. LABRADOR: Correct.

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MS. WOOD: -- and it -- they submit the documents and things through E-Verify. E-Verify can come back -- if I submit my driver's license from Kansas and my Social Security number, it can come back and say I'm work-authorized even if I'm using Chris Crane's, you know, driver's license information and Social Security.

So in certain states, E-Verify now has that information -- not in every state. And so a big problem for employers with high-risk workforces is that people pretend to be other people. And so the burden is on the document clerk --

REP. LABRADOR: Correct.

MS. WOOD: -- to then -- when it comes back employment-authorized, it doesn't really mean that. It means maybe -- the government thinks that, but you, document clerk, you need to look and see, what's the font look like on the Social Security number, you know, does -- on the card. Does that card look bad? Should I -- you know, and so that's a lot of burden that's unfair to do. And so I think improving E-Verify and some of the proposals in Congressman Smith's and other bills, you know, really make a difference, getting rid of the I-9 system and moving to where the government provides a verification.

A second, I think, really critical thing would be, when we move to a mass adjustment or legalization, is making sure for people who commit fraud in the system that ICE has access to that information. You know, one of the big problems in the prior amnesty is --

REP. LABRADOR: Yes.

MS. WOOD: -- as you know, is that the enforcement agents didn't have access to that information. That's a big, big problem. And you want to make sure, as Agent Crane has noted, that -- also that people have to prove things up too so you're not -- you're not, kind of, enabling fraud. So you want to make sure that the verification for people who go through the legalization process is legitimate verification.

And then finally resources. You know, you probably know better than I do how many ICE agents are in Iowa. I used to know Kansas because it was my home state, and it's -- two major alien smuggling routes are in Kansas: I-70, I-35. And we had less than, you know, 20 ICE agents in the whole state. That's a problem. That -- you know, that means they're not going to be effective. So I think looking at, do we have resources we need to prevent fraud to go out and enforce the law?

So those are the four core things I'd focus on.

REP. LABRADOR: Thank you. And it's Idaho, but that's OK. (Laughter.)

MS. WOODS: No, I just -- I don't know --

REP. LABRADOR: No, I'm from Idaho, so -- OK.

MS. WOODS: -- yeah, I -- oh, sorry. I don't -- I don't know your numbers, but --

REP. LABRADOR: OK -- that's OK.

MS. WOODS: Thank you, Congressman.

REP. LABRADOR: Mr. Crane.

MR. CRANE: Yes, sir. Well, the first thing I would say is that, you know, virtually almost probably 90 percent of the illegal aliens we apprehend actually have fraudulent documents with them -- Social Security cards --

REP. LABRADOR: You may want to turn on your microphone.

MR. CRANE: -- phony Social Security cards, phony lawful permanent resident cards, et cetera. They're oftentimes engaged in some type of identity theft to some degree. And we do nothing about it. We stack them up like they're

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decks of cards. We get so many fraud docs, and we do absolutely nothing about it. And the agency won't let us prosecute it 99.9 percent of the time.

I think that one of the things that's absolutely within our power to do here is take something like fraud and identify it as being a lifetime bar, you know, and removal so that everybody knows that if I get caught doing this, if I get caught with fraud docs, I'm going to be removed from the United States -- there's no two ways about it -- and I have a lifetime bar. And as you know as a former immigration attorney, we already have laws like that. And I think it would be extremely effective in our struggle to stop immigration fraud.

REP. LABRADOR: Mr. Chairman, my time has expired. Could the two other witnesses answer the question?

REP. BACHUS: Yes.

REP. LABRADOR: OK. Ms. Vaughan.

REP. BACHUS: Yes.

MS. VAUGHAN: Thank you for addressing this problem. IRCA was called one of the biggest frauds ever perpetrated on the United States government, and I know they're still cleaning up a lot of the fraud from some other amnesty-like programs that were passed in the '90s.

We actually know a fair amount about the benefits fraud that occurs from programs that were built into USCIS -- quality control programs, site verification programs -- benefits frauds assessment, they call it. And they found that there is double-digit fraud in some of our legal immigration programs now. And we have to have a system that has integrity to have the confidence to go forward. And I agree with a lot of what my colleagues on the panel said, but just also add that there needs to be an interview process at a certain point in the system. We can talk about where that best fits in, but we can't have a system that is an honor system, where people are just taken at their word. We can -- and putting the burden of proof on the applicants is important, using technology to verify claims that people make. I agree wholeheartedly that there cannot be a strict confidentiality provision in this.

That's a deal-breaker. And we can't prosecute all of benefits fraud, so we have to have the ability to let an administrative process play out with those cases that are not going to go to a U.S. attorney or be prosecuted by ICE. We have to let USCIS use its authority and tools like administrative removal to make sure that the people who are denied are not allowed to stay here anyway. That is a huge weakness in our benefits programs right now. And these are not small numbers of people that are benefiting from the fact that we tolerate so much fraud in this process.

REP. LABRADOR: Okay, thank you. Mr. Chishti?

MR. CHISHTI: In deference to the little time you have on this, let me just be very brief. I mean, in the report that we published about immigration enforcement, we did identify big gaps, and one of the biggest gaps I think is, frankly, in the verify program about the fraudulent identity issue, that we do not have a mechanism where we can say the person who is front of him or her is the person that the identification document says it is. We need to drastically improve the identification variable. It can be done by metric scanning. It can be done by doing better, more secure documents. And that's high on the agenda.

The lesson from IRCA about fraud was that when you provided incentive for people to commit fraud, they commit fraud, and when you remove the incentive, people behave. I mean, as I said in my oral statement, that one of the drawbacks about IRCA was that we had left the eligibility date about five years earlier than the date of enactment. What does that do? That creates incentive for people to say they were here three years earlier. If we had just made it very inclusive and drawn the line at the date of enactment, that incentive would have gone down. Those are the kind of realities I think we need to keep in mind as we write the next generation of legalization.

REP. GOODLATTE: The time of the gentleman has expired. The gentlewoman from California, Ms. Chu, is recognized for five minutes.



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REP. CHU: Thank you, Mr. Chair.

First I would like to recognize that there are quite a few groups that are very interested in making sure that comprehensive immigration reform happens, and they would like to have their positions submitted into the record. So I ask unanimous consent to submit for the record the position papers of the Asian American Justice Center, the Coalition for Humane Immigrant Rights of Los Angeles, and the Congressional Asian Pacific American Caucus.

REP. GOODLATTE: Without objection, they will be made a part of the record.

REP. CHU: Thank you very much.

Well, I'd like to address a couple of questions to Mr. Chishti. One is on border security and the other is on the exploitation of workers.

First, on border security, I took a congressional bipartisan trip to the border because I wanted to see for myself what was going on down there. And we actually traveled along miles of the border. We looked at tunnels. We looked at the Coast Guard boats. We talked to border security. And we looked at the detention centers. And to my stunned amazement, there was capacity for hundreds but there were only maybe five or six people there that were being detained. And the border security agent said that this had been going on for four months.

And it became apparent to me from that trip that we have poured billions of dollars into immigration enforcement along the border. We spend more money per year on immigration enforcement than all other federal law enforcement agencies combined. The border patrol has nearly doubled the number of its agents from 2004 to 2012. And apprehensions at the border at 2012 were at the lowest in 40 years yet many lawmakers continue to call for achieving operational control of the border, which would mean effectively sealing the border. The GAO and CBP have said that such a standard is unrealistic and outdated.

So at this point, is there even more to do to make the border more secure, or are we really just talking about keeping it secure?

MR. CHISHTI: Again, reflecting on the findings that we made in our report, I think we have done a lot -- much better at the border than we have done in a long time. I think most people recognize that, and the level of staffing, the technology that is being employed, and the declined apprehensions all speaks that.

We did note in our findings that there is one area in the border enforcement that still is a weakness and that is ports of entry, that the ports of entry actually have not kept, in the infrastructure development, at par with the needs of the ports of entry. And I think if you were to focus on improving anything in the border security, then obviously that's one place to look at.

And was there a follow-up question?

REP. CHU: Yes. Well, on another topic, but is that it on border security?

MR. CHISHTI: Yeah.

REP. CHU: Okay. So I also wanted to ask you about the exploitation of workers. Immigrant workers in my district regularly face exploitation at the hands of their employers. They're threatened with deportation when they stand up for their labor rights. For example, day laborers like Jose Diaz (sp), who work to rebuild our nation after a hurricane, and when asked -- when he asked for proper safety equipment he faced a deportation. Or Abe Razu (sp), who was a guest worker under the H-2B program, who bravely exposed the labor trafficking occurring at his workplace. And when he asserted his rights, he was experiencing intimidation, surveillance and monitoring.

And when their employers make them work overtime without pay or save money by not buying them needed safety equipment, this undercuts American workers by driving down wages and allowing firms to break to the law by outbidding their competitors. If unscrupulous employers are getting away with this, then this can of course

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undermine or whole system here. How can we protect workers so that they don't fear standing up against such exploitation?

MR. CHISHTI: Well, as I said I think earlier is that issues of labor protection I think are one of the less looked-at provisions with respect to the immigration debate. I think whatever new regime of labor flows we're going to have, labor protections has to be central to that, both with respect to the protections of U.S. workers and the protections of foreign workers.

In many of our temporary worker programs today, which is why they have gotten the bad name they have, they are lacking in very basic, fundamental protections. Like in the H-2B program you cannot sue an employer. The worst you can do is go to the Department of Labor, which is already highly understaffed to deal with those kind of complaints.

So I would recommend strongly that when you look at any regime of future flows that the labor protections have to be at par with U.S. workers. And the important elements of that, A, is that no matter what kind of program we pick, workers should have the right to move from one employer to the other one. Some people, in the parlance, call it portability because then you're not tied to an abusive employer.

Two is that you should get exactly the same wages, same projections under the labor law that a U.S. worker does. You should have the same access to courts as U.S. workers do. And ultimately you should have the right to become a permanent resident, because otherwise you'll constantly be in an exploitable situation.

REP. CHU: Thank you. I yield back.

REP. GOODLATTE: I thank the gentlewoman. I'm going to recognize myself for a few questions I have. I apologize to the panel for not being here the entire time, but I have a number of questions that I want to ask you. And as I do that, I would ask that you be brief so I can get all of them in.

First of all to you, Ms. Wood, former Immigration and Naturalization Service Commissioner Meissner has stated that prosecutorial discretion should be exercised on a case-by-case basis and should not be used to immunize entire categories of noncitizens from immigration enforcement, which appears to be what is being done with the discretion that the president has given under current circumstances. Do you believe that prosecutorial discretion is properly utilized when it exempts entire classes of individuals from enforcement of the immigration laws, and how did you exercise that discretion when you were director of ICE?

MS. WOOD: You know, I think it's really tough to say that you're exercising true prosecutorial discretion when you exempt whole classes and categories of people. I certainly understand the frustration. A lot of people have been waiting for the immigration laws to change. A lot of equities, a lot of care, but it's not really prosecutorial discretion if you exempt whole classes without going through a case-by-case basis.

When I was at ICE we did use prosecutorial discretion. We did it on a case-by-case basis. It's important, in my view, institutionally, that ICE retained that ability to have prosecutorial discretion because there are some cases that you can't legislate for ahead of time, and so ICE has to have the ability to exercise discretion in appropriate circumstances.

REP. GOODLATTE: In your testimony you state that a number of ICE officers have been put under investigation or are subject to formal chargers for enforcing the immigration laws as written, but apparently in a manner inconsistent with current administration policy.

In fact, the federal judge in your lawsuit, Mr. Crane, has concluded that the plaintiffs face the threat of disciplinary action if they violate the commands of the directive from Secretary Napolitano regarding deferred action by arresting or issuing a notice to appear to a directive-eligible alien.

Could you first explain that, and then ask what has been the department's stated basis for these investigations and charges?

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MR. CRANE: Well, first of all, I'm not certain what you're asking me to explain, sir -- I apologize -- as far as the NTA part goes.

REP. GOODLATTE: Yeah, the basis of the lawsuit that's pending against you.

MR. CRANE: Well, I think you pretty accurately stated the basis of the lawsuit, Mr. Chairman. Our officers are prohibited from enforcing U.S. immigration law under threat of repeated disciplinary actions, up and to including removal if we don't enforce those laws.

I want to be very clear in saying that it's definitely not prosecutorial discretion, most importantly, because we're under orders not to enforce certain laws. Prosecutorial discretion is something completely different. And what's happening right now are clear orders not to enforce the law.

REP. GOODLATTE: And Ms. Vaughan, do you believe that the resources Congress currently gives ICE are sufficient to control the illegal immigration in the interior of the United States if those funds were used with the maximum effectiveness?

MS. VAUGHAN: That's a hard question, because so much of it depends on the second part of your question, the caveat, which is if they were used as efficiently as possible.

I think that the agency could use some more funding for some specific purposes. For example, funding for detention space seems to be an issue, although I would also argue that we could do a better job at streamlining the removal process so people don't need to be in detention as long or perhaps not at all if we make more use of things like expedited removal, stipulated removal, judicial orders of removal. There are lots of -- I mean, many of these cases simply shouldn't be in immigration court at all.

But, yes, I think even if -- they could use an infusion of resources if Congress could be certain that they would be used effectively.

REP. GOODLATTE: And Mr. Chishti, you state in your testimony that the combined budgets of the U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection and U.S. Visit exceed by about one quarter the combined budgets of all other principal law enforcement agencies, federal law enforcement agencies, and that most of the increased immigration funding has gone to the Border Patrol.

Assuming that these figures are fair comparisons, do you believe that Border Patrol manpower should be cut? If so, by how much?

MR. CHISHTI: Mr. Chairman, we don't make any recommendations for cutting anything. We don't make a case that there's too much spending done on border. We don't make a case that too much (staffing ?) is on the border. All we (was presented ?) is how much we have done, a good part by congressional appropriations. And that may reflect why enforcement has been so effective.

I think all we just want to point out is that, given the budgetary realities, that at some point this is not going to be an unlimited expansion of these programs; that Congress and you all will have to make a decision that if there is straight-line cutting on these things, where those cuts will have to take place.

And we would suggest that if they have to take place, they take place in a very strategic way, that you don't cut things where things are working very well, and really look at things where they're not working as well.

REP. GOODLATTE: Well, let me --

MR. CHISHTI: (Inaudible.)

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REP. GOODLATTE: -- do that, with one last question here before we turn to our next member for questioning, and that is this. I don't believe we should cut the funding for border enforcement at all. But I very much believe that we are not doing enough to address the enforcement of the law in the interior of the country.

Forty percent, some say -- maybe a little less, but whatever -- of the people unlawfully here entered legally. And so the border is irrelevant to their status. They came in probably mostly on airplanes and they overstayed their student visas or visitor visas or business visas. And there is not, in my opinion, very much enforcement going on at all in the interior of the country. And I'll ask each of you to tell me how you would solve that, but do it --

MR. CHISHTI: I'll start.

REP. GOODLATTE: -- concisely.

MR. CHISHTI: Exactly. In our report, we actually did identify three areas where there is -- there's a gap in enforcement, and there's a tremendous amount of improvement. Two of those do relate to internal enforcement. One is the E-Verify program. It has been improving, but it has a big drawback about identification issues. That has to be better, because otherwise there'll always be a loophole in that system. We have to do better in terms of biometric scanning or secure documents to improve identification.

Second is that I think the U.S. Visit program, which was given the mandate of both looking at people who enter but also who exit, which is how you would control the presence of overstay, that has been lacking. That hasn't happened. So clearly there has to be much more effort on the overstays in the country.

In fact, I think you're right. We may reach a situation where the number of overstays actually is larger than the number of people who cross illegally, which will be a reversal of the historical trends. And one of the ways to control that is to improve our exit- entry system in the U.S. Visit program.

REP. GOODLATTE: Thank you.

Ms. Vaughan.

MS. VAUGHAN: Yes, I would definitely agree. We need to move forward in finishing the entry-exit system that Congress asked for back in 1996. One key part of that that many don't talk about is the lack of adequate entry screening at the land ports, which, after all, is where most -- the largest number of visitors enter. We need to make sure that land visitors get the same level of screening that visitors who are coming in on airplanes and on boats do.

I think more attention to workplace enforcement would also help address the overstay problem, because, after all, if there's no incentive to stay over your visa, we're not going to have as large of a problem.

Another cost-effective way to get more bang for our immigration enforcement buck is to increase the number of partnerships that ICE has with local law enforcement agencies, because there are many communities around law enforcement agencies and local and state governments that would like to assist ICE in its mission and need the opportunity to do so. And they're willing to put their own resources toward that. And we should be encouraging those partnerships instead of shutting them down, as has been the case recently.

REP. GOODLATTE: Mr. Crane.

MR. CRANE: This --

REP. GOODLATTE: I know you're focused at the border, but what is your perspective on the interior --

MR. CRANE: I am not, sir.

REP. GOODLATTE: -- of the country?

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MR. CRANE: You're right in my ballpark here. I'm an ICE agent on the interior. I work out of Salt Lake City, Utah. This is something very near and dear to my heart.

So just two comments on Ms. Vaughan's comments. I strongly agree with her comments on the work-site enforcement. With regard to the partnerships, we have to be careful about those partnerships, because what's happened in some situations is those partnerships result in sheriff's department not wanting to fulfill all their obligations. And those things fall back on our folks, and that force multiplier quickly dissipates when things like that happen. So those have to be very carefully structured and they have to be carefully monitored and managed.

REP. GOODLATTE: But you don't object to the concept.

MR. CRANE: No, sir, not at all. I think it's great. In fact, what we tried to do in Utah at one point was see if the agency would do the task force type situations where they would have people working directly with our officers and agents as a force multiplier. So we strongly support that.

However, with regard to ICE, we have approximately 20,000 employees at ICE. Of those 20,000, approximately 5,000 are the immigration agents that do the lion's share of the immigration work within 50 states, Puerto Rico, Guam, Saipan. I mean, it's a tremendous workload for those 500 -- for those 5,000 people to be, you know, arresting, taking these folks through proceedings in the immigration courts, and actually removing them each year.

So we definitely need more resources on the interior enforcement part. And when you compare us to the Border Patrol, we really haven't grown since 9/11, whereas the Border Patrol has basically almost tripled since 9/11.

Another interesting fact about those 5,000 ICE agents that do the immigration work, they're actually split into two job positions. Both of them don't have the same arrest authority. We all have the same training, but we don't have the same arrest authority. So there's a quick force multiplier right there. And even that -- you know, if we could make something like that happen even would be a great start to getting more increased interior enforcement.

In addition to that, with those 5,000 people spread out all over the nation, this handful of officers, we've got people working in facilities that have this full immigration arrest authority, and they're not doing immigration enforcement work. Why?

You know, when we only have so many of those resources and they're limited, and we desperately need them, why aren't we using them to be out on the streets or be inside of jails making immigration arrests?

REP. GOODLATTE: Thank you.

Ms. Wood.

MS. WOOD: I would second the points raised by my colleagues on a more effective entry/exit program and enhancing worksite enforcement, but there are two other things I would do with overstay. First, I would increase the number of fugitive operation teams and have them target kind of recent overstay, and so really target those individuals to go out and find them.

The second thing I would do is to make sure that people who enter from visa waiver countries and non-visa-waiver countries are treated the same. So if I come in on vacation from a visa waiver country, I've waived some of my rights for review. If I come in from a non-visa-waiver country, I don't, and I can tie up the immigration court for years fighting my deportation when I stayed over on my vacation. And that makes no sense, so I would really move to kind of streamline and have that be the same in both instances, which I think would be helpful.

REP. GOODLATTE: That's a very good suggestion. Thank you. The chair now recognizes the gentleman from North Carolina, Mr. Holding, for five minutes.

REP. HOLDING: Thank you, Mr. Chairman. I had the very good fortune of being a United States attorney for eastern North Carolina for a number of years. Ms. Wood, you were in the department when I was in the

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department, as well. And eastern North Carolina has one of the fastest-growing illegal immigrant populations in the country. Along with that comes the ever-increasing gang violence, drug crimes, violent crimes that you have when you have a community of people who are under the radar, so to speak.

It's very easy for criminals to hide within that community, gang members to hide within that community, because no one is going to call the local sheriff and say, hey, there's something suspicious going on next door because they're illegal. We had a zero-tolerance policy. We would prosecute every immigration crime that was brought to us. For the most part, those immigration crimes arose in the context of a drug crime or a violent crime, and they just happened to be illegals.

We had very little enforcement of overstays because, as you know, when you're the prosecutor, you can only prosecute the cases that are brought to you, and the problem we ran into is the ICE agents that we had, who were all very dedicated -- they did not have time to do the internal enforcement because they were too busy and they were participating in taskforces, you know, cracking down on drug crimes or, as you say, ferrying people back and forth between our five different courthouses in eastern North Carolina.

At the end of the day, you know, if we are going to enforce our laws, how much of a magnitude increase of resources do you really think it would take to enforce the laws that are on the books right now?

MS. WOOD: Now, are you saying that, first, we would address the 11 million or so that are already here, and we'd start out with kind of zero individuals --

REP. HOLDING: Well, that's a good -- that's the second part of the question. But if we didn't address the 11 million -- we just addressed them with the laws that we have on the books now, I mean, how much resources do you think that would take?

MS. WOOD: Well, you know, there are people who have done the math probably sitting on this panel who can -- you know, if you look at, kind of, our current number of deportations and then the stream -- obviously, you have to look at the stream of, kind of, individuals coming in -- but it would take a lot of years. And I think one of the things -- one of the reasons that I support reforming the system is I have not seen commitment to really fund the agency like it needs to, and because there was not enforcement over such a long period of time, people do have these equities and very kind of sad stories, and it's not a great situation.

So I think, you know, if you could start out being somewhere where people who were able to legalize legalized and then you'd say, now it's zero tolerance; now we really are sending everyone home; now we have enough resources; now we've streamlined -- that, that would make a lot of sense. But I don't know if someone on the panel may have, you know, the math of that, but it's been done a bunch of times on how many additional resources you would need. But it's a lot, and I think you could make some tweaks to the immigration laws which would help, even if you're dealing with the population that's currently here.

REP. HOLDING: But to your point of, if we did do something about the 11 million illegals that are in the country now and started from zero -- do we even have enough resources in place, as is, to enforce the laws going forward if we started from zero?

MS. WOOD: I don't believe that we do. I think that ICE and the Border Patrol are underequipped and that we need to kind of look at resources. They may be more temporary resources because you know there's going to be a large migration of people coming in illegally trying to get kind of, you know, right under the radar so they can adjust, and maybe that would change over time if we had like a strong verification -- employer verification system. Things would change over time.

But I think immediately, you would need to build up the agencies, build up the support at the agencies, all the resources -- the court resources. The fact that you have to wait for two years to get your case heard in some parts of the country is ridiculous, to decide whether or not you're in the country illegally.

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So I think we're underequipped, and then there are too many inefficiencies. And I think legislation could fix a lot of them -- mandating expanded expedited removal. Maybe expanding the use of voluntary returns would also be helpful in reducing the number of cases that kind of come into the system. I think those could all make a big difference.

REP. HOLDING: Thank you very much. I yield back.

REP. GOODLATTE: Mr. DeSantis?

REP. DESANTIS: Thank you, Mr. Chairman. Thank you, witnesses, for your testimony. My first question is for Mr. Crane and Ms. Wood. A lot of this debate is centered around the idea of, obviously, focusing on 11 million people who are not legal and then legalizing them. And then we will provide these enforcement measures. Some people say we should have a trigger before the legality.

And I guess just based on your experience -- I mean, a guy like me, who is considering this stuff -- how much confidence should I have, based on your experience, that the enforcement mechanisms that are promised by people advocating this legislation and by Congress will actually end up coming to fruition because it just seems like, you know, we talk about certain enforcement since '86, and now we're promising certain things?

Obviously, the executive has a certain amount of discretion whether they can enforce the law, so what advice would you give me about whether I should believe that we're going to finally start enforcing the law?

MS. WOOD: Well, I wouldn't be surprised if your confidence level is low, given kind of, you know, the history of problems. But I would say that the opposite of doing something is not that we'll be in a perfect system. The opposite -- you know, waiting around here -- you know, we're not fixing this problem magically now. And so I think that's the compelling reason to look. Can we get a meaningful trigger? Can we do something? Can we try to create a better system?

What we have is, I think, everybody on both sides of the aisle agrees the system is broken, and so we have to see, can we do something that's meaningful? And I think, you know, Congress can make a big difference by having a trigger that's as meaningful as possible and then by putting as much as we can in the law to make things for a better day. But if the law doesn't change, if the law doesn't pass, you know, the next head of ICE is going to come up here and say the system is broken, we don't have enough people, there's still a lot -- you know, problems will continue.

MR. CRANE: It's funny you asked me that question, sir, because I'm actually going to be up here next week, and I intended to come up and ask you folks, how do you put something into our legislation that, you know, will guarantee that we're actually going to be able to enforce the laws? Because I mean, you're talking to somebody right now that we've filed a lawsuit to try to be able to do our job.

So my confidence level right now, at least with the administration, is zero that we're going to be able to do our jobs, now or in the future. So I'm very interested in hearing what congressmen have to say about how do we -- something has to change. Something different has to be done this time.

REP. DESANTIS: Great. Ms. Vaughan, I hear the term, there's 11 million people who are in the country illegally or without documents, depending on which side of the aisle you're on, I guess you could say. But where does that figure come from? How much confidence do you have in it? Is it possible that there is many million more? Is it possible that there is some less?

Just, can you give me a little bit of background on the number? Because I've noticed, since I've been in Congress, that people repeat things over and over again, and it just kind of -- you know, then you just stop questioning it. Oh, yeah, this or that. So can you speak to that?

MS. VAUGHAN: I think there actually is a fair amount of consensus around the number. The number we're using now is 11.5 million. The way our staff demographer, our director of research, Steven Camarota, calculates that is to

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use Census Bureau data to count the number of people who are here and subtract from that -- and adjust for mortality and return migration -- subtract the number of people that we know came here legally because we do have good information on that. And you know, it's basically a very complicated subtraction problem.

And actually, our figures are very close to what the Department of Homeland Security has, and also the Pew Hispanic Center. So we feel very confident that, that's a pretty accurate number. There is no exact count because, you know -- but we have found that most people who are here illegally do fill out a census form, and we do adjust for undercounts as well.

So --

REP. DESANTIS: My final question is just -- I know in '06 when this was debated, think the Congressional Budget Office came out with an estimate that said actually it would be beneficial for the economy to do some type of legalization. Now obviously we have a different social welfare system because we have this new health care law that's going to be kicking in. So what is your organization's position on the costs that this would mean for taxpayers if you went forward with a comprehensive plan that resulted in essentially instant legalization?

MS. VAUGHAN: If we move forward with the kind of comprehensive reform package that's been proposed -- the two different proposals this week, it would be enormously costly because the people who would be legalized are people who have not had full access to our social welfare system, face pretty modest chances of being able to improve their earnings because of their education levels. And so they're not likely to be able to contribute enough in taxes to cover what they would be using in the way of social services.

And we don't have -- we're thinking, you know, tens of billions of dollars a year additional if we were to legalize the entire population, as has been proposed.

REP. DESANTIS: Thank you.

Yield back.

REP. : Thank you.

Ms. Vaughan, I was reading your testimony and it says that ICE, Mr. Crane's agency, had arrested 27,600 gang members in the past eight years. Does that sound about right to you, Mr. Crane?

MR. CRANE: That might be what they have stats on, but I would say that it's probably far higher than that. We have all kinds of folks that we encounter in jails and prisons, and you know, they don't make any admissions of gang affiliations.

REP. : And these are illegal immigrants, I guess. Is that right?

MR. CRANE: Yes, sir.

REP. : So we have 11 million -- 11.5 million immigrants and more than 27,000 have been arrested for being gang members?

MS. VAUGHAN: Yes. Not all of them are illegal immigrants. Some of them are people that we've given green cards to but they're still removable. Some of them are people who have temporary protected status, for example. It is a --

REP. : So, non-citizens, then.

MS. VAUGHAN: Yes.



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REP. : OK. I noticed -- you know, I was doing some calculation and I bumped it up when you went from 11 (million) to 11.5 million. But taking 11.5 million, that's 3.4 percent, 3.5 percent of our population, or maybe -- let's just round it up to 3.5 percent of our population.

Yet the U.S. Sentencing Commission -- this is on page two of your testimony -- 64 percent of the kidnappers convicted in federal court were non-citizens. So you're talking about -- and let's just say that for every illegal immigrant there's a noncitizen that's here legally, although we know that that figure is more -- somewhere closer to 5 (million) or 6 million, I think, right? Maybe 10 (million)?

MS. VAUGHAN: The legal immigrant population is more like -- I think 20-some (million) --

REP. : OK. That's both legal and illegal?

MS. VAUGHAN: No. It's 30-some -- about 35 million combined, noncitizens.

REP. : OK. And that -- now, that's -- but that includes naturalized citizens, does it not? I think that's foreign born --

MS. VAUGHAN: That's foreign-born, I'm sorry.

REP. : Yeah. So you have to take -- you have to back out a third of that.

So just say 3.5 (percent) and 3.5 (percent) -- 7 percent. Now that includes illegal and legal residents who are not -- have not been naturalized citizens.

Yet 31 percent of drug traffickers in federal court are in that 6 percent or 7 percent, which is a pretty high number -- 34 percent of all money laundering cases. You're at 6 percent of the population -- 7 percent, and yet 64 percent of the kidnappers, 34 percent of money laundering, 31 percent of the drug traffickers prosecuted in federal court come from that population.

So when we talk about giving citizenship to 11 million non- resident -- illegal immigrants, we're talking about a lot of people who have been convicted -- not -- I mean, not the majority, not even a large percentage, a minority -- but you're talking about a good number of people that have been -- committed felonies.

Now, Mr. Crane, is that correct? Am I correct there?

MS. VAUGHAN: That's what the U.S. Sentencing Commission has on its website, so I have pretty good confidence in that.

REP. : So -- that's according to U.S. government officials.

I noticed that, Mr. Crane -- this is -- and this is really disturbing and I really empathize with you; I mean, I can't imagine what it's like -- but the two main laws that you're supposed to enforce or -- is people being here illegally or overstaying their visa. But your testimony is that ICE policy is that you can't arrest someone for being here illegally. Is that correct?

MR. CRANE: Yes, sir. And if -- it's pretty clear, if you look at the December 21, 2012 detainer policy that ICE just put out, it specifically says, you know, one, they're illegally in the United States and two, they did one of the following, and it starts going through a laundry list of --

REP. : Serious felonies.

MR. CRANE: Yeah. Felonies, serious misdemeanors. It excludes many other insignificant misdemeanors, which none of us really know what that means. But the bottom line is that, you know, you cannot simply arrest someone, even in a jail, for being a visa overstay or illegal entry unless they have done something -- committed a felony.

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REP. : So the 3 percent that were actually deported according to the administration would have been those 3 percent who committed a felony or committed at least a DUI, leaving the scene of an accident -- not just traffic -- you know, reckless driving doesn't -- you can't convict them for that. You can't convict them of being in an automobile accident and causing injury or -- unless they leave the scene. Is that correct?

MR. CRANE: Well, I would have to check on all the math, sir. But one thing that I've been thinking about as you've had this discussion is that I don't remember what exactly the president put out this year in terms of number of convicted criminals that were part of these numbers that we had this year, but they're extremely high.

MR. : (Off mic.)

MR. CRANE: I'm sorry?

MR. : Close to 50 percent. Yeah.

MR. CRANE: No, I mean an actual number, not a percentage.

MR. : Well, 200,000, last time.

MS. VAUGHAN: It was about 170,000-some thousand.

MR. CRANE: Hundred and seventy thousand-some-odd people. And with the handful of folks like Ms. Myers was testifying -- we have states where we have two ICE agents in the whole state. Do you think we're getting all these jails covered? Absolutely we're not.

And you know, so, I think the numbers of criminals are far higher in general probably than just the really bad offenders that you're citing.

REP. : And I -- in your testimony you cite several examples of ICE agents who have arrested people for misdemeanors or detained illegal immigrants as they came out of a court room, and the ICE agent -- the -- it goes up to the office or the higher-ups and you get an order to dismiss that person and release them. And also you're -- they're disciplined. Right?

MR. CRANE: Yes, sir. I mean, obviously in one of the cases that we had in Delaware, that's exactly what happened. You know, the officer encountered an individual that had -- was driving without a driver's license, had been convicted of that repeatedly, was getting in a vehicle in their presence getting ready to do it again. They said, hey, this guy's a public threat, we're at least going to take him down to the office and issue an NTA, at which time, you know, the officer was told, no, you will not issue an NTA; you'll just release him. And when he attempted to issue the NTA he was -- they were -- he was given a proposed suspension of three days.

REP. : And I notice that he was also told that if he received a second offense he would lose his job.

MR. CRANE: Well, I don't know, sir, that he was told that --

REP. : He was likely --

MR. CRANE: Yeah. That's standard procedure, that once you commit an offense and they basically, you know, say that you did it and issue a suspension, the next time you do it you're going to have either, you know, a higher suspension or removal. You're only going to get two or three shots at that and you're going to lose your job.

REP. : And that agent had been with the ICE for 18 years and was a five-year military veteran.

MR. CRANE: He was actually I believe 11 years at the U.S. Border Patrol and came over to the ICE for his total of 18 years of federal law enforcement experience. So he's definitely a vet on the immigration side, as well as the five years of military service, yes.

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REP. : All right. Thank you.

I would ask every member to please read this testimony and -- I'm sorry. Mr. -- I'm going to yield to the chairman.

REP. GOODLATTE: I thank the gentleman. And I can -- I can work from here. I want to ask all the panelists one last question. I want to thank you for your great contribution. We've talked about what happened in 1986. We've talked about the problems that we're experiencing right now in getting clear guidance from the administration about enforcing the law -- or we're getting clear guidance that, in many instances, we're not allowed to enforce the existing laws. And I know that frustrates a great many American people. So if we were to do so-called comprehensive immigration reform, we're going to have to address this component of it. We did it in 1986. It was not enforced with regard to the employer sanctions, at least not in a significant, comprehensive way. And so I think a lot of people would say, fool me once, shame on you; fool me twice, shame on me.

Why should this committee, why should this Congress pass comprehensive immigration reform without having the assurance that somehow these laws will be enforced? And what would that assurance be, that we could write into the law, that we would know that it wouldn't be in the hands of one individual to decide to suspend an area of enforcement of the law, as is being challenged by the lawsuit of Mr. Crane and his associates -- and I commend them for doing that. What could we put into this law that would give comfort to American citizens that if we attempt to solve this problem this time it will indeed be mostly if not completely solved?

And we'll start with you, Ms. Wood.

MS. WOOD: I get the -- I get the easy question at the end? (Chuckles.)

REP. GOODLATTE: You -- all of you are going to get this question. (Chuckles.)

MS. WOOD: I mean, I think Congress should attempt this because it's the right thing to do, because our system has been broken for far too long and we're not -- we're kind of not managing it. And I think we need -- we need almost a kind of reset where we are, to move forward in a productive enforcement manner.

What I would suggest is to look honestly at what the agencies need to be equipped in terms to really -- to really enforce, so that on day one, when the first person comes in the country and overstays the visa one day late, or is not eligible for adjustment -- day one, we're able to identify that person and send the person home. And so I think that means resources, in terms of manpower, for all the agencies; I think that means technology, a better employer verification system, better entry/exit, you know, better technology -- and then look and say, you know, can we do it? With 17,000 kind of people of ICE and a -- and a problem of 11 million individuals illegally in the country, I'll tell you, we can't do it, right? ICE -- the numbers just don't stack up. So how can we make the numbers actually work? And maybe that would mean kind of, you know, an intent -- a surge, a border surge kind of for an initial time on the resources, and then it could kind of peter out as we move forward.

And then I think we need to look at the inefficiencies in our system. There are -- you know, it's ridiculous that people can tie up court hearings for years and years and years just to determine whether or not they're in the country illegally, right? You know, so we need to see, can we make systems move through the court more quickly, expand expedited removal, voluntary returns and things of that nature?

And then finally, I think we should look at, you know, the fundamental fairness of our system. I think part of the problem we have now is that people feel, rightly or wrongly, that our system is unfair to them, because they've built up equities or, you know, they were -- they came here when they were 2 or something else. And so how is our system fair? Are we treating everyone fairly? And you know, I think that would be something that we -- (inaudible) -

REP. GOODLATTE: OK, but what I'm really getting at is I don't like a system where one individual can say -- the president of the United States can say, we're not going to force -- (inaudible) -- law. And maybe (we'll ?) win this

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lawsuit and make it clear that the president doesn't have the authority to do that. But I'm looking for ideas that would go into a bill to do that --

MS. WOOD: Cut the funding. Say if -- you know, you could tie the funding -- if certain things weren't done, then certain funding streams are cut off. I will tell you that that's been very effective for ICE -- (chuckles) -- I know personally, on -- you know, in a certain number of areas, including, you know, making sure that they're filling the number of detention beds. So I think tying certain things to funding streams, funding streams that the executive office of the president or other places care about, I think would be a way to make sure that you're actually meeting some of the triggers. But it's very hard, so hopefully the other panelists have a -- you know, may have some other ideas on that front.

REP. GOODLATTE: Mr. Crane?

MR. CRANE: Well, I don't know how good my ideas are on this because I've always been baffled, quite frankly, just as a U.S. citizen, to see that the president of the United States has the ability to control these agencies in this way. I mean, once they appoint the director of the agency they seem like they have sole control. And when we come and we talk to members of Congress it -- you know, they seem like that there's nothing that they can do. And so as a -- like you said, as just a citizen it's kind of baffling to me.

So if there's a way that Congress -- like you said, that one person doesn't have the sole power -- I mean, ICE has -- is getting a budget of about \$6 billion a year. And once that president gets that appointee confirmed, then that agency and that \$6 billion and everything goes with it -- that goes with it seems to be under the control of the president. And I just -- to me, I just think that's fundamentally wrong, and I don't think it matches up with our democratic principles. So I don't know, sir; if there's a way that Congress -- members of Congress could be more involved in it, we would certainly welcome that --

REP. GOODLATTE: Thank you.

MR. CRANE: Because there's a lot of problems within these agencies, not just this immigration enforcement issue.

REP. GOODLATTE: I think it's one of the keys -- one of just the very few central keys to figuring out how to do this legislation. So if you have further ideas, please feel free to share them with us.

Ms. Vaughan?

MS. VAUGHAN: I think it is critically important that Congress reassert its authority, its constitutional authority to make immigration laws. I don't think that there is one single trigger that is possible to ask for that will set in motion the kind of comprehensive immigration reform that's been talked about. I think that package, what's known to CIR, is a bad idea for many reasons.

Number one, it's going to inspire more illegal immigration. It's costly. It's going to distort the labor market. What we need to do first is establish a sustained period of control and integrity in the systems that we have, including our legal immigration system, and also start consolidating some of our legal immigration categories so that, you know, we're not offering more opportunities for legal immigration than we can actually fulfill -- all those backlogs that people have talked about.

But I don't think we -- to repeat an expression that came earlier today, we shouldn't just throw our hands. I think what's important is -- you know, I see the vast disparity of views on this issue that are represented on this committee, and I think what needs to happen is to take smaller steps -- at such point as we all have confidence in the system, or at least more confidence. Start small. Look for the areas of consensus -- like perhaps skilled immigration, looking at it in a small way; the illegal aliens -- younger illegal aliens who were brought here by their parents and have grown up here. Bite off what Congress can chew. Start with confidence-building measures, and do it slowly and in a meaningful way. After all, that's how it's happened over the last 20 years. I mean, I cut my

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teeth on the Immigration Act of 1990, when the skills issue was addressed. There were more reforms that came in '96. And you know, every few years. It doesn't have to be done all at once; in fact, it's a mistake to do it that way.

MR. GOODLATTE: Thank you. Mr. Chishti?

MR. CHISHTI: Thank you very much for -- (chuckles) -- letting me be the last speaker on this. I mean, I think first of all you should congratulate yourselves. I mean, I don't think Congress has reneged its responsibility. And to say the fact that we have had this sort of robust -- (audio break) -- enforcement machinery built has a lot to do with congressional appropriations over the last many years, especially since 9/11. That's the -- I think the staffing and the resources was critical to the development of this robust machinery, which was lacking I think in the prior years. So something really has worked here, and we should -- we should celebrate that.

I think we are a pragmatic people. Our defining characteristic as a country is a pragmatic country. We have to accept reality. Reality is, these are 11 million people in our midst. Why we got here, we can all debate that, but that's the reality today. It's not in our interest to keep perpetuating that bad reality. We are --

REP. GOODLATTE: Well, if we accept that premise, we also have to address do we want another 11 million?

MR. CHISHTI: Exactly. I'll get to -- I'll get to that.

REP. GOODLATTE: Well, we only have another minute, so --

MR. CHISHTI: That's right. So we want to make sure that we clean this slate because having so many people -- (inaudible) -- does not help U.S. workers, does not help economic interests, moral interests, all of that.

Now, what we should not get here, again, is lessons from 1986. And this is where, unfortunately, the comprehensive nature of this approach is important. Just look at the E-Verify, which you're quite committed to. The E-Verify will never be a successful program if there are 11 million people who are unauthorized to work. E-Verify will never be a successful program if we don't allow for future flows of lawful workers. That's why I think -- exactly is the argument why it only works when we do these things together. And that's the lesson of IRCA, and that's why we didn't do IRCA well.

REP. GOODLATTE: Thank you very much. I want to thank all of the panelists for their contributions today. This has been a long day, but a good day in terms of gathering information that we will benefit from as the committee continues to address the issue of immigration reform and fixing our broken immigration system.

This concludes today's hearing. And thanks to all of our witnesses for attending. Without objection, all members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record. And this hearing is adjourned. (Sounds gavel.)

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