

State of New Jersey



Report to Governor Jon S. Corzine

Submitted by: The Governor's Blue Ribbon Advisory Panel on Immigrant Policy

APPENDIX

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DESTINATION, NEW JERSEY: How IMMIGRANTS BENEFIT THE STATE ECONOMY



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**Destination, New Jersey:
How Immigrants Benefit the State Economy**

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This study was prepared at Rutgers University by Professors Ira N. Gang and Anne Morrison Piehl of the Department of Economics in collaboration with the Eagleton Institute Program on Immigration and Democracy. The Eagleton Program is supported by a variety of funding sources including the Community Foundation of New Jersey and the Laborers' Eastern Region Organizing Fund.

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Introduction

New Jersey's immigrants are so essential to its economy that if you did the thought experiment of subtracting their work, you'd find that New Jersey itself would grind to a halt. In this report we document the role of the foreign born in the New Jersey economy, looking at the issue from several vantage points.

The foreign born are a substantial part of the overall New Jersey workforce, especially at both the high and low ends of the earnings distribution. Along several key measures, we find that the facts about immigration in New Jersey are somewhat different from the reality in other states, making these findings a key ingredient in any public discussion about the impact of immigration statewide.

Highlights of the study show:

- **Immigrants make up 28 percent of the New Jersey workforce.** The state's 1.7 million foreign born represent 21 percent of the state's population. But because immigrants are more likely to be of working age, they are a larger fraction of the workforce.
- **Foreign-born workers are overrepresented in critical occupations at both ends of the earnings distribution.** For example, more than 40 percent of chemists, nursing aids, physicians, and janitors are foreign-born. Without them, significant segments of the economy would be totally transformed.
- The foreign born are critical to New Jersey as a center of innovation. **Over 40 percent of the state's scientists and engineers with higher degrees are foreign-born.**
- **According to the best analysis by economists, nationally immigrants have a negligible effect on the earnings of the native born.** More than in other states, immigrants to New Jersey tend to be highly educated, making it likely that the impact is actually positive.
- **Immigrants bring in almost one-quarter or 23 percent of all earnings statewide. Foreign-born entrepreneurs own one-fifth of the businesses in the state.** They are key contributors to New Jersey's economic output, and hence critical to the state's tax base.
- The best estimates indicate that **immigrants yield a modest positive fiscal impact on the state budget.** Generally, skilled immigrants have a substantial positive impact. Over time, immigrants and their families generally have a positive impact on government budgets.
- **Just as immigrants are more likely to be employed, they are less likely to depend on public assistance or to be incarcerated.** Evidence indicates that immigrants rely on welfare programs substantially less than native-born individuals.
- **Immigrants to New Jersey are strikingly diverse.** Hailing from nearly 100 nations and speaking more than 165 languages, these individuals make the state a truly global microcosm. More than half (54 percent) of the state's foreign born report speaking English 'very well.'
- **Nearly one-third of all children in New Jersey live in immigrant families,** that is, families where at least one member (usually a parent) is foreign-born.
- **Unemployment rates for immigrants are similar to those of the native born, but on average, immigrant workers earn less.** In the current economic climate, foreign- and native-born workers both face high levels of uncertainty.

Background Facts about Immigrants in New Jersey

The subject of immigration elicits forceful emotions, only some of which reflect the facts about the population and economic conditions in New Jersey. This report presents a series of findings about immigrants in New Jersey, especially related to their role in the state economy. As we discuss in detail below, some of these facts set New Jersey apart from almost any other state. Therefore, policies and interpretations that may be appropriate in other contexts may be irrelevant here.

Generally, we use the term “immigrant” to refer to a person born outside the U.S. or its territories. Occasionally we make an additional distinction, referring to “native migrants.” Native migrants are U.S.-born individuals who came to New Jersey from other states. While these groups are not usually discussed together, foreign and domestic migrants to New Jersey may have certain features in common, having been drawn to this economically vital state.

History

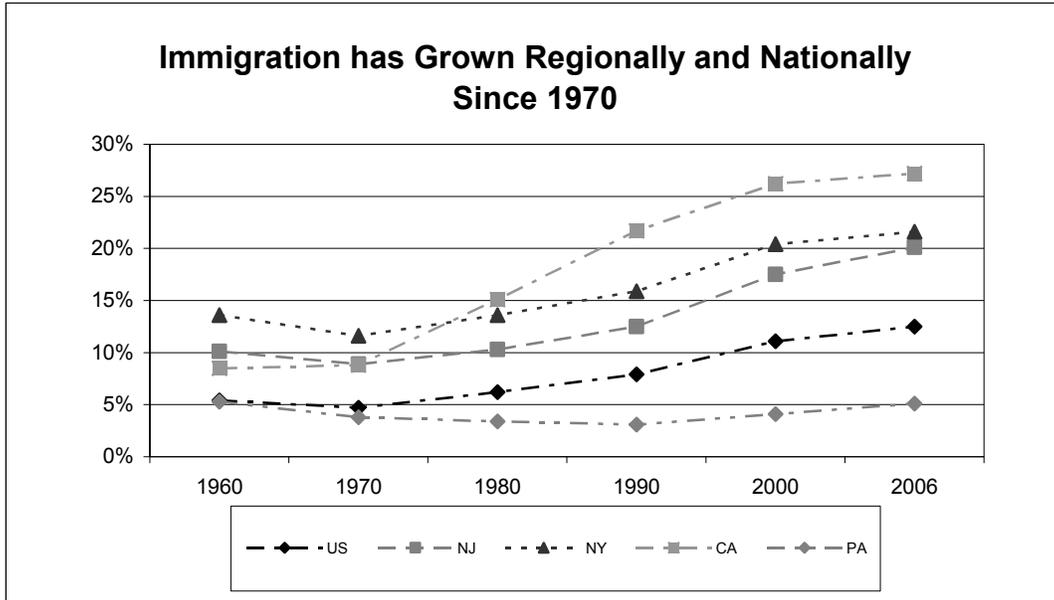
From the Swedish and Dutch settlers of the colonial era to the Jews, Italians and Irish of the turn of the 20th century, to the Central and South American, African, Caribbean and South Asian arrivals of today, immigrants have been a constant feature in New Jersey’s history. For at least the past 50 years, New Jersey has had a higher percentage of foreign-born residents than the United States as a whole. Today, the state follows only California and New York in the share of residents who are foreign-born.

State	Percent foreign born 2007
1. CA	27%
2. NY	22%
3. NJ	20%
4. NV	20%
5. FL	19%
6. HI	17%
7. TX	16%
8. AZ	16%
9. MA	14%
10. IL	14%

Source: 2007 American Community Survey.

Growth Since the 1970s

Along with the United States as a whole, over the past three and a half decades, New Jersey has experienced a substantial increase in the size of its foreign-born population which has more than doubled in many regions. New Jersey saw the biggest jump in its share of immigrants between 1990 and 2000. Yet from 2000 to 2006 alone, immigrants grew from 17.5 percent to 21 percent, bringing the total immigrant population in the state to 1.7 million.

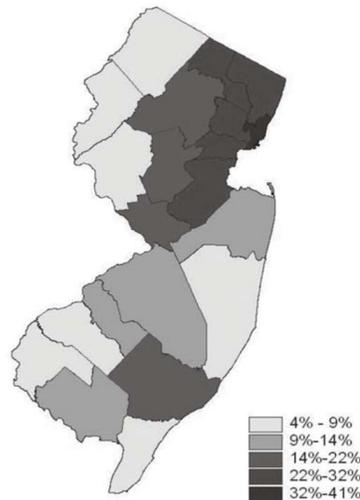


Notes: Authors' calculations from the decennial United States Censuses and the 2006 American Community Survey.

New Jersey's Immigrant Geography

Once New Jersey's immigrants clustered exclusively to the north. Due to this historical settlement pattern, the northern counties of Hudson, Union, Passaic, Bergen, Essex, and Middlesex still maintain the highest proportion of foreign-born residents.

**New Jersey Counties
Percent Foreign Born**



Notes: Author's calculations from 2006 American Community Survey.

**Change in the Foreign-Born Share of
New Jersey's Highest Immigrant Counties, 1980-2000**

County	% FB 2000	% FB 1990	% FB 1980	% Point change FB 1980-2000	% Recent FB 2000	% Recent RB 1990
Hudson	38.5	30.6	24.0	14.5	9.4	7.7
Passaic	26.6	19.4	14.7	11.9	5.7	5.0
Bergen	25.1	18.0	13.5	11.6	5.3	4.2
Union	25.1	18.4	14.2	10.9	5.4	4.1
Middlesex	24.2	14.2	9.3	14.9	6.8	3.5
Essex	21.2	15.6	12.5	8.7	5.1	3.9
Somerset	18.1	10.9	8.2	9.9	4.6	2.1
Morris	15.4	10.6	8.1	7.3	3.9	2.3
Mercer	13.9	8.7	7.6	6.3	4.0	2.2

Source: New Jersey County Data, 1980 to 2000, U.S. Census Bureau.¹

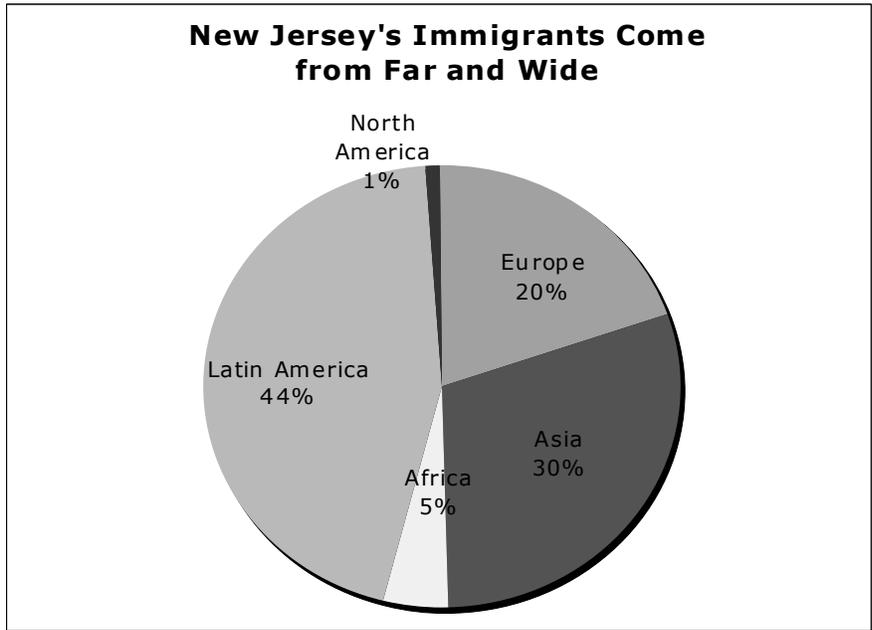
Change, however, is underway. **Like new immigrants nationwide, those in New Jersey have been following economic opportunities to the suburbs.** The following table shows how New Jersey counties experienced changes in immigration from 1990 to 2000. Most counties saw increases in the share of foreign-born residents. The next Census, to be conducted in 2010, will show a continuation of these trends.

County	Percent Foreign Born	
	1990	2000
Cape May	3%	3%
Gloucester	3%	3%
Salem	2%	3%
Burlington	5%	6%
Cumberland	4%	6%
Hunterdon	5%	6%
Ocean	6%	6%
Sussex	5%	6%
Warren	4%	6%
Camden	4%	7%
Monmouth	8%	10%
Atlantic	6%	12%
Mercer	9%	14%
Morris	11%	15%
Somerset	11%	18%
Essex	16%	21%
Middlesex	14%	24%
Bergen	18%	25%
Union	18%	25%
Passaic	19%	27%
Hudson	31%	39%
New Jersey	13%	18%

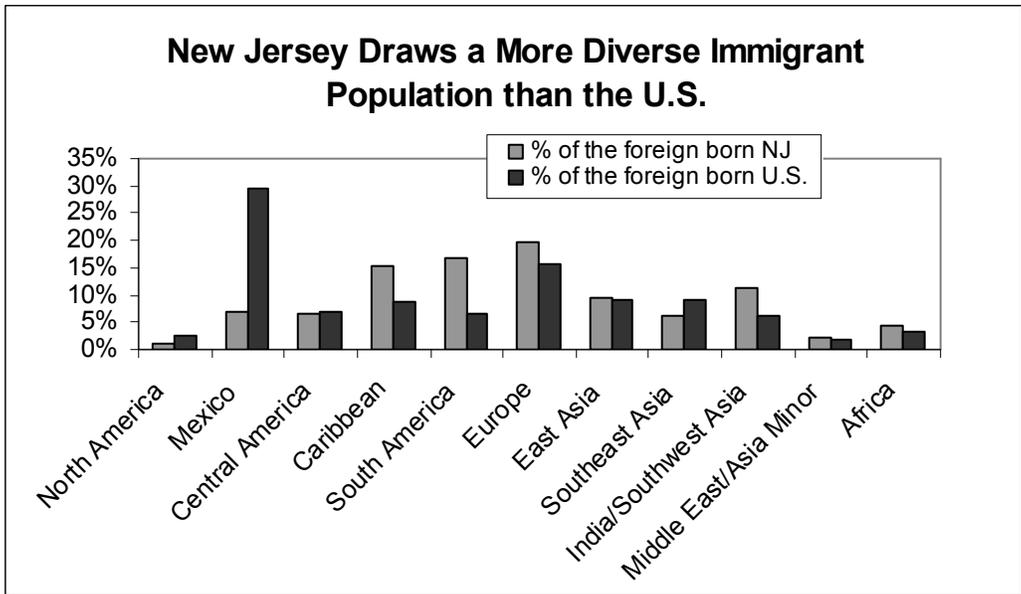
Notes: Authors' calculations from U.S. Census data, www.factfinder.gov.

Global New Jersey

Individuals flock to New Jersey from a wide range of regions around the globe. Compared with the U.S. overall, the number of Mexican immigrants making New Jersey their home is relatively small. Immigrants from Mexico comprise just 7 percent of the state’s foreign-born population and less than 2 percent of the total state population. Immigrants living in New Jersey today are more likely than those in the U.S. generally to have been born in all parts of Asia, the Caribbean, Central and South America, Europe or Africa. Nearly 30 percent of immigrants living in New Jersey today came from Asian countries.



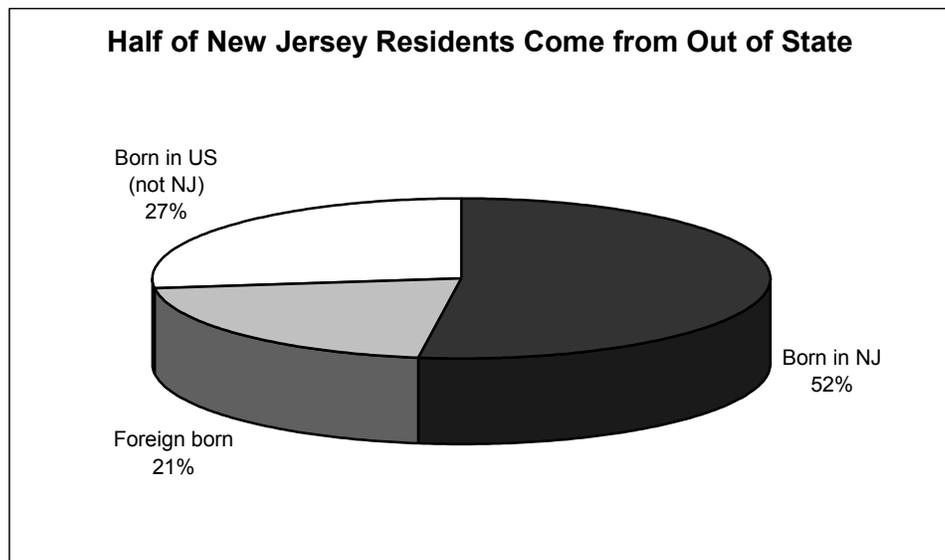
Source: ACS, 2007



Notes: Authors' calculations from 2006 American Community Survey.

New Jersey Attracts U.S.-born Migrants, Too

Some of the same features that draw foreign immigrants to New Jersey also attract individuals born elsewhere in the United States. Taken together these two groups of non-native New Jersey residents (those born in the U.S. and those born outside it) make up nearly half of the state's population: 21 percent came from foreign countries and 27 percent from other U.S. states. Both groups are drawn to the dynamic economy, and contribute to that dynamism as well. Although New Jersey has a lower percentage of such migrants than fast-growing western states, it draws a much higher share of U.S. migrants than either New York (22 percent born abroad, 13 percent born elsewhere in U.S.) or Pennsylvania (5 percent born abroad, 19 percent born elsewhere in U.S.).



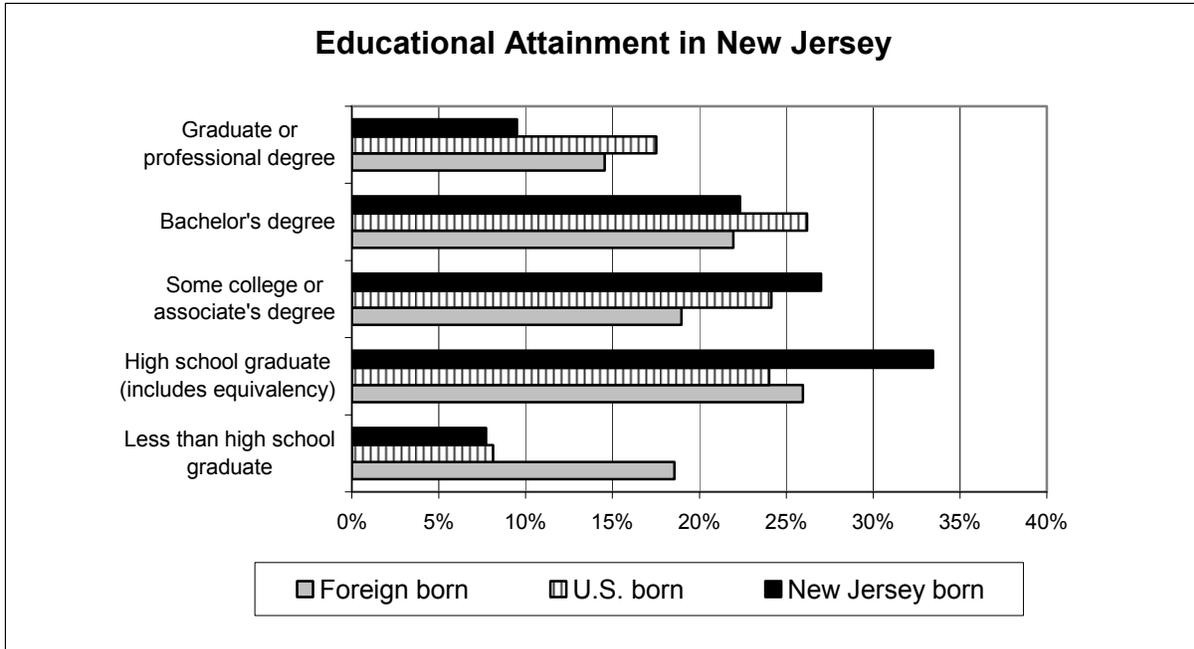
Notes: Authors' calculations from 2006 American Community Survey.

Education

Education is a central marker of a vibrant and flexible economy. Compared with the general U.S. population, New Jersey residents (both native and foreign-born) tend to be more highly educated. And opportunities in New Jersey attract the highly educated, from across the U.S. and abroad.

Immigrants dominate both ends of the education spectrum. Compared to their U.S.-born neighbors, those who came to New Jersey from abroad are less likely to have completed high school but more likely to have earned graduate or professional degrees. Native migrants are the most highly educated of all three groups; nearly 18 percent of New Jersey migrants from other states have advanced degrees.

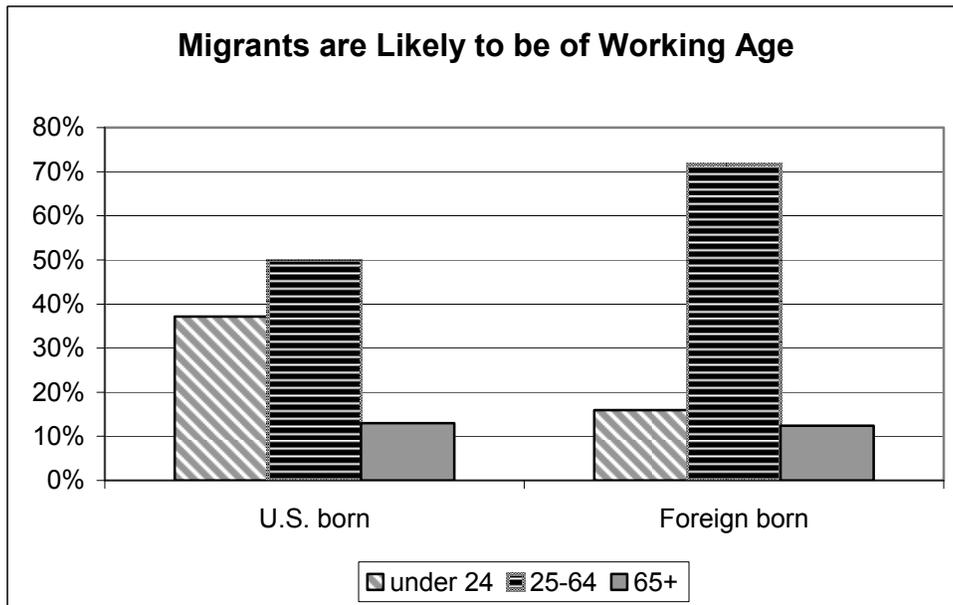
According to data gathered by the National Science Foundation almost half (48 percent) of state residents with master's degrees and 41 percent of those with doctorates in scientific fields are immigrants. The same data show that in fields like science and engineering, areas of expertise critical to the state's technology industries and likely to spawn innovation, the foreign born are dramatically overrepresented.ⁱⁱ Immigrants who come to New Jersey specifically to fill high-skilled jobs – usually in academia, pharmaceuticals, technology or medicine – require specialized work visas to do so. Another indication of New Jersey's strong appeal for high-skilled foreign-born experts is the fact that only California and New York outpace New Jersey in the share of these visas (known as H1-B visas) awarded.ⁱⁱⁱ



Notes: Authors' calculations from 2006 American Community Survey.

Age

Immigrants are attracted by the dynamic New Jersey economy. Most come to New Jersey to build better lives for themselves and their families, primarily through work. As a result, the foreign-born population is more likely to be of working age than the U.S.-born. It should not be surprising then, that the foreign born make up an even larger share of the labor force than of the population at large.



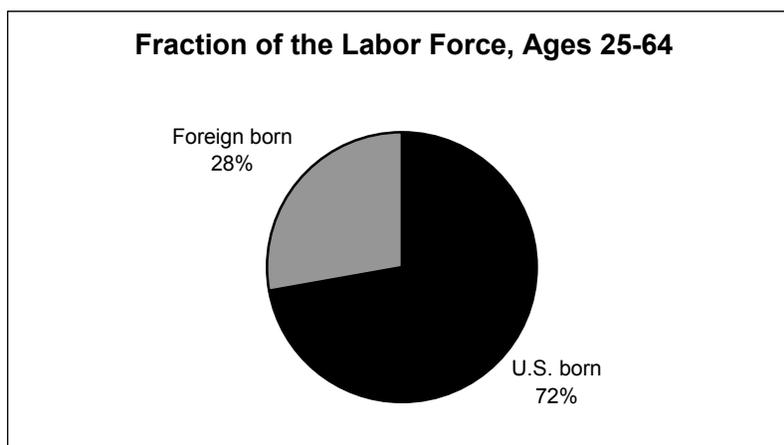
Notes: Authors' calculations from 2006 American Community Survey.

Unemployment

Immigrants and the native born have the same unemployment rates. In 2006, the unemployment rate among prime working-age adults (age 25-64) was 3.9 percent for both immigrants and natives in New Jersey. Unemployment rates for both groups are likely to rise in any contraction.

The New Jersey Workforce

With a full 28 percent of the workforce in New Jersey born overseas, an even larger share of the workforce than of the population overall, it is impossible to imagine the New Jersey economy without its foreign-born workers.



Notes: Authors' calculations from 2006 American Community Survey.

While immigrants work in every segment of the economy, those with lower levels of education and skill tend to cluster in occupations characterized by poor working conditions, low pay and benefits, and limited health and safety regulations.^{iv} Undocumented workers may be particularly vulnerable to violations of safety and labor laws. According to a recent report by the ACLU of New Jersey, workers who lack proper legal documents have proven reluctant to report wage and hour and safety violations for fear of deportation.^v

Whether their skills put them at the high or low end of the distribution, immigrants hold more than 40 percent of all jobs in a range of critical occupations. The following table highlights some of these, with average earnings reported in parentheses:

**Immigrant Workers Hold 40 Percent
(or more) of the Jobs in Many Occupations**

Low Earnings:

Housekeepers (\$19,000)
 Food preparation occupations (\$20,000)
 Hand packers and packagers (\$21,000)
 Nursing aides, orderlies, and attendants (\$24,000)
 Cashiers (\$26,000)
 Groundskeepers and gardeners (\$27,000)
 Janitors and cleaners (\$28,000)
 Cooks (\$29,000)
 Taxicab drivers (\$33,000)
 Machine operators (\$33,000)
 Construction laborers (\$36,000)

High Earnings:

Computer scientists (\$75,000)
 Chemists (\$76,000)
 Computer programmers (\$85,000)
 Physicians (\$179,000)

Notes: Authors' calculations from 2006 American Community Survey.
 Earnings rounded to the nearest \$1,000.

On average, immigrants earn less than native-born workers. The middle of the earning distribution is called the 50th percentile. It is the point at which half a population earns more, and half earns less. Among native-born workers in New Jersey, the middle of the earnings distribution is about \$48,000. The middle of the foreign-born earnings distribution is about \$35,000, or more than \$10,000 lower. This same pattern holds at other points along the earnings distribution, where natives consistently earn more than their foreign-born counterparts.

New Jersey's Foreign-Born Workers Earn Less

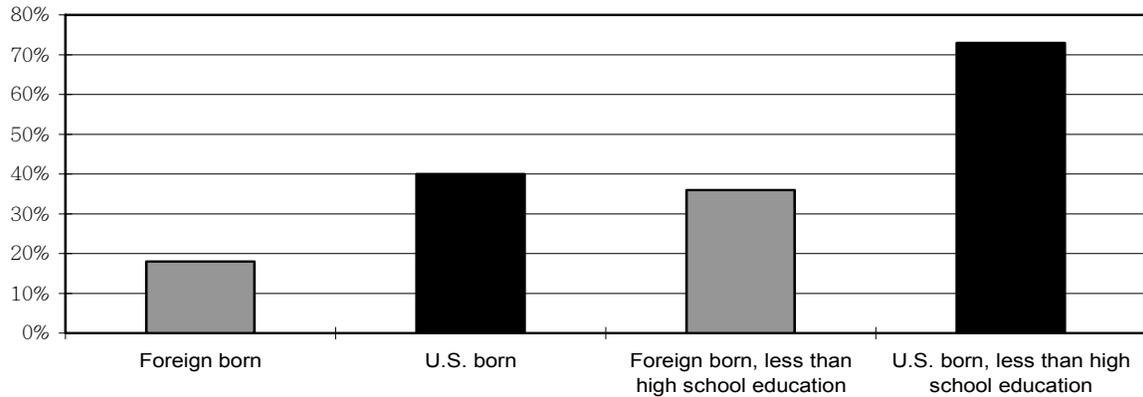
	<u>U.S. born</u>	<u>Foreign born</u>
25 th percentile	\$30,200	\$20,100
50 th percentile	\$48,300	\$35,200
75 th percentile	\$75,500	\$60,400

Notes: Authors' calculations from 2006 American Community Survey.
 Earnings are rounded to nearest 100. Earnings calculated for those ages 25-64.

Public Assistance

Across the age and earnings spectrum, immigrants also rely substantially less than their native counterparts on government transfer programs such as Social Security, Temporary Assistance to Needy Families (TANF), and Supplemental Security Income (SSI). This is true even when restricting attention to those with lower levels of education. Immigrants' low reliance on transfer programs is partially a function of federal entitlement law. Since 1996 new immigrants have been prohibited from accessing Medicaid, TANF, SSI and food stamps, among other entitlements.

NJ's Immigrants are Less Likely to Receive Government Assistance

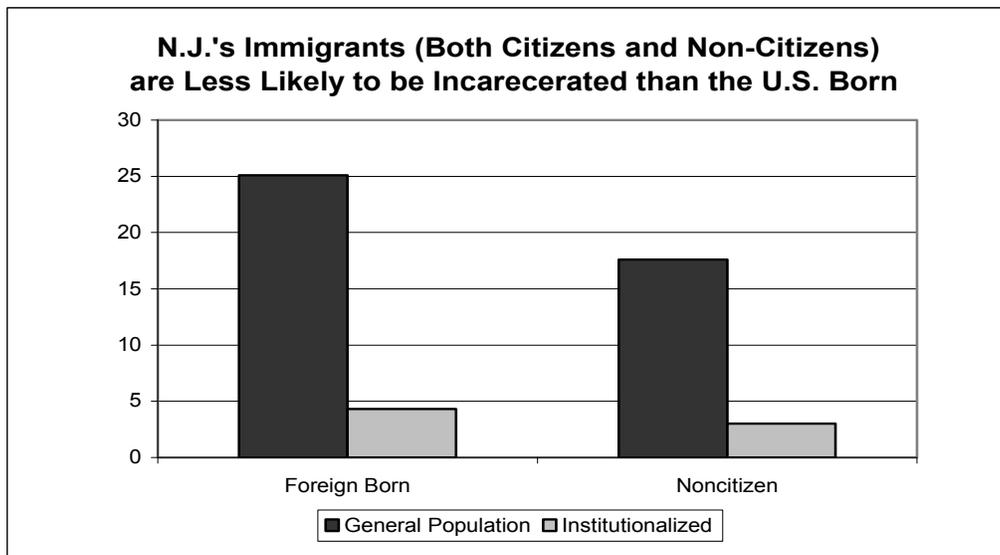


Notes: Authors' calculations from 2006 American Community Survey.

Incarceration

Criminality is yet another dimension on which immigrants impose fewer costs than other New Jersey residents. Across all sectors, criminality is much higher for men than for women, and much higher for young adults than for the elderly. Therefore, studies adjust for these characteristics when analyzing criminal justice outcomes. The graph below features men aged 18-39, and compares the proportion of foreign born in the general population to those in institutions. (Ninety percent of those in institutions are in prisons or jails).

Although 1 in 4 New Jersey men aged 18 to 24 is foreign-born, only 4 out of every 100 men in prison are immigrants. Even immigrant non-citizens (a larger share of whom are undocumented than the foreign born overall), are a much smaller share of the institutionalized population than of the general population.



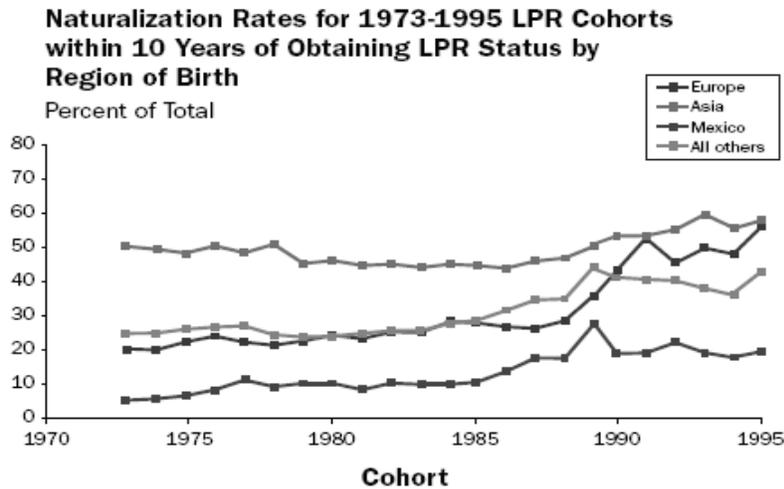
Notes: Authors' calculations from 2006 American Community Survey.

Immigration Status

Naturalization is the process by which the foreign born become citizens of the United States. To naturalize, one must be 18 years old, a legal permanent resident (LPR) and in most cases have had five years of continuous U.S. residency. For a variety of reasons, completing the process of naturalization takes time. Since 1965 the median number of years in LPR status before citizenship has varied from seven to ten, with a maximum of ten years in 2000. Since then, the lag has been reduced. In 2007, the median time was eight years.^{vii}

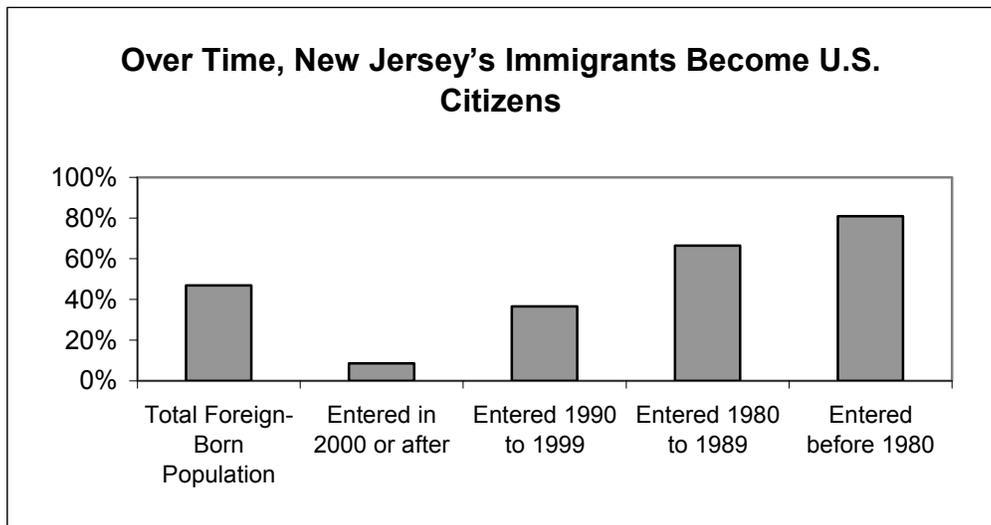
Naturalization

The Office of Immigration Statistics in the Department of Homeland Security calculates national naturalization rates. The graph below represents the share of each cohort that has naturalized within ten years of obtaining LPR status. They illustrate that more recent cohorts of immigrants have achieved higher rates of citizenship more quickly than did earlier cohorts.^{viii}



Source: U.S. Department of Homeland Security.

Census data track cumulative naturalization rates for New Jersey. They show that, among foreign-born New Jersey residents who arrived before 1980, 86 percent have become citizens.



Notes: Authors' calculations from 2006 American Community Survey.

Unauthorized Immigrants

As immigration to New Jersey has increased, so has the number of undocumented immigrants who make their homes in the state. But data related to the number or characteristics of unauthorized immigrants is notoriously hard to gather. Census questionnaires only ask about citizenship status and nation of birth. Other smaller-scale estimates focus on different states or rely on cross-referencing information from multiple sources.

For the moment, the best New Jersey data come from the Office of Immigration Statistics in the Department of Homeland Security. Nationwide, the number of unauthorized immigrants in the United States is estimated to have increased by 39 percent since 2000, from about 8.5 million in 2000 to 11.8 million by January 2007. Over this period, according to these data, the population of unauthorized immigrants in New Jersey has grown somewhat more slowly, by 32 percent, from 350,000 to 470,000.

State of Residence of the Unauthorized Immigrant Population: January 2007 and 2000

State of Residence	Estimated population in January		Percent change
	2007	2000	2000 to 2007
All states	11,780,000	8,460,000	39
California	2,780,000	2,510,000	13
Texas	1,710,000	1,090,000	57
New York	640,000	540,000	19
New Jersey	470,000	350,000	32

Detail may not sum to totals because of rounding. Source: U.S. Department of Homeland Security.

For policymaking purposes, it would be terribly useful to know the relative numbers of authorized and unauthorized immigrants. But even if such a figure were knowable, it would be of only limited use. Unlike most other characteristics, immigration status is fluid and changeable. Immigrants frequently change status after they arrive in the U.S. A person may move to the U.S. with a student or tourist visa but then overstay its term, becoming unauthorized. Or, they may “regularize” their status by obtaining a green card. A foreign-born individual may enter the United States as a legal permanent resident (LPR or green card holder), a temporary visa holder (e.g., tourist, seasonal worker, H-1B, or student visa), or as an unauthorized, illegal or undocumented immigrant (either as an illegal border crosser or a visa abuser). Estimates from FY 1996 suggest that as many as 1 in 10 of New Jersey’s legal permanent residents had at some time been unauthorized.^{ix}

Not only can immigration status change with time, but, at any given moment, legal status may vary within individual families. According to data analyzed by the Association for Children of New Jersey, 90 percent of children in New Jersey’s immigrant families are citizens.^x

The Economic Impact of Immigration

As we have seen, immigrants come to New Jersey from diverse backgrounds and they play a critical role in the state’s workforce. We now examine a series of critical questions concerning the impact of immigration on New Jersey’s economy. In particular, we examine 1) the impact on the economic outcomes of the native born; 2) the impact on the state’s budget; and 3) the overall contribution immigrants make to the state economy.

Like every economy, New Jersey's is made up of interrelated markets – for labor, for products, and for capital. Questions concerning economic impact require complex modeling of the behavior of immigrant and native-born workers, business owners, and others. Due to their complexity and their implications for policy, these questions are the subject of vigorous debate among academics and advocates. Mindful of these concerns, we emphasize findings that we consider least sensitive to various modeling choices. Based on this literature we have been able to draw several cautious but confident conclusions.

Immigration appears to have a positive impact on the earnings and employment of the native born in New Jersey.

Economists debate this issue extensively, with different studies yielding different estimates. Our review of an extensive literature revealed that the overwhelming majority find at most very small effects of the impact of immigration on native employment.

In fact, many economists argue that increased immigration has no negative effect on native employment rates. In 2007, the President's Council of Economic Advisors (CEA) summarized the research for the United States as a whole, concluding that,

On average, U.S. natives benefit from immigration. Immigrants tend to complement (not substitute for) natives, raising natives' productivity and income.^{xi}

In a free market, any measurable effects of immigration on earnings and employment are largely overwhelmed by a range of other economic conditions. For example, capital is mobile, and businesses tend to expand in areas with sufficient labor. The agglomeration of high-skilled labor in close proximity tends to spur, not thwart, innovation. Moreover, immigration may alter the choices businesses make about where to locate. As a result of these and other mechanisms, immigration may attract innovation and investment sufficient to offset any direct competition with the native population.

Estimates of the earnings and employment effects of immigration on New Jersey's native-born population appear consistent with the range of estimates found in national-level studies. Indeed, the large share of highly-educated foreign-born workers making their homes in New Jersey makes it likely that immigrants exert a positive impact on the earnings and employment of the state's native-born workers.

Immigrant workers do not appear to lower employment rates for low-skilled, less-educated native-born workers in New Jersey.

Many believe that while immigrants may have a generally positive impact on productivity, native workers at the bottom of the employment ladder must lose out when they compete directly with the low-skilled newcomers. This thinking leads some to argue that immigration should be limited to those with high levels of skill.

However, work by economists increasingly challenges this presumption. A recent study by Giovanni Peri and Chad Sparber highlights the ways that immigration stimulates native employment and increases wages. When more high-skilled immigrants are employed this drives up demand for less-skilled workers to do jobs that support their work. Additional workers are also needed to meet the needs of the new consumers. For example, a physician's arrival from India will create the need for increased secretarial and janitorial support (as well as trained nursing and financial services) and will stimulate demand for restaurant meals and household services.

In addition, immigration may actually provide improved employment opportunities for native workers because even natives with limited education maintain advantages over immigrants. Foremost among these are their language skills as well as superior knowledge of local technology and institutions. The arrival of immigrants allows native-born workers to specialize in tasks that complement the work of the low-skilled immigrants. This effect, referred to as “task complementarity,” depends on the presence of low-skilled immigrants to boost natives into supervisory positions that they might not have ascended to in the absence of immigration.

How Immigration Affects Low-Skilled Natives

High-skilled immigrants

- ↑ raise demand at work for complementary workers
- ↑ raise demand at home for products and services

Low-skilled immigrants

- ↓ lower demand at work for comparable workers
- ↑ raise demand at work for workers who can upgrade themselves, using U.S.-specific skills

Both of these positive effects of immigration are likely to be relevant in New Jersey. The direct effect of high-skilled immigrants raises demand for low-skilled labor, and the indirect effect of low-skilled labor raises demand for low-skilled natives with enough language and other skills to take on supervisory or customer-oriented tasks. One way these outcomes can occur is through entrepreneurship – 20 percent of businesses in New Jersey are owned by immigrants.^{xii}

Economic simulations suggest that the inflow of high-skilled immigrants to New Jersey between 1990 and 2000 raised the wages of natives without high school diplomas by 1.6 percent. Low-skilled immigrants raised the wages of these same less-educated native workers by an additional 1.4 percent. **By this account, general immigration to New Jersey drove up the wages of native workers without high school diplomas by 3.0 percent.**

New Jersey stands out for the strength of this positive effect. By contrast, New York saw a comparable wage increase of 1.1 percent, while in California, Arizona, and the United States as a whole, the impact on native wages was negative.^{xiii}

Immigrants Appear to Pay Enough Tax to Offset their Use of Services.

We examined many studies of the fiscal impact of immigration at local, state, and federal levels. Most indicate that the current fiscal impact is negative for state and local governments but positive for the federal government. This is because immigrants as a group have below-average incomes but larger than average family size. One New Jersey study based on 1990 census data compared “like” households and found that immigrants pay higher taxes and receive fewer government services than natives. But it also found that immigrant households are disproportionately poor, and poor families yield a small net fiscal deficit in the short run.^{xiv}

One important component in these calculations is the cost of educating children. From an accounting perspective, assigning the costs of K through 12 education is a complex task. Some view education as an investment in the future of the state rather than as a transfer to individual recipients. Investments in education are borne in the present, but only years later do they result in tangible contributions to the economy.

Immigration to the United States is generally, though not always, for the long run. What happens in later generations is a relevant concern. Assessing the national picture, the Council of Economic Advisers noted, “careful studies of the long-run fiscal effects of immigration conclude that it is likely to have a modest, positive influence.”

Among the economists who have examined the fiscal impact of immigrants with an eye to intergenerational effects, some have concluded that the impact of immigration depends upon other fiscal policy choices made by the government. If governments run big deficits, making commitments now that will need to be paid by future generations, then immigrants and their offspring will bear a disproportionate share of the debt burden. Under certain circumstances, then, immigration can alleviate the fiscal stress of natives. But the overall impact of immigration on fiscal balance is extremely small. Immigration should neither be perceived as a major source of the existing imbalance, nor as a potential solution to it.^{xv}

When it comes to the budget of the state of New Jersey, we cannot with any accuracy determine the net fiscal impact of immigrants. We do know that, contrary to public perception, even undocumented immigrants pay sales and property tax. Many receive a range of services whether K-12 education or the use of roads and libraries.

At the same time, we know that several factors (some of which are specific to New Jersey) reduce the potentially negative short-run fiscal impact of immigration:

- The age structure of the foreign born is concentrated in the working ages;
- Many of the state’s foreign born are highly-skilled, high-income workers; and
- Immigrants in New Jersey benefit less from social services than the native born.

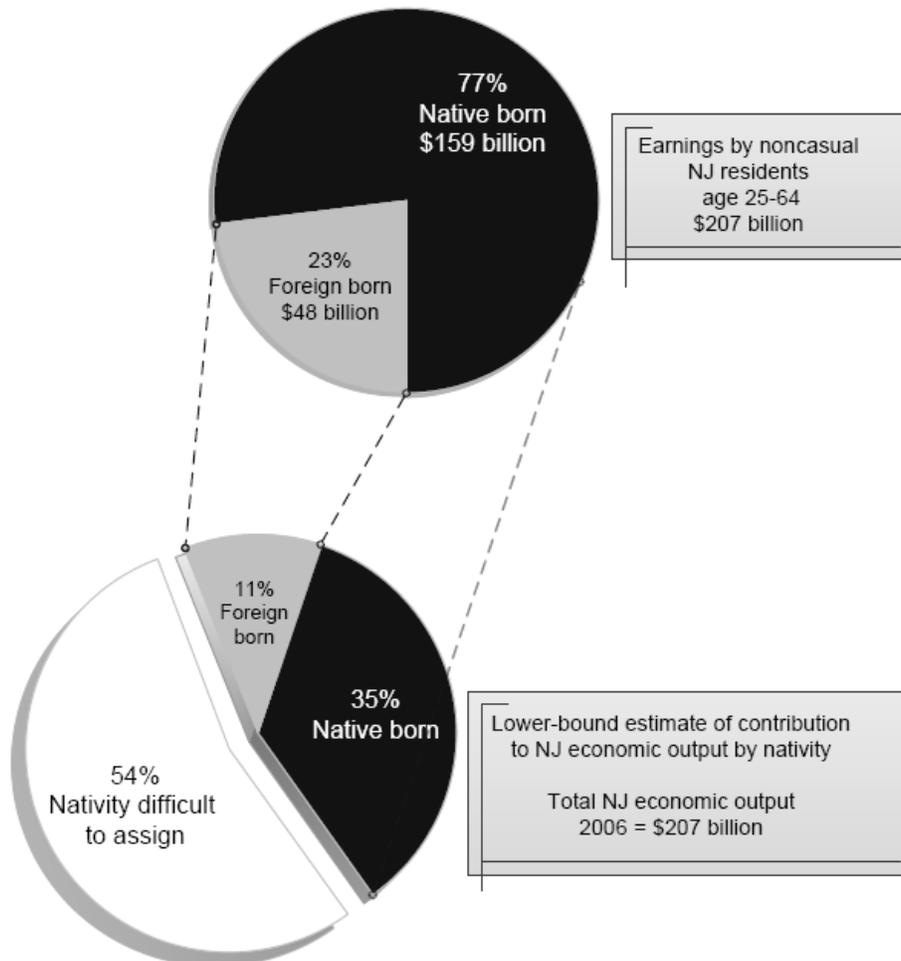
In much less advantageous circumstances than prevail in New Jersey, immigrants yield slightly negative or near zero effects in the short run and positive effects in the long run. When we factor in New Jersey’s unique immigrant population it seems more than likely that the short and long-term fiscal effects of immigrants are indistinguishable from those of natives.

Summing Up: Immigrants Are Integral to New Jersey’s Thriving Economy.

Of the \$207 billion earned by residents of New Jersey in 2006, 77 percent (or \$160 billion) was paid to native-born workers, while the remaining 23 percent (\$47 billion) was earned by immigrant workers living in New Jersey.

The size and complexity of the state economy mean that any estimate of immigrants’ contributions to the state gross domestic product (GDP) is subject to critique. One approach assumes that the earnings proportions hold for the rest of the economy. This methodology would apply the 23 percent figure above to the state’s entire \$448 billion GDP (in 2006), the accepted measure of the size of the economy. This approach assumes that the 54 percent of the economy to which we cannot assign nativity belongs proportionately to immigrants and the native born. There is no way to test this assumption. We can be sure, however, that the contribution of immigrants is no lower than \$47 billion and no greater than \$288 billion.^{xvi}

Overall Contribution to New Jersey Economy by Nativity



Sources: Earnings calculations are from American Community Survey 2006. GDP estimates from the U.S. Bureau of Economic Analysis (<http://www.bea.gov/regional/gsp/>). Earnings calculations are for employed 25-64 year olds earning \$5000 or more (to remove "casual" laborers from our calculations) and living in New Jersey, totals \$206.594 billion, or 80 percent of total compensation to employees as calculated by the BEA (which was 57 percent of State GDP). State gross income is the more appropriate measure, not State GDP. If natives work out-of-state more than the foreign-born, the using GDP underestimates the contribution of the foreign-born to output.

Conclusion

For decades New Jersey has benefited from higher than average rates of immigration, and higher than average levels of education among its immigrants. At 28 percent of the workforce and 23 percent of the earnings, immigrants are key players in New Jersey's vibrant economy; so much so that is impossible to imagine the state functioning without their contributions.

More than almost any other state, New Jersey benefits from the skills of highly-educated immigrants, individuals who account for 40 percent of all advanced degree holders statewide. But immigrants are overrepresented at the low end of the earnings distribution, too. These immigrants wash dishes, clean office buildings and build homes. They comprise large segments of some of the lowest-earning occupations in the state. They are likely to be among the most vulnerable during any economic downturn.

The dynamic mix of immigrants living and working in New Jersey should allay concerns about the negative impact of low-skilled natives on native earnings and negative fiscal consequences for state finances overall. Rather, our analyses suggest that New Jersey's immigrants do not produce negative effects in either of these arenas. In fact, immigrants are likely to bring modest improvements in both. And while it is true that immigrants add to the numbers of lower-skilled workers, who then compete with low-skilled natives, these immigrants also add to the demand for native workers with the language skills and local knowledge to supervise the new arrivals.

Immigrants to New Jersey are incredibly diverse in their talents and their countries of origin. This particular mix has long distinguished the state from other areas of the country. New Jersey must adopt policies that reflect its unique experience with immigration.

ⁱ Marta Tienda et al., “Integrating Immigrants In New Jersey: Local Perspectives,” Woodrow Wilson School of Public and International Affairs, Policy Task Force Report. May 2008.

ⁱⁱ National Science Foundation, Division of Science Resources Studies, Scientists and Engineers Statistical Data System (SESTAT), 2006. See <http://www.nsf.gov/statistics/sestat/>.

ⁱⁱⁱ See, for example, “The Movement of Global Talent: The Impact of High Skill Labor Flows from India and China,” Udai Tambar, editor. Princeton: Princeton University, Woodrow Wilson School of Public and International Affairs, 2007.

^{iv} Research on New York City has documented the concentration of immigrant workers in fields including domestic service, construction and janitorial work among others where regulation of health, safety, hours and pay is weak. See Annette Bernhardt, Siobhan McGrath, and James DeFilippis. 2007. “Unregulated Work in the Global City: Employment and Labor Law Violations in New York City,” New York: Brennan Center for Justice.

^v American Civil Liberties Union of New Jersey, “The Rights of Immigrant Workers in New Jersey,” October 2008.

^{vii} Nancy Rytina & Selena Caldera, 2008. “Naturalizations in the United States: 2007.” Office of Immigration Statistics, Policy Directorate, Department of Homeland Security.

http://www.dhs.gov/xlibrary/assets/statistics/publications/natz_fr_07.pdf.

^{viii} The various factors affecting naturalizations rates are discussed in Claire Bergeron and Jeremy Banks, *Behind the Naturalization Backlog*, Migration Policy Institute, Fact Sheet No. 21, February 2008 http://www.migrationpolicy.org/pubs/FS21_NaturalizationBacklog_022608.pdf.

^{ix} See Guillermina Jasso, Douglas S. Massey, Mark R. Rosenzweig & James P. Smith (2008). *From Illegal to Legal: Estimating Previous Illegal Experience among New Legal Immigrants to the United States* IZA DP No. 3441.

^x More information on children in New Jersey’s immigrant families can be found in Association for Children, NJ, “Immigrant Kids Count 2007,” available at www.acnj.org.

^{xi} Executive Office of the President, Council of Economic Advisers, *Immigration’s Economic Impact*, Washington DC: June 20, 2007.

^{xii} Robert W. Fairlie, “Estimating the Contribution of Immigrant Business Owners to the U.S. Economy,” Small Business Association, Office of Advocacy. November, 2008.

^{xiii} Giovanni Peri & Chad Sparber, 2008. “Task Specialization, Immigration, and Wages,” CReAM Discussion Paper Series 00802, Centre for Research and Analysis of Migration (CReAM), Department of Economics, University College London.

^{xiv} Deborah L. Garvey, Thomas J. Espenshade & James M. Scully. 2002, “Are Immigrants a Drain on the Public Fisc?” State and local impacts in New Jersey. *Social Science Quarterly* 83(2) 537-553.

^{xv} Alan J. Auerbach, & Pia Oreopoulos. 1999. “Analyzing the Fiscal Impact of U.S. Immigration,” *American Economic Review* 89(2): 176-80.

^{xvi} Fiscal Policy Institute, “Working for a Better Life: A Profile of Immigrants in the New York State Economy,” November 2007.

http://www.fiscalspolicy.org/publications2007/FPI_ImmReport_WorkingforaBetterLife.pdf.



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In-State Tuition for Immigrant Students

The Panel supports the initiative embodied in current proposed legislation (A194, S1036) that would provide for charging the full in-state tuition rate to persons who meet specified NJ residency requirements, regardless of their immigration status under federal law.

The Panel has examined the social and economic benefits of enabling academically qualified immigrant students who have lived in the state for much of their lives and who attended high school here to pay in-state tuition at New Jersey public institutions of higher learning. After reviewing current law and legal precedents for in-state tuition and examining models used in other states that grant certain immigrant students in-state status, the Panel has unanimously concluded that the expected benefits of a better-educated New Jersey population will far outweigh any fiscal or societal costs, and that New Jersey should quickly enact a solution substantially similar to those already introduced in the Legislature.

The Benefits of a Well-Educated Work Force in New Jersey

Maximizing the opportunities for all New Jersey's students to have access to higher education is desirable both from the individual and collective societal perspective. Individual students with the requisite academic ability will have the opportunity to maximize their intellectual and professional potentials. Conversely, denying a qualified student effective access to higher education imposes a lifelong disadvantage on that individual and deprives the state of that resident's intellectual capital.ⁱ A well-educated workforce is an inestimable benefit to the state economy, and New Jersey is particularly able to attract economic growth and investment because of its ability to offer myriad opportunities to such a workforce, 20 percent of which is foreign born.ⁱⁱ

Students who have the desire and ability to continue their education beyond the high school level may contribute substantially and positively to the social and economic make-up of New Jersey. Granting resident tuition status to undocumented graduates of New Jersey high schools will provide a powerful incentive for these students to successfully complete high school and go on to obtain a college degree. Students who obtain college degrees in New Jersey are more likely to stay in the state, join the formal labor force, and pay taxes.

Educating New Jersey's children is especially important as sharp increases in the educational attainment of America's global economic competitors will impact the working sector of New Jersey. A majority of the fastest-growing industries in the United States demand a more skilled, better educated workforce. Labor projections in California, for instance, anticipate a shortage of skilled labor by 2025.ⁱⁱⁱ Maintaining a well-educated workforce is integral to New Jersey's economic vitality as demand for high-skilled labor begins to outpace supply. Furthermore, nearly two thirds of children in immigrant families in New Jersey are bilingual.^{iv} People fluent in more than one language will be important assets to the State as it competes in a diverse global economy.

New Jersey is traditionally known for the high level of educational attainment of its residents, a characteristic achieved by offering students the opportunity to access higher education at an affordable rate. The state is therefore poised to meet demands for an increasingly well-educated workforce, including students with unauthorized immigrant standing. Perceptions about each

state's attainment in this area, however, are volatile,^v and it is in New Jersey's competitive interests to insure that it is consistently perceived as retaining among the most educated workforces.

The Panel believes that extending the opportunity of higher education to academically qualified students who do not currently have lawful immigration status is the correct and necessary action, after balancing the impact on individual students and the practical benefits to society. The Panel further believes that increasing access to postsecondary education offers direct economic and social gains for the State. This position is premised on the notion that increasing educational attainment increases individuals' lifetime earnings and hence, makes them more productive members of society. Higher education is a necessary precursor to accessing higher paying jobs: according to the New Jersey Department of Labor and Workforce Development, householders with only a high school diploma have a median income of \$51,359 annually while those with a bachelor's degree or higher earn a median income of \$106,467.^{vi}

Attainment in higher education makes it easier for previously undocumented students to adjust and regularize their immigration status. Under federal immigration statutes, receipt of a bachelor's degree allows an applicant to be classified as a "professional," which makes the individual eligible for an "E-B3" immigrant visa^{vii} as well as an "H-1B" temporary work visa for specialty occupations.^{viii} Receipt of a baccalaureate degree is an absolute condition for an E-B3 immigrant visa, however; education and experience may not be substituted for the degree.^{ix} It is therefore essential for those immigrants seeking to regularize their immigration status by seeking professional/skilled worker status to receive a U.S. bachelor's degree. Moreover, the demand for such professionals and skilled workers is high, particularly in high technology industries that New Jersey hopes to attract.

Increasing the educational attainment of the workforce may therefore decrease unemployment rates, increase tax contributions from as many individuals as possible, and thus contributes directly to the support of in-state social services. Some of the extended social benefits may include lower rates of incarceration and increased civic participation.^x Most importantly, education provides individuals with knowledge and values necessary for a competitive, well-functioning state.

The Financial Challenges to Immigrants of Accessing Higher Education

Each year, it is estimated that about 65,000 undocumented students graduate from high school after living in the United States for at least five years.^{xi} Yet because undocumented students are subjected to substantial barriers in accessing higher education and are often unable to qualify for in-state tuition rates at public universities, state colleges, and community colleges, only five to ten percent of these graduates attend college, compared with 75 percent of their native-born classmates.^{xii}

In New Jersey, approximately one-third of children in immigrant families — documented and undocumented — live in low-income families.^{xiii} These financial barriers are magnified in undocumented families, however, whose average income is about 40 percent lower than that of legal immigrant and native families.^{xiv} Recent research shows that undocumented students are rarely able to attend college and thereafter find employment appropriate to their level of

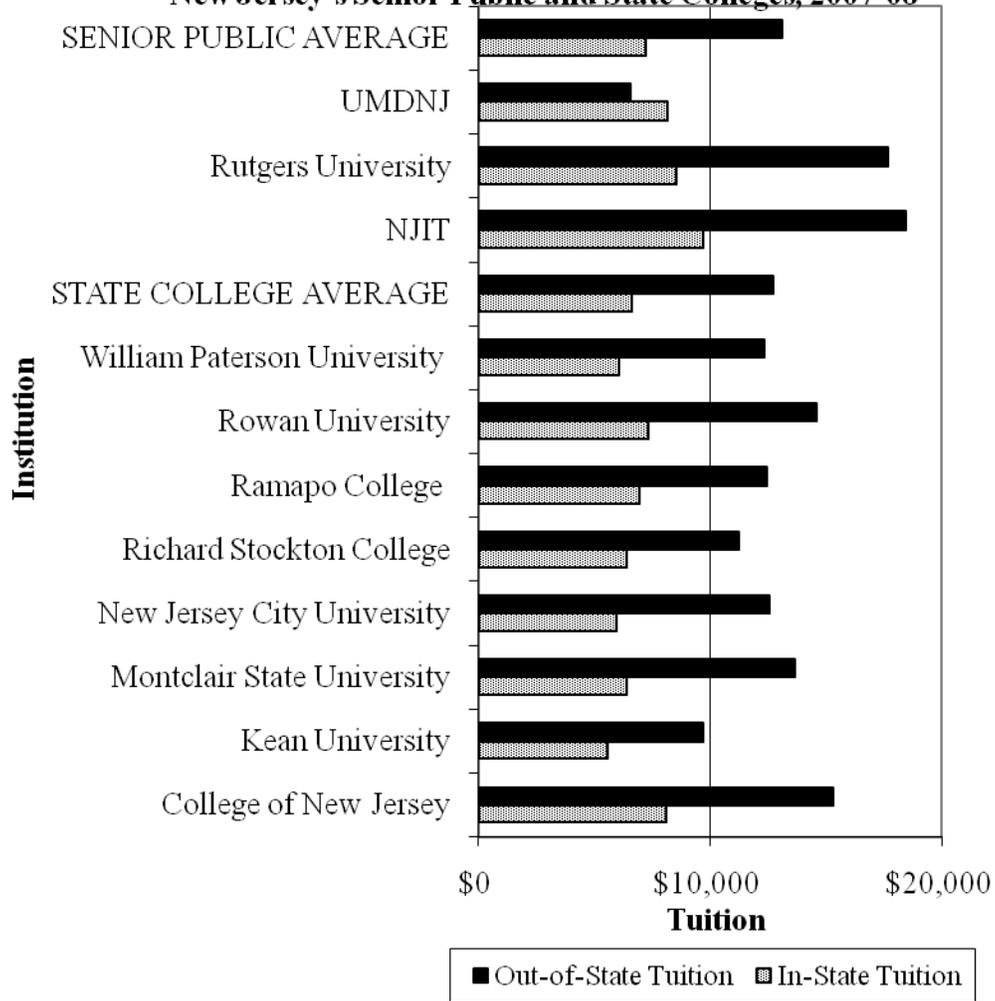
academic potential due to substantial legalization barriers and limited access to public services.^{xv}

Student Testimony: Marcos

Marcos is a high school student from New Brunswick, a young believer in the American dream; a dedicated student hoping to one day attend college to study architecture. Upon arriving in America at age 12, Marcos was certain that he wanted to attend college after high school, and as his graduation nears, the prospect of paying out-of-state tuition is crippling. “I feel limited—this is my American nightmare,” says Marcos, whose family cannot afford the out-of-state rates at the state university. Despite these financial setbacks, Marcos is still optimistic about attending college: “I have the capacity. I have the grades. I have the dream.”

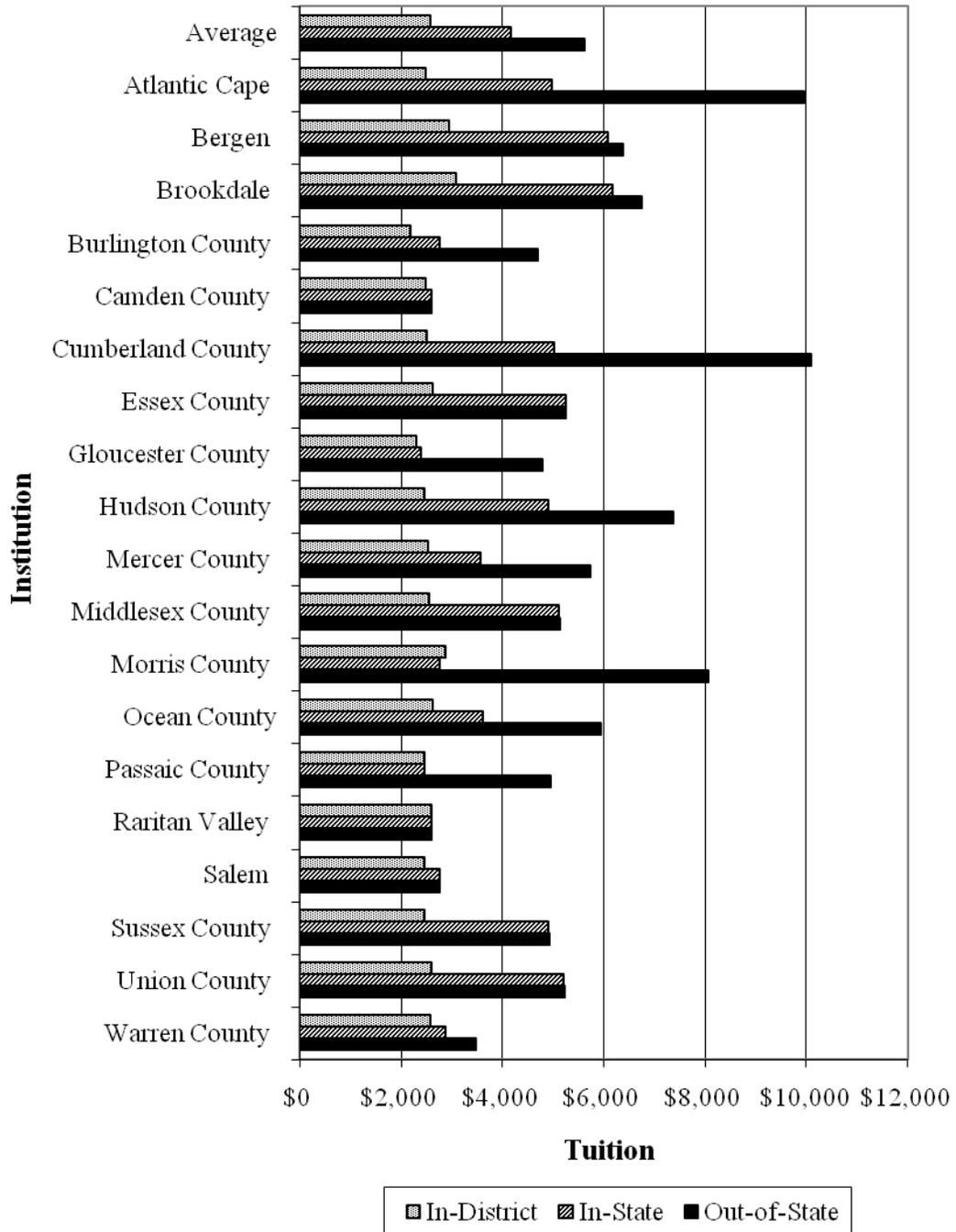
A comparison of tuition rates for in-state students versus out-of-state students in New Jersey’s state colleges and senior public institutions exemplifies the substantial financial barrier confronting students with unauthorized status (see Tables 1 and 2).^{xvi} Tuitions at New Jersey’s public colleges and universities are already among the most costly when compared to public institutions in other states.^{xvii} On average, the cost for out-of-state tuition and fees at state colleges and senior public institutions is over 90 percent higher than in-state costs.^{xviii}

Table 1
Comparison of In and Out-of-State Undergraduate Tuition
at
New Jersey's Senior Public and State Colleges, 2007-08



Source: NJ Commission on Higher Education, Tuition and Fees Required, FY 2007.

Table 2
Comparison of In-District, In and Out-of State Tuition in
New Jersey's Community Colleges, 2007-08



The Panel therefore forwards recommendations for your consideration, law reforms that will enable New Jersey's student population to continue to maintain a strong and competitive edge both nationally and globally. As the country faces increasing pressure by its citizenry to develop ways to attract and keep jobs at home, New Jersey has realized that part of this effort includes maximizing educational opportunities for all students, regardless of their immigration status.

Current Law and Provisions

In the 1982 landmark case of *Plyler v. Doe*, the U.S. Supreme Court held that it was "illegal for a state to deny school-aged undocumented aliens the right to a free education."^{xxix} Founded upon the equal protection doctrine, the decision extended the right to a free education to "any 'person' (not just U.S. citizens)."^{xxx} The Court held that children could not be penalized for the actions of their parents in bringing them into the country illegally, since "the children . . . can affect neither their parents' conduct nor their own status."^{xxxi} The Court continued: "Even if the State found it expedient to control the conduct of adults by acting against their children, legislation directing the onus of a parent's misconduct against his children does not comport with fundamental conceptions of justice."^{xxxii} The court underlined the necessity of a *basic* (elementary and secondary) education:

By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation. In determining the rationality of § 21.031, we may appropriately take into account its costs to the Nation and to the innocent children who are its victims.^{xxxiii}

Consistent with this federal constitutional principle, New Jersey laws and regulations provide that "Any student over five and under 20 years of age . . . shall be enrolled without regard to, or inquiry concerning, immigration status."^{xxxiv} Though nearly one-third of all children in New Jersey live in immigrant families, approximately 87 percent of them are U.S. citizens.^{xxxv} Nevertheless, there remains a fraction of undocumented children living in New Jersey who do not qualify for in-state tuition. Because many of them were brought to the United States at a young age, they may have acclimated culturally and socially to the local community, and may be, as a practical matter, indistinguishable from their native born peers. Once those students graduate from high school, however, their access to continued education changes dramatically. At that point, even though they have graduated from a New Jersey high school and may have lived in this state for most of their lives, they are treated as out-of-state students, and thus often are required to pay as much as double the in-state tuition rate.

Unlike out-of-state students who are U.S. citizens, and who would have access to in-state tuition in their home state but choose to attend a public institution in New Jersey, immigrant students who reside in New Jersey have no other option to affordable public education. The Panel believes that undocumented graduates of New Jersey high schools should be given a fair opportunity to obtain a college degree so they can contribute to and succeed in our competitive global economy. Depriving an academically eligible student of access to college imposes a lifetime hardship upon these young people, many of whom have lived in New Jersey most of

their lives.

The *Plyler v. Doe* decision was certainly correct for its time. Twenty-six years after that ruling, however, the reality of the demands of the current job market is that a high school diploma in itself is often insufficient to permit the student to be an effective and productive entrant in the state workforce. Whereas the *Plyler* decision was once enough to afford undocumented students the opportunity to obtain a sufficient education, in today's economy, a high school diploma is simply insufficient. Basic education should therefore embody post-secondary instruction beyond the high school years.

Federal law does not prohibit undocumented students from enrolling in post-secondary institutions and it does not bar states from granting in-state tuition to eligible students, including those with unauthorized status.^{xxvi} Federal law does require that if state extends a postsecondary "education benefit" to undocumented students, it must extend the same benefit to any citizen.^{xxvii} Since 2001, ten states have granted in-state tuition rates to certain undocumented students. As further described below, these states have based eligibility for in-state tuition not on residency per se but rather on whether the student attended high school in the state for some period of time prior to seeking to attend college.^{xxviii} Moreover, it has not been established that assessing the full in-state tuition rate on a student, without any state grants or other financial aid, constitutes an "education benefit."

Other In-State Tuition Programs

Since 2001, ten states have succeeded in granting in-state tuition to immigrant students regardless of federal immigration status: Texas, California, Utah, Washington, New York, Illinois, Oklahoma,^{xxix} Kansas, New Mexico, and Nebraska (see Table 1).^{xxx} Four of these states—California, Texas, Illinois, and New York—rank alongside Florida and New Jersey as the top six states with the largest foreign born populations in the country.^{xxxi} Of these six states, only New Jersey and Florida have yet to pass legislation granting undocumented students access to in-state tuition at public postsecondary institutions.^{xxxii}

The states that have extended in-state tuition to immigrant students, regardless of their federal immigration status, use similar legislative models. First, the state requires state residency documentation in order to receive in-state tuition benefits.^{xxxiii} Second, the state bases the law upon whether the student graduates from a state high school, rather than on their immigration status.^{xxxiv} These requirements are very similar to those proposed in two bills currently pending in the New Jersey Legislature, A194 and S1036, which require: (1) residence in the state for a stated period of time, usually two or three years; (2) attendance at a secondary school in the state for a duration of that period; (3) graduation from a high school located in the state or attainment of a GED; and, (4) for those who do not have lawful immigration status, submission of an affidavit certifying that the student will seek to legalize his or her immigration status at the first available opportunity.^{xxxv}

**Table 3
States Granting In-State Tuition to Undocumented Students**

State	Law	Year Enacted	High School Attendance Requirement	Graduation from state high school requirement	Affidavit requirement for undocumented students
Texas	Tex. Educ. Code Ann. § 54.052(a)(3) (LexisNexis 2007); Tex. Educ. Code Ann. § 54.053(3)(B) (LexisNexis 2007)	2001	Yes, reside in state and attend for at least 3 years	Yes, graduate or receive equivalent diploma	Yes
California	Cal. Educ. Code § 68130.5(a) (Deering 2007)	2001	Yes, attend for at least 3 years	Yes, graduate or receive equivalent diploma	Yes
New York	N.Y. Educ. Law § 355(2)(h)(8) (Consol. 2008); N.Y. Educ. Law § 6206(7)(a) (Consol. 2008); N.Y. Educ. Law § 6301(5) (Consol. 2008)	2002	Yes, attend for 2 years and enroll at a state institution within 5 years of graduation	Yes, graduate or receive equivalent diploma	Yes
Utah	Utah Code Ann. § 53B-8-106 (LexisNexis 2008)	2002	Yes, attend for at least 3 years	Yes, graduate or receive equivalent diploma	Yes
Illinois	110 Ill. Comp. Stat. Ann. 305/7e-5 (LexisNexis 2008)	2003	Yes, attend for at least 3 years and reside with parent/guardian	Yes, graduate or receive equivalent diploma	Yes
Oklahoma	70 Okl. St. § 3242 and State Regents for Higher Education's 2008 revised Regent's policy (3.18.9)	2003	Yes, attend for at least 2 years and reside with parent/guardian	Yes, graduate. Equivalent diploma not accepted.	Yes

Washington	Wash. Rev. Code Ann. § 28B.15.012(2)(e) (LexisNexis 2008)	2003	Yes, reside in state and attend for at least 3 years	Yes, graduate or receive equivalent diploma	Yes
Kansas	Kan. Stat. Ann. § 76-731a(b)(2) (LexisNexis 2006)	2004	Yes, attend for at least 3 years	Yes, graduate or receive equivalent diploma	Yes
New Mexico	N.M. Stat. Ann. § 21-1-4.6 (LexisNexis 2008)	2005	Yes, attend for at least 1 year	Yes, graduate or receive equivalent diploma	Yes
Nebraska	Neb. Rev. Stat. Ann. § 85-502 (LexisNexis 2008)	2006	Yes, attend for at least 3 years	Yes, graduate or receive equivalent diploma	Yes

Source: Zaleski, *supra* note 42; Spiros Protopsaltis, “Undocumented Immigrant Students and Access to Higher Education; An Overview of Federal and State Policy,” <http://www.thebell.org/PUBS/IssBrf/2005/03UndocTuition.pdf>, 2005 Salsbury, *supra* note 435.

Bills aimed at extending in-state tuition benefits to undocumented students are currently being considered in a number of states. In 2007 alone, such legislation was considered in Iowa, Maryland, and Connecticut (whose provision was vetoed in spring 2007).^{xxxvi} Further extensions and provisions were proposed to add to already existing in-state tuition statutes in Utah, California (proposed in 2008), New York, and New Mexico.^{xxxvii} Furthermore, lowering the barriers to higher education for talented students has been of bipartisan interest: successful legislation granting in-state tuition has originated in both Republican and Democratic-majority states.^{xxxviii}

Proposed Solution

Lacking a uniform policy on in-state tuition, New Jersey postsecondary institutions have devised different approaches to granting in-state tuition to undocumented students.^{xxxix} A 2005 survey conducted by *The Record* in Bergen County found that several institutions already grant in-state tuition to students with unauthorized status, basing residency status on their home address or high school.^{xl} Other institutions altogether bar undocumented students from admission altogether, including William Paterson University and the County College of Morris. Given this variation between postsecondary institutions, a uniform policy from the State Legislature on in-state tuition is necessary and appropriate.

Two bills pending before the Legislature (A-194, Johnson/Huttle and S1036, Rice/Cunningham) would provide undocumented graduates of New Jersey high schools with the right to pay resident tuition rates at public colleges and universities, providing they meet certain criteria. Students would qualify if they:

1. Attended a NJ high school for three years;

2. Graduated from a NJ high school or received a G.E.D. in NJ; and
3. Submit an affidavit stating that they have, or will when eligible to do so, make application to legalize their immigration status.

It is important to stress that the bills would not change admission standards, and applicants would be required to meet the academic requirements of, and be admitted by, the institutions to which they apply. The bills would also not make the student eligible for state funded or assisted financial aid or grants.

Student Population Statistics: Estimating the Number of New Jersey Students Affected

Although estimates of the high school-aged undocumented population in New Jersey are variable at best, by some estimates there may be close to 28,000 such students.^{xli} Yet the number of undocumented students who would be expected to apply to and matriculate at state colleges if in-state tuition were granted is substantially lower, given the comparative rate at which students with unauthorized status graduate from high school.^{xlii} Moreover, because New Jersey does not record the number of undocumented students in its state colleges and universities, there is little hard data on which to base a state-level estimate of such students currently attending public colleges and universities.^{xliii}

Because these statistics are not available for New Jersey, the number of non-resident students expected to receive in-state tuition should New Jersey pass such legislation, must be estimated based on other states' experiences. New Jersey and Illinois have similarly sized foreign-born and undocumented populations, which allows for a rather rough estimate of the number of students potentially eligible for in-state tuition (see Tables 4 and 5).

**Table 4
Estimates of US Population of Unauthorized Immigrants by State**

State	DHS Estimated Undocumented Population, Jan 2006[i]	Percent of National Undocumented Population, Jan 2006	Pew Hispanic Center Estimated Undocumented Population, March 2002, 2003, 2004[ii]	Percent of National Undocumented Population, 2002-2004
California	2,830,000	25	2,400,000	24
Texas	1,640,000	14	140,000	14
Florida	980,000	8	850,000	9
Illinois	550,000	5	400,000	4
New York	540,000	5	650,000	7
New Jersey	430,000	4	350,000	4
National	11,550,000	100	10,000,000	100

Source: [i] Chirag Mehta and Asma Ali, "Education for All: Chicago's undocumented immigrants and their access to higher education," p. iii (University of Illinois Center for Urban Economic Development, 2003) (available at <http://www.uic.edu/cuppa/uicued/Publications/RECENT/undocumentedImmigrants.pdf>). [ii] Jeffrey Passel, "Estimates of the Size and Characteristics of the Undocumented Population," (Washington, DC: Pew Hispanic Center, March 21, 2005).

In their 2003 analysis of Illinois HB 60, Chirag Mehta and Asma Ali estimate that 2,226 students would be eligible for in-state tuition under the Illinois statute.^{xliv} Applying this number directly to New Jersey, we might anticipate that about 2,000 students in New Jersey will be eligible for in-state tuition. The New Jersey Immigration Policy Network estimates that this number might be closer to 1200.^{xlv} Whether all these students will matriculate at New Jersey postsecondary institutions remains to be seen. Based on other states' experiences, the number of eligible students matriculating will most likely be much lower: only 30 of an estimated 370 undocumented students registered at colleges in Kansas for the semester following the enactment of its in-state tuition program.^{xlvi}

Table 5				
New Jersey Relative to Top Six States with Largest Foreign-Born Populations				
State	Number Foreign Born, ACS 2006	Rank	Percent Foreign Born, ACS 2006	Rank
California	9,902,067	1	27.2%	1
New York	4,178,962	2	21.6%	2
Texas	3,740,667	3	15.9%	7
Florida	3,425,634	4	18.9%	5
Illinois	1,773,600	5	13.8%	10
New Jersey	1,754,253	6	20.1%	3
Source: MPI Data Hub, "States Ranked by Percent Foreign Born," 2008; MPI Data Hub, "States Ranked by Number of Foreign Born," 2008.				

Economic Impact

Opponents of in-state tuition often rely upon arguments that because undocumented immigrants pay a disproportionately lower share of taxes, extending in-state tuition to undocumented students would put a substantial financial strain on the state, and undocumented immigrants will be attracted to the state because of its generous educational programs.^{xlvii} Empirical research,

however, undermines these claims. First, although unauthorized immigrants earn less than their authorized counterparts, they nonetheless contribute to local, state, and federal government through property taxes — on either owned or rented residences — as well as sales and consumption taxes.^{xlviii}

Second, based on the experiences in states already offering in-state tuition, these programs will not require heavy subsidization by the state.^{xlix} Since legislation has passed in Kansas, for example, only 30 undocumented students registered for in-state tuition costs; in New Mexico, this number is 41; in Texas, undocumented students who registered for in-state tuition totaled less than 0.4 percent of all students attending higher education institutions in the state.¹ Moreover, some of the ten states which have enacted statutes to extend in-state tuition rates to undocumented individuals have reported the total number of beneficiaries, including those other than undocumented individuals (i.e. legal immigrants or U.S. citizens) who also qualify for in-state tuition rates under the provisions of the program (see Table 6).

Table 6
In-State Tuition at State Public Colleges and Universities

State [See footnote]	Estimated Number of Students Granted In-State Tuition Under Provision or Estimated Number Eligible to Seek In-State Tuition Under Provision	Academic Year of Estimate
<u>Texas</u> [73]	393	2001-2002
<u>California</u> [74]	561	2002-2003
<u>New York</u> [75]	2000 (CUNY only)	2005-2006
<u>Utah</u> [76]	169*	2003-2004
<u>Illinois</u> [77]	2226**	2003-2004
<u>Kansas</u> [78]	221*	2005-2006
<u>New Mexico</u> [79]	41*	2005-2006

[73] Office of the Texas Comptroller, “Undocumented in Texas: A Financial Analysis of the Impact to the State Budget and Economy.” December 2006. Accessed March 19, 2008 from: <http://www.window.state.tx.us/specialrpt/>

[74] University of California Office of Personnel, “Annual Report on AB 540 Tuition Exemptions 2005-06 Academic Year.” November 2006. Accessed March 19, 2008 from: www.ucop.edu/sas/sfs/docs/ab540_annualrpt_2007.doc.

[75] Protopsaltis, *supra* note 46.

[76] Jennifer Robinson, “In-State Tuition for Undocumented Students in Utah,” Center for Public Policy and Administration (University of Utah, Feb., 2007) (available at http://www.cppa.utah.edu/publications/higher_ed/Policy_Brief_2_13_07_In-state_Tuition.pdf).

[77] Mehta and Ali, *supra* note 55.

[78] Robinson, *supra* note 68.

[79] *Id.*

*Undocumented students *only*

** Estimate of eligible students prior to enactment.

Rutgers University calculated estimates for the impact of in-state tuition on the university by specifying the number of New Jersey high school graduates residing in New Jersey and paying out of state tuition (see Table 7). Based on Rutgers calculations, if the 180 such students enrolled in the fall of 2007 qualified for in-state rather than out-of-state tuition, it would have resulted in \$1.63 million less in annual tuition revenue.

Table 7				
Students Who Graduated from New Jersey High School but Pay Out-of-State Undergraduate Tuition at Rutgers University				
Academic Semester	Fall 2004	Fall 2005	Fall 2006	Fall 2007
Students with No Visas	181	177	169	180
Students with Visas	93	101	126	109
Total	274	278	295	289
F-Visas	47	41	56	63
Total does not include student visa holders (F-visas) because they would be ineligible for in-state tuition. Source: Rutgers University				

Not all of these students, however, would meet all of the criteria under pending proposed legislation. For example, students would qualify for in-state tuition rates only if they attended high school in New Jersey for three or more years or obtained an equivalency degree in New Jersey. Furthermore, undocumented students would qualify only if they certify that they will seek permanent residency at their first opportunity. These statistics also include those who are in the United States on a student or temporary visa, and thus would not be eligible for in-state tuition under the proposed legislation because they do not plan to remain.

A long-term analysis of revenue loss associated with in-state tuition benefits conducted by the University of California examined this issue and found that both cohorts of eligible students and lost revenue have leveled off in recent years after initial increases.^{li} In fact, expanding the total pool of eligible residents tends to *increase* the total school revenues because the undocumented student population is an untapped source of tuition revenue. This initiative could prove beneficial for state and county colleges, which generally have excess capacity for incoming students.^{lii} Moreover, New Jersey has the highest rate of out-migration of high school graduates entering postsecondary institutions in the nation.^{liii} In this sense, expanding the total pool of eligible residents can *increase* total school revenues and keep talented high school graduates in New Jersey at state institutions. By helping reverse the trend of out-migration of New Jersey high school graduates, this initiative can lessen an estimated \$1.5 billion revenue loss to New Jersey residents who attend college in other states.^{liv}

Conclusion

Denying undocumented students access to affordable, in-state tuition costs is detrimental to the State and society at-large. A balanced analysis of this issue indicates that the benefits of such a policy far outweigh any cost. Given the state's large immigrant population – some of whom are undocumented graduates of the state's high schools – as well as the clear benefits of a educate populace and the ever increasing demands to maintain the state's highly educated and competitive workforce, New Jersey must ensure that all of its young people have the tools they need to reach their full potential in the marketplace.

APPENDIX A

Resolution on In-State Tuition

Whereas, Governor Jon S. Corzine on August 6, 2007 established the Governor's Blue Ribbon Advisory Panel on Immigrant Policy and charged that bi-partisan panel to present recommendations; and

Whereas, the panel has met and deliberated concerning the needs of New Jersey's immigrant students who have graduated from a High School in New Jersey and unanimously supports provisions to ensure that all such individuals who have graduated from a High School in New Jersey are able to receive the benefit of in-state tuition at institutions of higher education within the State; and

Whereas, at the present time, individuals who are not able to formally demonstrate proof of New Jersey residence are unable to receive the benefit of in-state tuition and are required to pay higher tuition rates rendering higher education a fiscal impossibility for many students; and

Whereas, many of these students were raised in New Jersey, attended New Jersey's public schools and attained high academic achievement at those schools; and

Whereas, failure to provide equal access to in-state tuition for children who were not born in New Jersey acts as a disincentive for achievement in our public schools; and

Whereas, New Jersey is one of six states that account for two thirds of all the immigrant students in the United States, and New Jersey is one two states among these six who have failed to provide an equitable and fair path to our state Colleges, Universities and County Colleges by enacting an in-state tuition program; and

Whereas, ten states currently allow certain immigrant students to be eligible for in-state tuition subject to eligibility criteria; and

Whereas, an educated workforce is in the best economic interest of the State of New Jersey now and in the future, and the cost to the state of providing in-state tuition rates to immigrant students who graduate from a High School in New Jersey is de minimis, particularly in comparison to the long term economic benefits of a higher earning workforce; and

Whereas, school tuition revenues could actually increase if such legislation were enacted, because money paid by these students represents income that would not otherwise be accrued by the public colleges; and

Whereas, courts in Kansas and California have upheld the validity of similar in-state tuition provisions; now, therefore

BE IT RESOLVED:

1. The Governor's Blue Ribbon Advisory Panel on Immigrant Policy hereby recommends a change in the law so that immigrant students are eligible to attend two and four year public colleges and universities at the same tuition rate as resident students.
2. The Governor's Blue Ribbon Advisory Panel on Immigrant Policy supports those bills pending before the New Jersey legislature that would provide in-state tuition rates for immigrant students.
3. The Governor's Blue Ribbon Advisory Panel on Immigrant Policy recommends that the Governor, Cabinet, other officials and the legislature implement all other necessary legislation and regulations that would allow for immigrant students to receive the benefit of in-state tuition rates.

End Notes

ⁱ See generally, Immigration Policy Center, “Dreams Deferred: The Costs of Ignoring Undocumented Students,” <http://immigration.server263.com/images/File/factcheck/Access%20to%20Higher%20Ed%209-25%20FINAL.pdf>, (October 18, 2007).

ⁱⁱ Migration Policy Institute, “Fact Sheet on the Foreign Born: Workforce Characteristics, New Jersey,” <http://www.migrationinformation.org/DataHub/acscensus.cfm#> (accessed 22 July 2008).

ⁱⁱⁱ Roberto Gonzales, “Wasted Talent and Broken Dreams: The Lost Potential of Undocumented Students,” <http://www.immigrationpolicy.org/index.php?content=f071001>, Oct. 2007.

^{iv} Association for Children of New Jersey, “New Jersey Immigrant Kids Count 2007: A Profile of Child Well-Being,” p.4, <http://www.acnj.org/admin.asp?uri=2081&action=15&di=1151&ext=pdf&view=yes>, Feb. 7, 2007.

^v In 2006 New Jersey was ranked by one industry publication as second in the nation in terms of educated workforce. 2006 Business Facilities Rankings Report,” *Business Facilities* (2006), http://www.businessfacilities.com/bf_06_07_ranking3.php (accessed 4 Aug. 2008). In 2007, that ranking dropped to below ninth (“2007 Business Facilities Ranking Report,” *Business Facilities* (2007), http://www.businessfacilities.com/bf_07_07_cover1a.php), and in 2008 New Jersey ranked twelfth. 2008 Business Facilities Rankings Report,” *Business Facilities* (2008) (http://www.businessfacilities.com/bf_08_07_cover.php, last accessed Aug. 5, 2008).

^{vi} New Jersey Department of Labor and Workforce Development, Division of Labor Market and Demographic Research, “Annual Demographic Profile,” 2007 <http://lwd.dol.state.nj.us/labor/lpa/dmograph/adprof/t15.htm>, (2005-2006 data).

^{vii} 8 U.S.C. § 1153(b) (3).

^{viii} 8 U.S.C. § 1101(a) (15) (H) (i) (B); 20 C.F.R. § 655.700.

^{ix} 8 U.S.C. § 1153(b) (3) (ii) (defining “professionals” for purposes of immigrant visa eligibility as “Qualified immigrants who hold baccalaureate degrees and who are members of the professions.”)

^x Jennifer Frum, “Postsecondary Education Access for Undocumented Students: Opportunities and Constraints,” *American Academic* 3 (2007), available at http://www.aft.org/pubs-reports/american_academic/issues/january07/Frum.pdf

^{xi} Jeffrey Passel, “Further Demographic Information Relating to the DREAM Act,” (Urban Institute, 21 Oct. 2003), available at http://www.nilc.org/immlawpolicy/DREAM/DREAM_Demographics.pdf. Passel notes that this number, based on 2000-2002 data, is a substantial over-estimate of undocumented students graduating from high school after having resided in the United States for at least five years. This estimate has nonetheless been used by national and state-level policymakers. See Andorra Bruno, “Unauthorized Alien Students: Issues and ‘DREAM Act’ Legislation,” *CRS Report for Congress* (Congressional Research Service, 12 Dec. 2007).

^{xii} Gonzales, *supra* note 4, at 1; The Mayor’s Immigration Study Commission, “Immigration: Legal and Illegal--Local Perspective: Charlotte, NC” <http://www.charmeck.org/Departments/Mayor/ImmigrationStudy/Home.htm> p.6.

^{xiii} “Profiles by Geographic Area: New Jersey,” Kids Count Data Center, Annie E. Casey Foundation, January 2008, http://www.kidscount.org/datacenter/profile_results.jsp?r=32&d=1&c=12&p=5&x=146&y=9 (Accessed 7 August 2008).

^{xiv} Jeffrey Passel, “Unauthorized Migrants: Numbers and Characteristics,” Jun. 14 2005, at p.30, available at <http://pewhispanic.org/files/reports/46.pdf>.

^{xv} Roberto Gonzales, “Wasted Talent and Broken Dreams: The Lost Potential of Undocumented Students,” *Immigration Policy in Focus* 5 no. 13, <http://www.immigrationpolicy.org/index.php?content=f071001>, Oct. 2007; “Children of Immigrants: Facts and Figures,” *Fact Sheet* (The Urban Institute, May 2006).

^{xvi} NJ Commission on Higher Education, Tuition and Fees Required, FY 2007.

^{xvii} Ana M. Alaya, “Tuition to spike at N.J. colleges and universities,” *The Star-Ledger*, August 5, 2008. http://www.nj.com/news/index.ssf/2008/08/tuition_to_spike_at_nj_college.html (accessed 19 August 2008).

^{xviii} “Tuition and Required Fees, AY 2007,” NJ Commission on Higher Education, updated 9 July 2008, <http://www.state.nj.us/highereducation/statistics/Tuition2007sp.htm> (accessed 22 July 2008).

^{xix} *Plyler v. Doe*, 457 U.S. 202 (1982).

^{xx} *Id.*

^{xxi} *Id.*

^{xxii} *Id.* at 220.

^{xxiii} *Id.* at 223-24.

^{xxiv} N.J.A.C. 6A:22-3.3 (2008).

^{xxv} Association of Children of New Jersey, “New Jersey Immigrant Kids Count 2007: A Profile of Child Well-Being,” Association of Children of New Jersey, October 2007, p.1 <http://www.acnj.org/admin.asp?uri=2081&action=15&di=1151&ext=pdf&view=yes>.

^{xxvi} The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Sec. 505) prohibits states from providing a “postsecondary education benefit” to an alien not lawfully present unless any citizen or national is also eligible for such benefit. On December 23, 2008 the California Supreme Court granted review in *Martinez v. Regents of the University of California*, an in-state tuition to immigrant students case. The court will address the following issues: (1) Does Education Code section 68130.5, which authorizes undocumented aliens and other non-residents who attend and graduate from a California high school to pay in-state tuition for post-secondary education, violate 8 United States Code, section 1623 and/or section 1621? (2) Does section 68130.5 violate the rights of non-resident students under federal law in violation of the privileges and immunities clause of the Fourteenth Amendment? (unpublished) Notice of review available at http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=564781&doc_mo=5167791 A federal court challenge to Kansas’ in-state tuition statute was dismissed for lack of standing. *Day v. Bond*, 2007 U.S. App. LEXIS 20790 (10th Cir. Aug. 30, 2007). The court therefore was not required to address the substantive argument that a statute that requires a student to pay full in-state tuition does not confer a “postsecondary education benefit.” Calls upon the federal Department of Homeland Security to challenge in-state tuition programs have been unsuccessful, and the Department thus far appears to be unwilling to assert such a challenge.

For a discussion of the legality of state-granted in-state tuition in light of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), see Michael A. Olivas, “IIRIRA, the DREAM Act, and Undocumented College Student Residency,” *Journal of College and University Law* 30 (2004); Michael A. Olivas, “Lawmakers Gone Wild? College Residency and the Response to Professor Kobach,” forthcoming in *SMU Law Review* (2008), University of Houston Law Center, <http://www.ssm.com> (accessed 16 June 2008); Josh Bernstein, “Court Upholds California In-State Tuition Law,” National Immigration Law Center, <http://nilc.org> (accessed 22 July 2008).

^{xxvii} For a discussion, see Michael A. Olivas, “A Rebuttal to FAIR,” *University Business*, June 2002; (“State A cannot give any more consideration to an undocumented student than to a nonresident student from state B.”)

^{xxviii} Alene Russell, “In-State Tuition for Undocumented Immigrants: States’ Rights and Educational Opportunity,” (Washington DC: American Association of State Colleges and Universities, August 2007), located at http://aascu.org/policy_matters/pdf/in-state_tuition07.pdf.

^{xxix} Oklahoma HB 1804 of legislative session 2007 effectively repealed the state's earlier (2003) statute granting resident tuition to undocumented students. However, 70 Okl. St. § 3242 (2008) states: “The Oklahoma State Regents for Higher Education may adopt a policy which allows a student to enroll in an institution within The Oklahoma State System of Higher Education and allows a student to be eligible for resident tuition” if the student meets specific eligibility requirements, including: graduated from a public or private high school in the state; resided in the state with a parent or legal guardian while attending classes at a public or private high school in the state for at least two (2) years prior to graduation; secured admission to, and enrolled in, an institution within The Oklahoma State System of Higher Education; and provide to the institution a copy of a true and correct application or petition filed with the United States Citizenship and Immigration Services to legalize the student's immigration status, or file an affidavit of such intent. The State Regents for Higher Education’s 2008 revised Regent’s policy (3.18.9) conforms to this law and allows for residency tuition to undocumented students as noted above.

^{xxx} Alene Russell, “In-State Tuition for Undocumented Immigrants: States’ Rights and Educational Opportunity,” (Washington DC: American Association of State Colleges and Universities, August 2007). http://www.aascu.org/media/pm/pdf/in-state_tuition07.pdf.

^{xxxi} Migration Policy Institute, MPI Data Hub, “States Ranked by Percent Foreign-Born,” http://www.migrationinformation.org/datahub/files/MPIDataHub_ACS_2006-PercentForeignBorn.xls.

^{xxxii} See generally, Ashley Zaleski, “In-State Tuition for Undocumented Immigrations,” *State Notes* (March 2008), Education Commission of the States, <http://www.ecs.org/clearinghouse/75/53/7553.pdf>, (accessed 9 June 2008);

^{xxxiii} Jessica Salsbury, “Evading ‘Residence’: Undocumented Students, Higher Education, and the States,” 53 *American University Law Review* 459, 476 (2003).

^{xxxiv} *Id.*

^{xxxv} *Id.*

^{xxxvi} Zaleski, *supra* note xxxii, at 2-3; Michael A. Olivas, “Recent Developments in Undocumented College Student Issues (2005-present),” Institute for Higher Education Law and Governance, University of Houston Law Center, 2008 <http://www.law.uh.edu/ihelg/> (accessed 25 July 2008).

^{xxxvii} *Id.*

^{xxxviii} Russell, *supra* note xxviii.

^{xxxix} Miguel Perez and Elizabeth Llorente, “Tests Illegals Can’t Pass: Legal, financial hurdles block college for many aliens,” *The Record*, 28 Aug. 2005, A01 <http://www.freerepublic.com/focus/f-news/1481270/posts> (See appendix I for a break-down of policies by institution). The survey does not encompass all institutions in New Jersey and should not be considered exhaustive.

^{xl} *Id.*

^{xli} Susan James, “Borderline Dreams: Undocumented Teens Fight for an Education,” *Columbia Journalism News*, 2005, <http://web.jrn.columbia.edu/studentwork/youthmatters/2005/story.asp?course=youthmatters&id=420>. (Accessed 18 June 2008).

^{xlii} Miguel Perez and Elizabeth Llorente, “Tests Illegals Can’t Pass: Legal, financial hurdles block college for many aliens,” *The Record*, 28 Aug. 2005, A01; Jeanne Batalova and Michael Fix, “New Estimates of Unauthorized Youth Eligible for Legal Status under the DREAM Act,” *Immigration Backgrounder* 1 (Oct. 2006), Migration Policy

Institute, http://www.migrationpolicy.org/pubs/Backgrounder1_Dream_Act.pdf, (accessed 21 July 2008); Passel, “Further Demographic Information.” *supra* note 12 at 4.

^{xliii} Conversation between Ronald Chen, Chair of the New Jersey Immigrant Policy Panel, and Jane Oates, Executive Director of the New Jersey Commission on Higher Education, October 18, 2007.

^{xliv} Mehta and Ali, *supra* note **Error! Bookmark not defined.**, at iii.

^{xlv} Perez and Llorente, *supra* note xlii, at 13.

^{xlvi} Jennifer L. Frum, “Postsecondary Education Access for Undocumented Students,” p.90 (available at http://www.aft.org/pubs-reports/american_academic/issues/january07/Frum.pdf).

^{xlvii} “Taxpayers Should Not Subsidize College for Illegal Aliens,” FAIR, May 2003, http://www.fairus.org/site/PageServer?pagename=iic_immigrationissuecenters6be3 (accessed 25 July 2008).

^{xlviii} Randy Capps and Michael Fix, “Undocumented Immigrants: Myths and Reality,” http://www.urban.org/UploadedPDF/900898_undocumented_immigrants.pdf (The Urban Institute: 25 October 2005). It is estimated that undocumented immigrants contribute 6-7 billion dollars a year to the Social Security Administration through payroll taxes, but are prevented from collecting any state benefits; Eduardo Porter, “Illegal Immigrants Are Bolstering Social Security with Billions.” New York Times, Apr. 5, 2005. <http://www.nytimes.com/2005/04/05/business/05immigration.html>.

^{xlix} Frum, *supra* note 51.

¹ Id.

⁷³ Office of the Texas Comptroller, “Undocumented in Texas: A financial analysis of the impact to the state budget and economy.” December 2006. Accessed March 19, 2008 from <http://www.window.state.tx.us/specialrpt/>

⁷⁴ University of California Office of Personnel, “Annual Report on AB 540 Tuition Exemptions 2005-06 Academic Year.” November 2006. Accessed March 19, 2008 from www.ucop.edu/sas/sfs/docs/ab540_annualrpt_2007.doc

⁷⁵ Protopsaltis, *supra* note 46.

⁷⁶ Jennifer Robinson, “In-State Tuition for Undocumented Students in Utah,” Center for Public Policy and Administration (University of Utah, Feb. 2007) (available at http://www.cppa.utah.edu/publications/higher_ed/Policy_Brief_2_13_07_In-state_Tuition.pdf).

⁷⁷ Mehta and Ali, *supra* note 55.

⁷⁸ Robinson, *supra* note 68.

⁷⁹ Id.

^{li} University of California, Office of the President.

^{lii} “New Jersey’s Growing Capacity Crisis,” New Jersey Association of State Colleges and Universities, 27 July 2007, <http://www.njascu.org/growing%20capacity.htm> (accessed 25 July 2008).

^{liii} Id.

^{liv} Id.



State of New Jersey

Governor's Blue Ribbon Advisory Panel on Immigrant Policy

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Proposal for the Creation of a Governor's Commission on New Americans

Fiscal Reality: Any recommendation on the creation of a Commission on New Americans must take into account the fiscal realities confronting the State as of the date of the Panel's final report. With a hiring freeze, lack of revenues to match expenditures, accumulating debt, and with the nation immersed in a recession, state resources are at a premium. This is not to say that state government should not act but rather, it is to say that any implementation plan for a Commission on New Americans should emphasize rolling out the creation in phases and focus on the redirection of existing state resources to accomplish the goal.

Proposed Commission on New Americans Functions: The most critical function of the office should be the central coordination and oversight of inter-department collaboration regarding immigrant integration policies. The office should be the lead driver in implementing a statewide policy of immigrant integration and work collaboratively with community organizations.

The Commission must be closely affiliated with the Governor because the influence and authority of the Governor are essential to effectively carrying out the office's core mission.

Proposed Commission on New Americans Structure: The commission members, both public and private, would direct and oversee the immigrant integration policies of the state. The commission would have staff permanently assigned to it. The commission would be headed by a member of the Governor's Office.

The commission should include representatives from both government (key departments must be at the table) as well as representatives from immigrant and immigrant-serving community-based organizations, philanthropic organizations, advocacy groups, businesses, including immigrant entrepreneurs, unions, academia, and faith-based organizations. The commission would meet regularly and as required in order to provide policy direction and feedback to the Governor on the effectiveness of any proposed

immigrant integration policies. The commission would be headed by the Governor's Chief-of-Staff or their designee. The commission would have two or three full-time employees in order to execute and oversee the implementation of the commission's decisions.

The functions of the Commission would consist of the following:

- A. Securing input on service needs from immigrant and other community stakeholders.
- B. Ensuring state compliance with Title VI protections against nationality discrimination based on language and other factors.
- C. Promoting cultural and linguistic competence in the delivery of state services.
- D. Assessing the effectiveness of state agencies in serving immigrants through data collection, research, analysis, and reporting.
- E. Managing the operation of the Interdepartmental Working Group.
- F. Developing appropriate measures to determine the effectiveness and outcomes of immigrant integration efforts and reporting to the Governor and the legislature on a regular basis. This task includes assessing the implementation of Blue Ribbon Panel recommendations.
- G. Facilitating the immigrant integration efforts of county and municipal government.
- H. Seeking partnerships with private philanthropy to promote immigrant integration.
- I. Commissioning research on emerging immigrant communities and analyzing gaps in the availability of targeted services designed to facilitate immigrant integration.

Among the targeted services that will be examined by the Commission are:

- a. Instructional, media, and legal assistance strategies designed to promote naturalization and active citizenship.
- b. Resources and delivery systems for English language instruction.
- c. Leadership and organizational capacity development within immigrant communities.
- d. Use of 211 or 311 platforms, or separate immigrant hotlines, to deliver relevant and user-friendly information to immigrant communities.
- e. Development of Welcome Centers.
- f. Use of cultural brokers/navigators to facilitate service delivery.
- g. Interpreter training, certification and support.

- h. Development of an immigrant ombudsman capacity within state government.
- i. Establishment of clear guidelines within regulated professions in New Jersey which identify the process by which immigrants trained in other countries can have their credentials evaluated for practice or service in New Jersey.
- j. Efforts to defuse community tensions and promote intergroup understanding and harmony.

**INTEGRATING IMMIGRANTS IN NEW JERSEY:
LOCAL PERSPECTIVES**

Woodrow Wilson School of Public and International Affairs
Policy Task Force Report

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May 2008

Introduction:

The decentralized and rapidly changing immigrant population in New Jersey poses particular challenges for policy-makers at the local and state level. Historically, New Jersey has been an example of “immigrant exceptionalism.”¹ Unlike other high-immigrant states in the 1990s, New Jersey never saw the growth of an anti-immigrant grass movement or experienced a wave of anti-immigrant legislation such as Proposition 187 in California, “English-as-the-official-language” bills, or proposals to ban illegal immigrant children from public schools. Rather, New Jersey has a strong tradition of responsiveness to and tolerance of its immigrant population. While New Jersey’s elected officials, community leaders and citizens deserve credit for the exemplary example set by the state, certain unique characteristics of New Jersey’s immigrant population – its diversity, higher level of education and higher rates of legal documentation² – also played an important role in the success of immigration in New Jersey. In the last decade, however, the makeup of New Jersey’s immigrant population has changed. Immigrants are increasingly coming from Latin America, have lower levels of education and are more likely to be undocumented. And anti-immigrant sentiment, most famously evident in the 2005 Riverside ordinance, is beginning to emerge across the state. What new issues have New Jersey’s changing immigrant population created? What should the policy response be to these issues? And how can New Jersey retain its tolerant tradition in meeting these challenges?

This report investigates these questions by studying local responses to New Jersey’s immigrant population in the nine counties with the fastest-growing immigrant populations. Local governments and communities are the institutions faced most immediately with the obligation to respond to the needs of immigrant populations and the changes caused by their presence. However, no comparative study has been undertaken to date to investigate the issues immigrant populations

¹ Espenshade, T. J, “New Jersey in Comparative Perspective” In *Keys to Successful Immigration* (Washington, D.C.: Urban Institute Press, 1997): 6.

² Espenshade, 7.

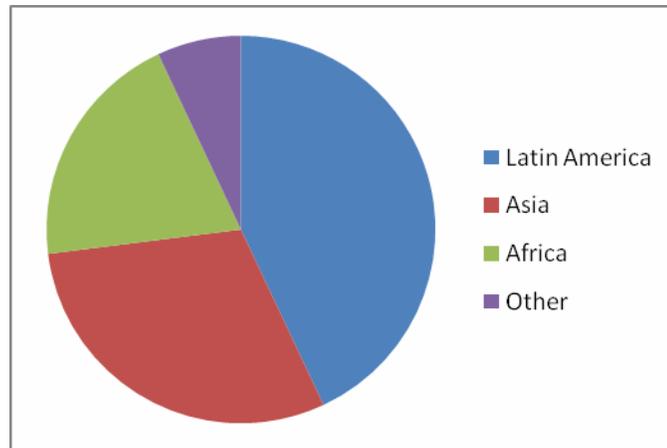
pose for local communities in New Jersey or evaluate how these communities have responded to these challenges. In the following sections, this report takes the first step in addressing this lack of data. Section I of the report describes the recent changes in New Jersey's immigrant population and locates these changes in historical perspective. In Section II, changes in the percent foreign born in each of the nine case study counties are presented. Section III addresses a recent policy trend, the creation of statewide Offices of Immigrant Affairs. After discussing the functions of two existing models of such offices, a brief argument is presented for the need for such an office in New Jersey. Section IV presents each of the nine county case studies grouped by a major issue facing the county – education, healthcare, crime and public safety, and “sanctuary city” legislation. Each case study takes a similar format. A major issue the county faces with respect to its immigrant population is identified, the issue is examined through a comparison of several case study towns mainly within the county, major findings are presented, and then based on these findings, policy recommendations are offered to both the local/county level and, if applicable, to the State.

I. New Jersey Immigrant Data, 1980-2006

The state of immigrants in New Jersey is relatively unique compared to the experiences of immigrants in other states. This is because of the immigrant population's size, diversity, recent growth trends, and decentralization. New Jersey is a state of approximately 8.7 million people spread over 21 counties. The population is the densest in the nation, and its economy is closely linked to its neighbor states and two major nearby cities, New York and Philadelphia. As one of the most diverse states in the nation, it provides a laboratory for analyzing how certain public policies function in heterogeneous populations. Nonetheless, these unique attributes specific to New Jersey serve as challenge to lawmakers in a state where there cannot be a "one size fits all" immigration policy.

Out of the 50 states, New Jersey has the sixth largest immigrant population. Approximately 1.7 million immigrants live in the state, making 20% of the population foreign born.³ Only five states have larger immigrant populations: California, New York, Texas, Florida, and Illinois. The state also has a particularly large population of undocumented immigrants, at approximately 400,000 residents according to a 2004 estimate (5% of the population).⁴ Much like undocumented populations in other large states, New Jersey's undocumented immigrants struggle to understand the law, access crucial services, and provide for their families. Additionally, unlike the immigrant populations in some of the other large states, New Jersey has a particularly diverse immigrant population with no one “modal” group. Forty-five percent of foreign born residents in New Jersey are from Latin America. Thirty percent are from Asia, another thirty percent are from Africa, and seven percent are from various other regions.⁵

Figure 1: Regions of origin of New Jersey foreign born (2005)



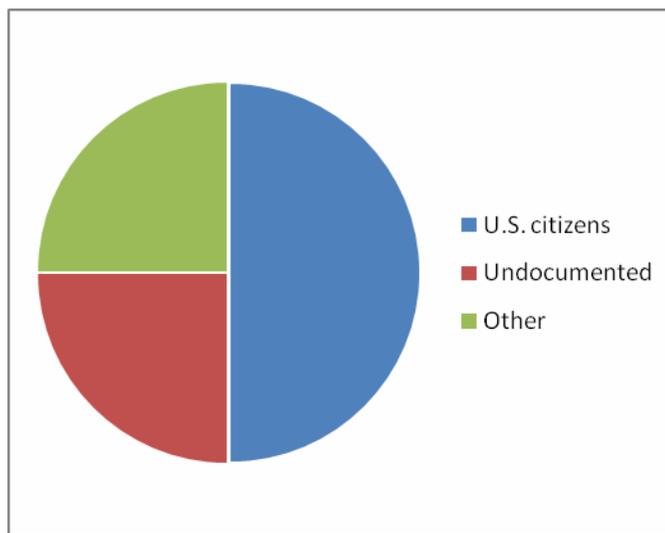
Source: U.S. Census Bureau, 2005 American Community Survey (ACS)

³ U.S. Census Bureau, 2006 American Community Survey (ACS)

⁴ Passel, Jeffrey S et. al. “Estimates of the Legal and Unauthorized Foreign-born Population for the United States and Selected States, Based on Census 2000,” *Sabre System, Inc.* 46pp. (2004) 13 May 2008
<http://members.aol.com/copafs/Passel.pdf>.

⁵ U.S. Census Bureau, 2005 American Community Survey (ACS)

Figure 2: Legal status of New Jersey foreign born (2005)



Source: U.S. Census Bureau, 2005 American Community Survey (ACS)

New Jersey's immigrant population has changed significantly in the past decade. While New Jersey immigrants are from various regions of the world, the demographic breakdown of the country of origin has shifted to Latin America in the past decade and a half. Particularly since 1990, more and more immigrants have come from Latin American countries, with a large portion of these immigrants coming from Mexico.⁶ Additionally, the new immigrant population is more undocumented and less educated than the incoming immigrants of the earlier decades.

The size of the immigrant population in New Jersey also contributes to a consistent need for English language assistance. Over 900,000 (10%) of New Jersey residents are less than fluent in English, with 56% of these non-fluent residents speaking Spanish.⁷ The limited English proficiency among such a large portion of the population creates a need for bilingual government workers, translation services, non-English government documents, and English language proficiency training.

⁶ U.S. Census Bureau website, "View Population Trends..." American FactFinder. Available at http://factfinder.census.gov/home/saff/main.html?_lang=en.

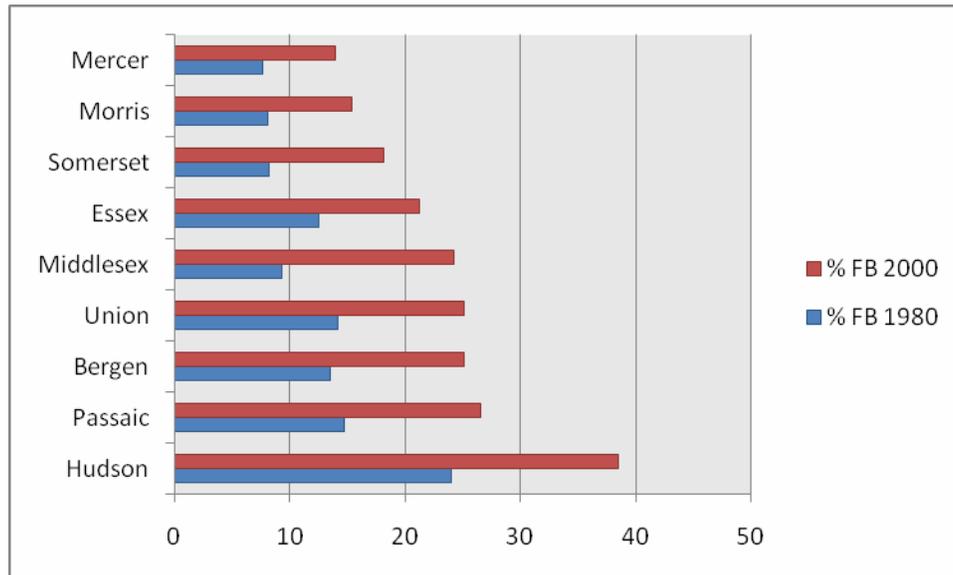
⁷ U.S. Census Bureau, 2006 American Community Survey (ACS).

While many immigrant-related challenges are not unique to New Jersey, the issue of decentralization is. Four out of five of the larger immigrant-receiving states have a significant portion of their recently arriving immigrants concentrated in one or two major cities (New York immigrants in New York City, California immigrants in Los Angeles and San Diego, Florida immigrants in the Miami area, and Illinois immigrants in Chicago). New Jersey, however, has a particularly decentralized immigrant population, with the immigrants spread throughout several counties and nearly a dozen cities. This makes a "comprehensive" approach to immigrant problems particularly challenging, as the relevant policy-makers are spread throughout dozens of municipal and state agencies. It is for these reasons that New Jersey may have a great deal to gain from a state-level agency with the role of coordinating immigrant integration efforts, as will be discussed in Section III.

II. County-level Data & Trends

New Jersey's immigrant decentralization means that various disparate counties have significant amounts of immigrants. This task-force studied the nine New Jersey counties with the highest percentage of foreign born residents, which happened to also be the same counties with the highest percentage change in foreign-born population since 1980. The tables and figures below help to demonstrate the considerable rate of immigrant growth in the nine counties of interest.

Figure 3: Studied New Jersey counties and their percent foreign born, 1980 & 2000



Source: New Jersey County Data, 1980 to 2000, U.S. Census Bureau, compiled by Marta Tienda.

Table 1: Changes in the foreign-born population composition of New Jersey by county, 1980-2000

County	% FB 2000	% FB 1990	% FB 1980	% Point change FB 1980-2000	% Recent FB 2000	% Recent RB 1990
Hudson	38.5	30.6	24.0	14.5	9.4	7.7
Passaic	26.6	19.4	14.7	11.9	5.7	5.0
Bergen	25.1	18.0	13.5	11.6	5.3	4.2
Union	25.1	18.4	14.2	10.9	5.4	4.1
Middlesex	24.2	14.2	9.3	14.9	6.8	3.5
Essex	21.2	15.6	12.5	8.7	5.1	3.9
Somerset	18.1	10.9	8.2	9.9	4.6	2.1
Morris	15.4	10.6	8.1	7.3	3.9	2.3
Mercer	13.9	8.7	7.6	6.3	4.0	2.2

Source: New Jersey County Data, 1980 to 2000, U.S. Census Bureau, compiled by Marta Tienda.

III. Office of Immigrant Affairs

The decentralization of New Jersey’s immigrant population poses particular challenges for lawmakers looking for a comprehensive approach to integration policy. An approach taken in other states has been to create citywide or statewide offices of immigrant affairs or other similar multipurpose agencies. Two main goals underlie the creation of these entities. First, proponents

hope to improve the coordination of service provision to immigrant communities and raise immigrant awareness of available services. Second, proponents argue that opening an office of immigrant affairs would also have an important symbolic value, highlighting the city or state's stance regarding immigration and immigrants' rights.

Existing Models

This report considers two models of existing offices of immigrant affairs – the Illinois Office of New Americans Policy and Advocacy and the New York City Mayor's Office of Immigrant Affairs (MOIA). The Illinois Office is currently touted as the best example of a state-level entity, and the MOIA is widely considered the best model of a city-level body. While both can lend insight into potential functions of a New Jersey office, however, neither can provide empirical support for the likely effectiveness of a New Jersey office. The Illinois Office was only created in 2005, so many of its proposed functions remain “promissory notes;” there is no data available with which to evaluate its effectiveness. While the MOIA has been effective, the coordination function it performs on a municipal level in New York City is not comparable to coordination that would be necessary across the state, county and municipal levels in New Jersey.

Established in 2005 by Governor Blagojevich's New Americans Executive Order, the **Illinois Office of New Americans Policy and Advocacy** is housed in the Office of the Governor. It currently has a staff of two – a Director and a Policy Director – and an annual budget of \$150,000.⁸ The Office works closely with a statewide Interagency Task Force (the first of two created by the Executive Order) comprised of representatives from the nine state agencies with purview over healthcare, education, and human services. The Interagency Task Force is tasked with

⁸ Gillers, Heather, “Reaching out to 'new Americans'; State hopes to steer immigrants toward health care assistance, other services,” *Aurora Beacon News* (30 January 2006) <http://icirr.org/stories/gillers.htm>.

developing a statewide, systematic approach to serving Illinois' immigrant population.⁹ The Executive Order also established a privately-run New Americans Immigrant Policy Council, composed of 24 immigrant leaders and policy experts, staffed by the Illinois Coalition for Immigrant and Refugee Rights and funded by several foundations.¹⁰

The Office's main function is "to coordinate policies and programs to help newcomers fully assimilate to the state, provide more and better services to the growing numbers of immigrants living in Illinois, and to study the impact of immigration policy on the state."¹¹ The Office monitors the state agencies' compliance with the Interagency Task Force's recommendations for how to improve service provision and outreach to immigrant communities.¹² It is also responsible for developing a cultural competency training curriculum to be adopted as part of continuing professional development in state agencies.¹³ In terms of its own outreach efforts, the Office maintains a web-based accessible document library including translated information on citizenship services, English language instruction programs, health care, workers rights, education opportunities, and child care for immigrants.¹⁴ Finally, the Office is also tasked with monitoring federal immigration policy, advising the Governor on policy developments and acting as a liaison and advocate for Illinois families negatively affected by federal immigration policy.¹⁵

A recent initiative of the Task Force and Office has been the creation of "Welcoming Centers." The centers are a "one-stop" location for immigrants and refugees to access services in the communities in which they live. Welcoming Centers' staff is bilingual in English/Spanish, and has

⁹ "Immigrant Integration: Improving Policy for Education, Health and Human Services for Illinois' Immigrants and Refugees," New Americans Interagency Task Force Report (Office of Governor Rod. R. Blagojevich: Illinois, December 2006): 7.

¹⁰ New Americans Interagency Task Force Report, 6.

¹¹ Office of New Americans Policy and Advocacy, *State of Illinois* (2008) <http://www.immigrants.illinois.gov/NewAmericans.htm>.

¹² New Americans Interagency Task Force Report, 13.

¹³ New Americans Interagency Task Force Report, 16.

¹⁴ New Americans Interagency Task Force Report, 17.

¹⁵ New Americans Interagency Task Force Report, 6.

access to multilingual interpreters and translators. Immigrants can access relevant state agency services in one location,¹⁶ obtain information and referrals to non-state services,¹⁷ and attend workshops and orientation sessions in a range of topics.¹⁸ The centers also aim to ease the acclimation process for immigrants and to be a “safe, open, non-threatening space where resources will be provided.”¹⁹ To date, only one center has been established, but Illinois eventually hopes to develop a statewide network of such centers.

The **New York City Mayor’s Office of Immigrant Affairs** is housed within the Office of the Mayor. For the fiscal year 2009, the MOIA has a budget of \$623,000 and a staff of 8.²⁰ The MOIA works with three groups: immigrants, community-based organizations serving immigrants, and New York City agencies and officials.²¹ It serves primarily to help immigrants identify city services they can receive and the government offices and community-based organizations able to address their needs. MOIA has a working directory of city services, and a centralized directory of community-based organizations offering services to immigrants. The 311 hotline for information on services available to all individuals is also accessible in 171 languages. This hotline can also be used to report violations of city law, such as immigration fraud. Its website includes links to other city offices--the Affordable Housing Resource Center, for example--and community-based organizations that deal specifically with issues frequently encountered by immigrants (e.g. housing discrimination).

¹⁶ The Illinois Department of Human Services (DHS) lists the following state-run programs: Food Stamps, Medicaid, All Kids Health Insurance, Family Care, Unemployment Insurance, Employment Counseling, Small Business Center, and Specialized Assessment for Rehabilitation Services (“Illinois Welcoming Center – DHS 4006,” *Illinois Department of Human Services* 2008 <http://www.dhs.state.il.us/page.aspx?item=37453>).

¹⁷ According to the Illinois DHS, this includes: local food pantries, English classes, citizenship classes, legal assistance, aging services, developmental and rehabilitation services, health screenings, and energy assistance (“Illinois Welcoming Center – DHS 4006”).

¹⁸ According to the Illinois DHS, this includes: housing and financial literacy, predatory lending, health and nutrition, mental health issues, adolescent development, parenting skills, and substance and domestic abuse (“Illinois Welcoming Center – DHS 4006”).

¹⁹ “Illinois Welcoming Centers,” *Governor’s Office of New Americans and Illinois Department of Human Services* 2008 www.icirr.org/naeo/related/il_welcoming_center.ppt.

²⁰ Bloomberg, Michael R, “The City of New York: Executive Budget Fiscal Year 2009 Supporting Schedules,” (The City of New York: 2008): 18.

²¹ Mayor’s Office of Immigrant Affairs, New York City (2008) <http://www.nyc.gov/html/imm/html/home/home.shtml>.

Finally, MOIA educates city agencies about best practices for reaching immigrant communities; identifies community-based organizations serving specific immigrant communities for these agencies to contact; teams with city agencies to provide bulletins and advisories in multiple languages and to assist them in accessing translation services; and offers expertise to the mayor regarding issues important for immigrants.²²

The Case for New Jersey

The data of the nine county case studies included in Section IV does not enable a comprehensive, detailed recommendation for a New Jersey Office of Immigrant Affairs. However, several of the county-level case studies do demonstrate key gaps in immigrant integration efforts – in the areas of coordination and outreach, data collection and analysis, and oversight – that could be addressed by such an office. In most cases, identifying an existing state or county-level body that could perform the needed function was not possible. Specific recommendations for functions of a statewide Office are included in the case studies in Section IV. This section provides a brief overview of these findings.

The overall recommendation of this report regarding the creation of a New Jersey Office of Immigrant Affairs is that there is enough evidence of the need for coordination and outreach, data collection and analysis, and oversight to merit serious further consideration of this policy option.

Specifically:

(1) Governor Corzine’s Blue Ribbon Panel should consider the following issues in order to determine whether a statewide Office of Immigrant Affairs should be established in New Jersey:

- the likelihood that NJ could replicate IL and NY’s results
- the structural placement of the Office
- the costs and benefits for the state and for its immigrant population (1 in 5 New Jersey residents)
- whether county-level counterparts are warranted

²² Mitnik, Pablo, Jessica Halpern-Finnerty and Matt Vidal, “Cities and Immigration: Local Policies for Immigrant-Friendly Cities,” *Center on Wisconsin Strategy* (January 2008) http://www.cows.org/pdf/rp-cities_and_immigration.pdf.pdf.

Coordination and outreach:

A key function of both the Illinois Office of New Americans and the NYC Mayor’s Office of Immigrant Affairs is to identify the services available to immigrants provided by government agencies and community-based organizations (CBOs), make immigrants aware of these services, and coordinate among government agencies and CBOs to enable uniform and effective provision of these services to immigrants. The case study of Middlesex County demonstrates that there is an information and communication gap between county and municipal governments, service providers, and immigrants which limits the effectiveness of government-support programs aimed to make immigrants integrated, self-sufficient individuals.^{23,24} The Somerset County case study demonstrates a similar need for “getting the word out” to immigrant communities about how to enroll their children in NJ Family Care. The Bergen County case study finds that there is a need for county and state-level coordination in establishing adult literacy programs to ensure that they are offered in areas with the most unmet need. Finally, the Passaic County case study recommends coordinated outreach to immigrant organizations to enable them to become more civically engaged, as this is often a predictor of positive immigrant sentiment.

At the very least, a New Jersey Office of Immigrant Affairs could serve as an information hub (e.g. to which each county reports on existing services) and a central liaison to local level immigrant organizations to easily recognize unmet need for immigrants in New Jersey. The NYC MOIA provides a relatively low-cost model for this function – the maintenance of a website and/or hotline service, and referral of inquiries to the appropriate state body or CBO – because it capitalizes on existing state and local organizations. The Office’s main costs would be incurred in its outreach

²³ Middlesex County Department of Human Services, “2005 Middlesex County Priority Populations Plan” (December 2004).

²⁴ Middlesex County Hispanic Affairs Commission, “Assessment of County-Supported Community Services for Hispanics,” Community Planning Support and Development Initiative, Edward J. Bloustein School of Planning and Public Policy, 2008.

efforts. The Office would need to partner with county and municipal organizations to actually contact immigrants and identify best practices.²⁵

Data collection and analysis:

While not discussed in the “Existing Models” section since it has yet to be passed, the proposed California Office of Immigrant Affairs is tasked with facilitating and conducting “data-driven policy analysis.”²⁶ The need for better data collection and analysis to evaluate effective policies cuts across the county-level case studies that examine education, healthcare and crime and public safety. These needs include better tracking of English and content-proficiency of LEP students, more data on barriers to insuring immigrant children, ongoing tracking of the diversification of immigrant populations and English proficiency levels statewide, data on ICE referrals during arrests, and data on the effects of 287(g) legislation. In general, it would not be feasible or efficient for the Office to collect this data by itself, although in some circumstances its participation may be useful (see the Bergen County case study recommendations). However, the Office could monitor the data collection efforts of relevant agencies to ensure their compliance. If relevant agencies are also required to submit periodic reports analyzing the results of their data collection to the Office, it could also facilitate cross-subject analysis of immigrant policy issues, an approach that is becoming increasingly necessary to develop effective immigrant integration policies.

Oversight:

The Illinois Office of New Americans partly functions as a watchdog agency to ensure compliance of state agencies with the Interagency Task Force recommendations. A New Jersey Office of Immigrant Affairs could certainly perform a similar function with regard to any of the

²⁵ The county analyses in Middlesex reflect the local nature of effective outreach. (Eagleton Institute of Politics Center for Public Interest Polling. “United Way of Central Jersey Compass Needs Assessment.” 2002: <http://eagletonpoll.rutgers.edu/proj.htm>.)

²⁶ California SB 1094 (2008), available online at http://info.sen.ca.gov/pub/07-08/bill/sen/sb_1051-1100/sb_1094_bill_20080114_introduced.html.

eventual recommendations of Governor Corzine's Blue Ribbon Panel. The county-level case studies also find a similar need for a watchdog agency; however, this need is most pressing in the area of crime and public safety. The Morris County case study illustrates a distressing confusion in how the Attorney General's Directive 2007-3 is being implemented on the local level. The Union County case study also finds evidence of police inappropriately questioning the immigration status of witnesses and victims. Accurate and comprehensive reporting of law enforcement violations of these rules is crucial to ensure that these problems are addressed and trust maintained between the immigrant communities and law enforcement. A function of the Office could be to collect reports of violations and then channel these reports to the appropriate state agency, such as the Attorney General or Public Advocate. The Office could collect information about violations in several respects. If it has established connections with local level immigrant organizations, the Office could encourage these organizations to approach their local immigrant communities to learn of violations and pass along this information. Alternatively, the Office could emulate the MOIA's 311 hotline for reporting of violations of immigration fraud, and broaden its mandate to include law enforcement violations. Regardless of how information on violations is collected, the Office's ability to effectively perform this function is dependent on it being given sufficient authority to compel the body to which it delivers this information to act upon it.

Comments on structural placement

The data of the county case studies does not enable a recommendation for the specific placement of a New Jersey Office of Immigrant Affairs within the state government. However, the preceding functions identified for the Office suggest two preliminary alternatives. If the Office's responsibilities are primarily coordination, outreach and data collection, and analysis, the Office could be located within the Department of Community Affairs. This department already has several divisions – the Division of Community Resources, the Division of Local Government Services, and

the Center for Hispanic Policy, Research and Development (CHPRD) – that could help facilitate these functions. The CHPRD, whose primary mission is “to empower the Hispanic community in New Jersey through the process of inclusion in policy development and direct social services,”²⁷ could be an important resource for developing contacts with local level immigrant advocacy organizations and CBOs. The products of its policy research division would also likely be relevant for the Office’s data collection and analysis functions. If the Office’s primary responsibility is oversight, the Office could be located in the Department of the Public Advocate (DPA). This would facilitate and streamline the reporting of violations, regardless of whether the DPA or the Attorney General is ultimately designated as the main body that should receive information from the Office.

IV. The Case Studies

A comparative examination of the nine counties offers an opportunity to examine four key policy areas of local level responses to immigrants – education, healthcare, crime and public safety, and “sanctuary city” legislation. The nine case studies below include summaries of the findings as well as excerpts from policy briefs written by the case study authors.²⁸ The conclusions and data sources for the case studies are all cited explicitly in the full reports. Therefore, for the specific source of any given claim, it would be best to consult the footnotes in the full case studies themselves. The data sources used in these case studies include census data, interviews with key informants and local stakeholders, secondary sources, and newspaper coverage analysis.

²⁷ The CHPRD’s general mandates include: the administration of grant dollars to Hispanic community-based organizations; technical assistance and referral services aimed at empowering Hispanic community-based organizations; creating training/employment opportunities for Hispanic college interns; conducting and supporting research on Hispanics in New Jersey; developing public/private partnerships that would enrich the CHPRD’s programs and initiatives and provide additional resources; and recognizing the contributions of the Latino community in New Jersey (Center for Hispanic Policy and Research Development, *New Jersey* 2008 <http://www.nj.gov/dca/chprd/>).

²⁸ The case study authors are the principal participants in the Woodrow Wilson School task-force: Devon Ahearn, Jordan Blashek, Angela Cai, Katherine Fallon, Kelly Francis Fenelon, Cindy Hong, Any Liang, Alexandra Thomas, and Jiwon Yhee.

EDUCATION

Education serves a crucial function in the lives of immigrants and their children.

Approximately 27% of all New Jersey children are foreign born or the children of foreign born parents. Thus, immigrant-focused education efforts impact a significant portion of New Jersey's school-age population. Schools and educational programs help to integrate immigrant children and—just as importantly—help to draw parents into the community. For adult immigrants, learning to speak, read, and write in the English language is crucial to their ability to function effectively as leaders and caretakers of their families, as members of their communities, and as workers. The following three counties provide education case studies on efforts and possibilities for first and second generation immigrants.

Mercer County: Immigrant integration in K-12 public schools

This case study examines immigrant integration efforts in public schools in three cities in Mercer County that each have over 20% foreign born residents²⁹ – West Windsor, East Windsor and Hightstown. Despite struggles with overcrowding, involving immigrant parents, and engaging with the social and emotional needs of immigrant and second-generation immigrant students, the West Windsor – Plainsboro Regional School District (WWPRSD) has been able to pass its budget with relative ease, provide academic and social services, and maintain high academic achievement scores. In contrast, the East Windsor – Hightstown Regional School District (EWRSD) has had difficulty meeting the needs of its English Language Learners (ELLs) passing its school budget, hiring teachers and meeting the No Child Left Behind (NCLB) Act's adequate yearly progress requirements for academic achievement.

²⁹ U.S. Census Bureau, Census 2000 Summary File 3 – Sample Data, generated using the American Fact Finder <<http://factfinder.census.gov>> (April 10, 2008).

Three explanations are identified to account for this contrast in school performance and immigrant reception between the communities: (1) West Windsor is wealthier, and therefore not only has more resources to invest in school services and programs, but also receives immigrants of higher social and educational status who are better able to support their children academically; (2) East Windsor and Hightstown's immigrant populations are largely recent arrivals; therefore, East Windsor and Hightstown have had less time to adapt to the influx of newcomers; and (3) West Windsor has successful programs in place for immigrant integration and academic achievement.

Policy Recommendations

In light of the reality that most communities, unlike West Windsor, are stretched for funding and face difficulties in hiring well-qualified teachers, the following recommendations focus on the lower-cost successful elements of the WWPRSD programs. Moreover, based on evidence that WWPRSD spends about the same amount of money per pupil as EWRSD, and that the major difference between WWPRSD and EWRSD is parent and teacher involvement rather than per pupil expenditure, these recommendations focus on how parents, teachers, administrators and local community members can be involved in immigrant integration efforts.

(1) Mandate that teachers from schools receiving waivers from the Bilingual Education Act take training in content teaching. New Jersey Department of Education (NJDOE) should mandate that for schools requesting waivers from the NJ State Bilingual Education Act (N.J.S.A. 18A:35-15 and P.L. 1974, c.197) to opt out of hiring bilingual teachers, these schools' regular subject-area teachers must take training in teaching content to LEPs, such as the training detailed in the ExC-ELL program.³⁰

(2) Compendium of best practices: The New Jersey Department of Education (NJDOE) should publish a list of successful immigrant integration initiatives from different schools. Each entry, submitted by individual schools or school districts, can describe which school/district hosted the event/program, why it was successful, and what steps to take so that another school/district can host the same event/program. After each event/program, each school/district should use a web-based survey to assess the success of the event/program. Some entries might be:

³⁰ Calderón, Marita, *Teaching Reading to English Language Learners, Grades 6-12: A Framework for improving achievement in content areas* (Thousand Oaks, CA: Corwin Press, 2007).

For parents – A health fair held at the local elementary school on a weekend where low-cost health insurance programs and volunteer doctors, nurses and nutritionists can set up booths to give parents free information and health advice. A school information night where parents learn about how the school system works and how to help their child succeed.

For teachers and administrators – A monthly book discussion where teachers and administrators all read a book about the immigrant integration experience and discuss the issues. A professional development meeting that invites immigrant parents to speak about their culture, and about how schools in their country differ from schools in the America.

For community volunteers - A free, school-based volunteer-staffed program that provides homework help and student mentoring with minimal paperwork required of parents.

Bergen County: Adult literacy skills programs

This case study analyzes barriers to accessing and successfully completing adult literacy skills programs in three cities with the highest foreign-born populations in Bergen County—Garfield, Hackensack, and Fort Lee. As New Jersey has recently consolidated existing literacy skills programs and created county consortia to develop a more efficient and unified adult education program, the three cities are serviced by the same countywide literacy skills programs. Three barriers are identified as most significant. First, the cost of classes provided on a tuition basis (such as those run by Bergen Community College BCC and the Bergen County Technical Schools BCTS) is often too expensive for unskilled workers to afford. Second, the free state-funded programs currently in existence are physically inaccessible to a large fraction of the immigrants since there is not a wide range of branches or centers where literacy instruction can be provided. The strict eligibility restrictions of many programs – for example that immigrants be unemployed or on welfare – prevent many immigrants from accessing programs, and many local-level programs usually provide classes for only an hour or so once a week, an inadequate amount of time to learn English effectively. Third, the free state-funded ESL classes do not take into consideration the indirect costs of coming to class that immigrants face. Immigrants usually work long hours, sometimes at two or more jobs, and often

have children to care for.³¹ They cannot attend English class everyday for the four or five hours required by intensive ESL courses offered by BCC and BCTS.

Policy Recommendations

The following recommendations are made to increase the efficacy of literary services in these towns. These recommendations also provide a good checklist of best practices for other NJ communities facing similar circumstances.

(1) The Office of Immigrant Affairs should use data from the American Community Survey (ACS) to track diversification of immigrant populations and English proficiency levels statewide. In order for policymakers to adequately address future literacy needs of New Jersey's immigrants, it is crucial that they have an accurate understanding of English language instruction needs in New Jersey. This study, out of necessity, focuses on the foreign-born population that is *already present* in Garfield, Hackensack, and Fort Lee as reported by the 2000 census. This is because it is difficult to predict the growth and the characteristics of foreign-born populations in the future that may impact literacy needs. In addition, any attempts to predict the characteristics of future immigrants and predict future English language instruction would be quickly outdated, as the educational conditions in countries sending New Jersey's future immigrants improve and immigration flow shifts over time. It is therefore necessary to analyze English language instruction needs of immigrants to find accurate data that policymakers need to make appropriate decisions in providing for literacy needs of the foreign-born population. Thus, the Office of Immigrant Affairs, if established, should use data from the American Community Survey (ACS) to track diversification of immigrant populations and English proficiency levels statewide.

(2) The Department of Labor and Workforce Development (LWD) should work in tandem with the Office of Immigrant Affairs to identify community-based centers where the Workforce Learning Link program can be established. The Workforce Learning Link program is an interactive training program that uses digital television technology, streaming video, computer software, and the Internet. Though it was originally designed to deliver workforce training programs to welfare registrants and workers identified by the Department of Workforce Development (LWD), the Workforce Learning Link program has an important English language instruction component that has been proven effective in teaching adult ESL students in the past. By the end of the program, "most students are able to decode multi-syllable words at an eighth grade level or beyond."³² In locations where it is difficult for immigrants to access ESL classes due to distance, time, and high tuition costs, the presence of Workforce Learning Link programs can help immigrants grow more proficient in English.

Unfortunately, the Workforce Learning Link program has been underutilized in New Jersey. In Bergen County, the program is only available in two locations, both of which are located in Hackensack. LWD should therefore collaborate with the Office of Immigrant Affairs to identify

³¹ Montalto, N, *Out of the Many, One: Integrating Immigrants in New Jersey* (Washington, DC: National Immigration Forum, 2006): 13.

³² "Reading Horizons," *Workforce Learning Link*, NJ Department of Labor and Workforce Development (30 Mar. 2008) <http://www.njn.net/workforce/workforcelearninglink/readinghorizons.html>.

appropriate community-based centers where the Workforce Learning Link program can be established to best meet immigrant English language instruction needs.

Hudson County: Bilingual/ESL programs

This case study compares the different approaches to bilingual/ESL programs in four cities in Hudson County – Union City, Jersey City, Hoboken, and North Bergen – to understand their varying levels of success. These four districts were chosen because all have high poverty and/or a high foreign-born population, suggesting that their divergent performance cannot be explained solely in terms of a single economic or demographic characteristic. Union City (59% foreign-born), Jersey City (34% foreign-born), and Hoboken (15% foreign-born), all Abbott districts, run the gamut from beating state averages on test scores of LEP students (Union City) to falling far behind state averages (Jersey City). North Bergen provides an interesting comparison to these districts because it has the highest LEP-student proficiency scores in the county and also has the second largest percentage of LEP students behind Union City, though its poverty level is much lower than that of Jersey City or Union City.

Education research and interviews with county and state officials reveal several practices that may improve the academic success of LEP students. Several types of programs, used in some but not all of Hudson County’s districts, seem to improve the educational outcomes of LEP students: pre-K programs, dual-language programs, and standardization of teaching materials. Optional pre-K programs are already funded for all Abbott districts as well as in North Bergen. The literature supports this use of funding, e.g. Knudsen et al.’s paper (2006), which cites biological and economic reasons why early childhood education is the most efficient way to raise educational achievement. Dual-language programs, used in both Jersey City and Union City, foster greater integration between LEP students and non-LEP students and emphasize a “push-in” rather than “pull-out” approach, which seems to yield educational benefits for both parties. Also, North Bergen was the only district of the four to use the same textbooks for LEP students and mainstream students, which was cited as

a major factor in their superior test scores. Obviously, these few strategies are not sufficient to explain the differences in performance among the districts. Assessment of the benefits of each of these approaches requires more precise data on LEP students.

Policy recommendations

While the following recommendations to the New Jersey Department of Education arise from an analysis of Hudson County, nearly all of them apply to bilingual instruction in the rest of New Jersey as well; in some ways, the difficult situation faced by Hudson County districts can serve as the most stringent test of the effectiveness of a program. Though low-LEP areas will surely have different challenges and need to find some different best practices than Hudson County, the data collection and resource allocation recommendations apply equally well across the state.

(1) Track English and content-proficiency of LEP students by type of bilingual/ESL program through graduation. Ideally, the state should have a complete picture of what programs LEP students participate in and how well they perform. In order to assess what aspects of bilingual-education programs are successful, it is essential to have separate measures of *English proficiency* and *content proficiency*; New Jersey has recently begun to do this, with the improvement of its content-proficiency test. In addition, it is currently impossible to compare drop-out rates of the LEP population with that of the rest of the population because former LEP students are only tracked for two years after leaving bilingual/ESL programs. To remedy this problem, the performance of LEP students should be *monitored until graduation*. It is also critical to *collect this data according to the specific programs* in which these students have participated so that the relative efficacy of the programs can be assessed. These data should be used to *allocate federal Title III funds* to critical programs and sensitive age groups.

(2) Create a state-wide mechanism by which best practices are shared. The findings about the districts' potential best practices demonstrate that some programs are more effective than others, so it is imperative that these successful programs replace the less-effective ones. Because the state assesses each of its districts, the Department of Education is well-positioned to make recommendations about programs that take into account the experience of New Jersey as a whole. Once the state has data about which programs are the most effective, it can use these findings to standardize best practices across districts. *A statewide meeting of representatives from Local Education Agencies (LEAs) responsible for ELLs* would allow this data to be shared and would also foster transfer of best practices between high- and low-performing districts.

(3) Standardize the identification and placement of LEP students according to criteria that best estimate the need for bilingual/ESL services. Currently, LEP students are identified and placed into a level and type of program according to a wide range of criteria, some of which are arbitrary and informal. Schools will best be able to serve the needs of LEP students if students are put in the most appropriate classroom for

their needs. By *comparing methods of ELL identification with academic performance measures*, the state can identify which methods most accurately track limited English proficiency.

HEALTHCARE

Public health is a particularly important issue for foreign born populations in New Jersey. As a higher proportion of immigrant families are below the poverty line compared to native-born residents, immigrants are less likely to be covered by insurance. This problem is exacerbated by the fact that many undocumented immigrants work in low-paying jobs without health or dental benefit packages. Significantly, without doctors and medical coverage to facilitate the use of preventative medication, some of these low-income immigrants create greater long-term costs for themselves and for hospital emergency rooms. The following case study provides evidence and analysis on the issue of health care for immigrant populations.

Somerset County: Insurance for the children of immigrants

This case study uses data from Somerset County, New Jersey and the U.S. national averages to understand why children of immigrants have such a low insurance rate and illustrate the problems posed by their lower insurance rate. This population is 3 times more likely to be uninsured than children with native parents, despite the fact that approximately 75% of these children are citizens and therefore eligible for state funded insurance through NJ Family Care. In Somerset County, the number of uninsured children (both native and immigrant) reached 2.9% in 2006. The first finding of this study is that the immigration status of these children's parents is the main barrier to their ability to obtain public insurance – primarily in the form of language differences, negative immigrant community perceptions, and enrollment difficulties. Simple access to care is no longer a primary issue because of NJ's recent expansion of the state insurance program, NJ Family Care, through a partnership with Horizon: Blue Cross Blue Shield.

The second major finding of this study is that this growing population of uninsured children has substantial economic and social ramifications for Somerset and NJ, adding substantially to the

economic strain on the State and public health facilities. Yearly costs manifest themselves in Emergency Department (ED) expenditures and loss of life. First, 20% of uninsured children use the ED as their main source of care, as opposed to 3% of insured children. Additionally, only 50% of uninsured children receive regular care to both prevent illnesses and manage chronic conditions, as opposed to 12% of insured children in 2006. In total, according to the case study's analysis, 48% of 2005 ED visits in NJ could have been prevented with regular medical care. This is significant because ED costs are extremely high in Somerset County, totaling \$14 million in 2007 for the County Health Center, a quarter of which went to the treatment of children. The State compensated only \$1 million of this total through Charity Care payments, leaving the hospital and county with a large debt to pay in the form of taxes, decreased services provided, and an increase in medical costs. Second, studies estimate that 10-20% of premature mortalities could be prevented by extending insurance to all children. While we cannot assign a fiscal price to the lives of these children, it is an important consideration for NJ policy makers to keep in mind. Future costs manifest themselves in public health problems and human capital loss. Due to delayed or denied healthcare, children who did not receive appropriate care at an early age are more likely to develop future health problems. Every \$1 spent on a vaccine now saves \$14 in public health expenditures later.

Policy Recommendations

Given the high costs of not insuring children, the main recommendation of this study is to promote child enrollment in health insurance through the removal of language barriers, negative perceptions, knowledge gaps, and enrollment difficulties. These actions are both economically and politically necessary, especially because of the cost-saving involved. Projected savings from insuring children in NJ are approximately \$1.9 - \$3.9 million yearly, as the case study finds.

(1) To the State Department of Health and Human Service: The State should provide funding for PHPs. The state has mandated that each county create a Community Health Improvement Plan (CHIP) to target, research, and improve the public health system. In many counties including Somerset County, the County Health Department has established a County

Governmental Public Health Partnership (PHP) to facilitate the create of CHIP. A major focus of CHIP's recommendations has been removing barriers to insurance enrollment for all children, especially those with immigrant parents. Because of their connections to community health organizations, PHPs are advantageously positioned to implement these recommendations to increase the number of children enrolled. To date, however, this mandate is unfunded, and its recommendations have not been implemented. The State should provide each county with funding beyond the current allocations for staff payments. Across each of New Jersey's 21 counties, funding should be allotted on a sliding scale, based on the percentage of immigrants and uninsured children in the county. This expenditure should be offset by the immediate savings of \$182 million that insuring children would provide.

(2) To the County Health Department and PHP: Maintain PHP's Role as Research Driver.

Information is one of the most important assets for increasing the number of children with insurance. Information can help the state and the county better target and evaluate their health programs. PHP has already demonstrated its ability to organize and execute county wide research. PHP should continue community-based research in coordination with community public health organizations and hospitals. Information should then be analyzed and distributed among county and state officials in order to maintain effective health coverage for communities.

(3) To the County Health Department and PHP: Eliminate Barriers to Enrollment through expanded Publicity, Education, and Outreach Programs Coupled with School Systems.

A) Improve Targeting, Enrollment, and Information Dissemination Through Education Centers: 60% of all uninsured children in NJ participate in the National School Lunch program. This program appears to be a particularly efficient vehicle for identifying uninsured children who are eligible for insurance. Coordinating with schools to target these children will help PHP to enroll children currently without insurance; this information can be provided by schools without any cost.

B) Improve Outreach and Education with a Case Management Worker in Elementary Schools: PHP should provide counties with a case management worker to help all parents, especially immigrant parents, with insurance procurement for their child. Additionally, this case management worker should provide seminars, information sessions, information packets on the health care system, and instruct children and teenagers about the importance of healthcare. These efforts can be implemented in conjunction with school nurses, who often already know the school community.

Elementary schools are an excellent vehicle for outreach because all children, regardless of parental legal status, are required to attend school. Additionally, elementary schools are locally based, allowing parents to travel to these locations easily. Schools have a vested interest in providing students with healthcare, as the students without healthcare are 25% more likely to miss school frequently. The total cost of this would be relatively low. Case workers would most likely be paid \$50,000-\$80,000 yearly. Promotion and publicity for these events would be minimal, in the form of mailings, internet postings, and word of mouth. All costs are covered by yearly savings.

(4) To PHP and County Health Department: Decrease Language Barriers through Employment Aid for bi-lingual staff and Translators:

While most health organizations in Somerset County are already attempting to increase their bi-lingual staff, PHP should work to encourage these efforts through employment aid. This would entail publicizing job openings to bi-lingual residents through community organizations such as schools, religious institutions, etc. As PHP has already established relations with these groups, this would require simply passing information through paths of contact and expanding PHP's role as a disseminator of information.

CRIME & PUBLIC SAFETY

The policies that law enforcement agencies adopt can have a significant effect on immigrants and public safety. While some law enforcement policies can create trust and rapport with immigrant communities, which facilitates integration, other policies can alienate foreign born individuals by causing them to fear and distrust local and county police departments. Moreover, policies that target immigrant communities can limit the effectiveness of all branches of local government in terms of public safety and service provision. The following three counties provide law enforcement case studies on the dangers and lessons from several municipal policies.

Morris County: The effect of the Attorney General's Directive 2007-3

This case study examines the implementation and effects of New Jersey State Attorney General Anne Milgram's August 2007 directive 2007-3 in Dover and Morristown, the two towns in Morris County with the largest percent of Hispanic immigrants (58% and 27% of each city's total population). The directive requires local law enforcement officers to inquire about the immigration status of arrestees of felonies and drunk driving offenses, and to report individuals suspected of being undocumented immigrants to the federal agency, Immigration and Customs Enforcement (ICE), as well as the prosecutor's office and the court. In the six months since issuing the directive, local law enforcement officials statewide have referred 8,874 cases to ICE. From September 2006 to February 2007, only 4,589 cases were referred.³³ Some immigrant rights advocacy groups argue that the directive is discriminatory because it presumes that immigrants are prone to crime; however, in reality, the rates of homicides and robberies nationally have decreased while the influx of Hispanic immigrants has dramatically increased the foreign-born population from 1994 to 2003. In Morris County, the increase in immigration has also seen either no change or a decline in the rate of violent crime. Dover and Morristown, both of which have comparable total populations and demographics,

³³ Farim, Kareem, "Immigration Referrals by Police Draw Scrutiny," *The New York Times* (23 March, 2008).

both saw a decline in violent crime from 1990 to 2006. Dover, which is less affluent and has larger percentage of Hispanic immigrants, has a much lower violent crime rate than Morristown.

The first finding of this study is that, as a result of its vague wording, the directive is not implemented uniformly across towns in practice. The directive prohibits asking about victim and witnesses' immigration status except in special circumstances. However, there are no instructions on how to deal with minor offenses and routine traffic stops, and currently the arrest and detention of people who have done nothing wrong is alarming advocates across the state because there is little public reasoning for why those individuals deserve to be handed over to ICE. Dover police captain Peter Ugalde said that his police officers do not ask for immigration status on victims or witnesses, and also not on traffic "road stops, field interviews," or any other misdemeanors. In Morristown, however, the police chief Peter Demnitz said that the lowest offense meriting question did not have to be a felony or DWI, but rather, could be something like "a seatbelt violation," which may lead to checking the NCIC, which may lead to an outstanding warrant, and then the officers would "check with the authorities to indicate it was an individual wanted by ICE." The operative philosophy behind the department's approach to crime in general, Demnitz said, was the "Broken Windows" theory of rounding up minor offense to prevent future crimes, a theory that the full case study explains in depth.

The second major finding of this study is that the Directive may leave open the door for profiling. Though the directive warns strongly against profiling, there are no enumerated methods for evaluation or stated consequences; the policy "has no teeth" when it comes to confronting a real potential danger. Giving police leeway to pick out whomever they believe to be an illegal immigrant in routine traffic stops and jaywalking citations is more prone to potential – albeit perhaps unintended – profiling than in cases of serious felonies where police have little room to choose whether to bring an individual into custody. Finally, because undocumented immigrants and others

who fear the police are very likely to avoid reporting crimes or information out of fear of deportation or discrimination, the ability of the law enforcement officials to make a difference within the community has been dramatically diminished by the directive. The most important impact of the erosion of trust between the community and the police is the potential for victims and witnesses to fear contact with authority so much that they do not come forward to report crimes. This is significant since the likelihood of victimization in both the recent foreign-born Latino female and male communities is very high.

Policy Recommendations:

(1) The AG's office should clarify that immigration status can only be asked for felonies and DWIs and not for any other criminal arrestees. The AG's office should establish sanctions for violations of this requirement.

(2) Local law enforcement should be required to include in their data submission to the Uniform Crime Report the following additional information for every applicable arrest: a) whether the individual was referred to ICE and b) what was the documented reason for believing the individual is an illegal immigrant.

(3) In areas like where many residents have limited proficiency in English and a large percentage of the population speak Spanish (or any other particular language), the police department should offer optional Spanish language training courses for its officers.³⁴ In addition, the department should ensure there are enough Spanish speaking dispatchers available for the population in a pre-determined ratio (X Spanish-speaking dispatchers for every Y number of limited English/Spanish only residents).

(4) Racial profiling data should always consider Hispanics as a discrete group, since many past studies lump all non-white minorities or all non-blacks into one category, which greatly hinders the effort in finding out the best information possible about discrimination towards Hispanics.

Essex County: 287(G) legislation

The August 2007 murders in Newark prompted many to call for the adoption of 287(g) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), which authorizes local police to "identify, process, and when appropriate, detain immigration offenders they

³⁴ "Police Chiefs guide to immigration issues," *International Association of Chiefs of Police* (July 2007): 24.

encounter during their regular, daily law-enforcement activity.”³⁵ To assess the effectiveness and appropriateness of this legislation, this case study evaluates why it has been adopted in other cities and what the consequences of such legislation has been based on the experiences of three cities: Durham, North Carolina; Framingham, Massachusetts – both of which have passed 287(g) legislation – and New Haven, Connecticut – which experienced a brief outcry for anti-immigrant policies but did not end up adopting 287(g).

The first finding of this study is that the adoption of 287(g) is largely driven by public opinion. An examination of the news articles in the towns of Durham, North Carolina and Framingham, Massachusetts demonstrates that 287(g) legislation coincides with increased anti-immigration sentiment in the towns. In 2006 and 2007, higher numbers of articles with the words “illegal immigrant” and “crime” appeared in these towns, mostly in letters to the editor. A triggering event seems to be the national debate on immigration reform sparked by activities on Capitol Hill in early 2006. Crime statistics in these towns suggest that there is no correlation between increased immigrant crime and increased anti-immigrant sentiment. In contrast, *The New Haven Register* had far fewer articles with the words “crime” and “illegal immigration” than either the *Metrowest Daily News* or the *Herald-Sun*. This suggests that 287(g) is related to perceptions of crime. The case of New Haven also demonstrates that alternatives to 287(g) exist that also provide security and assuage anti-immigrant sentiments. New Haven has adopted an ID program, where all residents are issued an ID card. The Mayor diligently educated his constituents about the program. Since the program went into effect, the number of articles with “crime” and “immigration” decreased.

Finally, the case study finds that consequences of 287(g) are economic and oppose public safety. In Framingham, the local Brazilian population has left in droves. Businesses have started to close, leaving empty storefronts in the downtown area. In Durham, people have questioned the

³⁵ U.S. Immigration and Customs Enforcement, <http://www.ice.gov>.

redistribution of resources in order for the local police to accommodate the provisions of 287(g).

Anecdotal evidence of undocumented immigrants hesitating to report crime to police is also appearing in Durham where a community of illegal immigrants took three hours to phone in a shooting recently. These reports, while only anecdotal, help identify potential consequences of 287(g) that require further research.

Policy Recommendations:

(1) The New Jersey Office of the Attorney General must require the establishment of a Task Force on 287(g) before adopting it. Since 287(g) appears to have unintended consequences on the economy, community, and local culture, towns should set up task forces that will make an assessment of impacts on the local community. They need to examine:

- The prevalence of crimes actually committed by both legal and undocumented immigrants
- The expected out-migration of immigrant groups
- The impact of migration on local business

(2) The New Jersey Office of the Attorney General should require a checklist of other procedures that need to be considered before 287(g) can be enacted. These shall include ID cards and methods that prevent arrested persons with prior violent criminal records from being let out on bail. Alternatives to 287(g) appeal to the public's perceptions of safety. The Framingham case shows that the main purpose of 287(g) is to take pre-emptive action towards criminals. Towns should consider other ways to ensure public safety such as issuing ID cards. Educating the public about the effects of these alternative methods is important to then appease anti-immigrant sentiments.

(3) Governor Corzine's Blue Ribbon Panel should evaluate existing 287(g) towns nationwide for the effectiveness and impact of the law on those towns. In the long run, further research is required to gauge the precise effects of 287(g) on local communities. Data should be collected on:

- The number of people arrested with 287(g)
 - o How many of these people committed violent crimes?
- Changes in crime and arrest rates
- The redistribution of policing resources towards 287(g)
- The number of immigrants who leave a town
- The under-reporting of crimes in immigrant neighborhoods

Union County: Bias crimes & immigrant vulnerability

This case study examines the Hispanic immigrant experience of the city of Plainfield, in which situational factors have led to immigrant vulnerabilities and a series of violent assaults against immigrants, some labeled as bias crimes. It will offer recommendations to lessen the incidence of

such assaults by reducing immigrant vulnerabilities, refining police policies, and integrating Hispanic immigrants. The first noticed string of attacks in Plainfield took place in 2004; 17 attacks on Hispanic immigrants occurred, most within a few summer months. Attacks followed in 2005 and 2006, culminating in a murder in the winter of 2007. Plainfield's immigrant population consists almost entirely of Hispanics, many of whom have arrived recently and live in segregated neighborhoods. Hispanic immigrants in Plainfield are most likely to live in neighborhoods with low educational attainment, high poverty rates, and a large amount of unemployment. The ethnic composition of the neighborhoods – generally African American majority and large Hispanic minority, with one Hispanic-majority exception – sets the two groups uncomfortably side-by-side within these educational and economic conditions. One-fourth of Plainfield's residents speak Spanish at home, contributing to the cultural separation. These factors combine to create a situation that is ripe for perceived threat, in which Hispanic immigrants' presence is noticed, their labor competition likely, and their cultural differences palpable. This geographic tension is heightened by the revitalizing effect Hispanic immigrants have had on Plainfield's previously vacant downtown and dwindling housing values; some African Americans feel that Hispanic immigrants have displaced them economically. Although these systemic issues cannot be solved quickly, a more specific and preventable cause of the attacks – the opportunity vulnerable Hispanic immigrants present – exists.

First, this case study finds that immigrants in Plainfield are vulnerable in several specific ways. They are often reluctant to report crimes perpetrated against them out of fear of the police due to cultural reasons or their own undocumented status and an inability to communicate with dispatchers and officers due to a lack of English language skills. These vulnerabilities are compounded by their economic situation. Many of Plainfield's Hispanic immigrants work as day laborers, are paid in cash at predictable times – which they often carry on their person, having no means to acquire a bank account – and cannot afford means of transportation other than biking or

walking. Finally, Plainfield has a high incidence of violent crime (nearly 12 per 1000 citizens in 2006) and an increasingly pervasive gang culture.

Second, this case study finds that local officials and Hispanic activists alike have professed reluctance to declare all – or even most – of the assaults bias motivated. Evidence suggests that criminals do not necessarily target Hispanics in Plainfield out of ethnic tension, but rather because of what their victim’s ethnicity signals: an easy target. Finally, this study concludes that as a group, Hispanic immigrants in Plainfield are ill equipped to combat targeted assaults or work towards a voice in the larger community. Hispanics may make up a sizeable minority in Plainfield, but numbers do not translate into political power – or, in fact, even a political presence. Attempts to insert Hispanics into Plainfield’s political process occur rarely and have been without success since the late Ray Blanco’s brief tenure on the city council.³⁶ African Americans hold many of the prominent local government positions, including the office of mayor and five of seven seats on the city council.

Policy Recommendations:

The Plainfield government has an obligation to hear and protect the safety of all residents:

(1) To the city council: The Hispanic Affairs Commission³⁷ should be staffed and given duties, specifically: investigating and reporting on Hispanic/Hispanic-immigrant specific problems in Plainfield; planning cultural events and education that encourage cultural understanding; and opening a dialogue among local Hispanic groups and local government branches to alleviate miscommunication and work towards common goals. The native and immigrant Hispanic population of Plainfield needs a voice in and attention from the local government as a means of addressing their issues and integrating them into Plainfield’s larger community. Government representation will afford them a means of conveying their concerns, needs, and suggestions that turns perceived adversaries into allies for the greater good of Plainfield. One of the first issues addressed should be the possibility of undocumented immigrants receiving bank accounts or some equivalent means of safely storing their earnings.

(2) To the new civilian Police Director: Implement and make public knowledge police enforcement policies and witness/victim protection assurances to gain transparency and the trust of the immigrant community. The first of these policies should be to provide a clear demarcation between the duties of Immigration and Customs Enforcement and the Plainfield Police Department, effectively removing immigration enforcement from the Department’s duties. In this

³⁶ 2004-2006, during which he became Council President.

³⁷ Created by Ray Blanco and never activated.

same vein, Department should not officially comply with the Attorney General’s recent directive³⁸ until proper training and further instruction from the Attorney General are available to ensure that the directive’s scope is not transgressed. Secondly, the Department should undertake an official policy prohibiting the questioning of victims or witnesses as to their immigration status. The police department must also recruit from within the Hispanic community and make it a firm policy to always have at least one bilingual dispatcher and officer on duty.

(3) To the Attorney General: Demand that state and local police respect the crime witness and victim protection required by the recent immigration enforcement directive by not asking about their immigration status. Implement a system to monitor those protections, and issue public statements and press releases explaining this provision of the directive, targeting state and local immigrant groups to facilitate trust among law enforcement and immigrant communities.

(4) To the city council and police department: Extend an invitation to the Union County Prosecutor’s Office Bias and Hate Crimes Unit to provide instruction on combating bias crimes to the police force and educate the city on bias and hate crimes through open forums and visits to local schools

“SANCTUARY CITY” LEGISLATION

“Sanctuary status” cities (also called “safe haven” cities) choose to foster a high level of trust between the immigrant community and law enforcement officials in a given municipality. Cities adopting this type of system generally do not ask whether immigrants are documented. Additionally, these sanctuary cities often refuse to discriminate against undocumented individuals when it comes to the provision of city services. The following two case studies analyze the effects of sanctuary status and the situations in which it is appropriate.

Middlesex County: “Sanctuary city” legislation and service provision

This case study assesses the effects of demographic change on attitudes toward immigrants within two cities in Middlesex County – New Brunswick and Perth Amboy – and evaluates approaches taken to address service provision to immigrants, a major driver of anti-immigrant sentiment. This includes the “sanctuary city” legislation to ensure immigrant access to public

³⁸ Directive instructing state and local police to question those arrested for drunk driving or felonies about their immigration status.

services that was proposed and defeated in Perth Amboy in August 2007.³⁹ Latino foreign born populations are concentrated in the county's two poorest and most urban municipalities, New Brunswick and Perth Amboy. Recently arrived Latino cohorts are predominately Mexican and have settled mainly in New Brunswick, where the Mexican population has increased from 1% to 15% between 1990 and 2000. Perth Amboy, on the other hand, has a historically large Latino population comprised of Puerto Rican individuals (who are citizens by birth). Perth Amboy has nonetheless experienced increases in its foreign-born Mexican population.

The first finding of this case study is that community responses to demographic change in Middlesex County – measured through opinion pieces published in local newspapers – demonstrate anti-immigrant sentiment. Most tensions were caused by perceptions of undocumented immigrants' disproportionate use of public services. Indeed, major challenges facing policymakers in the county involve new, increased demand for public services, namely education (specifically language instruction), healthcare, and transportation. The second set of findings address the measures taken to address service provision to immigrants. Middlesex County has taken several steps to respond to changing demographics and attitudes toward immigrants. A county-level Hispanic Affairs Commission was formed in 2006 and published an assessment of the accessibility of county services to Hispanic populations in 2008. Major findings included a lack of peer outreach to Hispanic communities from county-supported services and language barriers between service providers and clients. The County Department of Human Services (which houses the Hispanic Affairs Commission) has acknowledged immigrants as a priority population and has produced a report of services available to immigrant communities. Yet local integration initiatives remain imperfect: community actors note that the gap between policy responses and input from the immigrant community makes these policies ineffective in promoting access to existing services. Moreover,

³⁹ Services include: police and fire; public, mental, prenatal, and child health; transportation; children's services; shelter; disaster relief.

many services are provided by community-based organizations that are not included in the Hispanic Commission's review of county initiatives.

Finally, the case study argues that the failure of the sanctuary city legislation (modeled on Trenton's City-Wide Privacy Policy Concerning Immigrant Access to City Services) in Perth Amboy in 2007 – largely the result of the widespread media attention and vitriol in the aftermath of the August 2007 Newark murders – illustrates two major problems of the unenforceable legislation. First, the Trenton model serves as a mere *reminder* to city officers that all individuals can access selected public services (namely transportation, child services, and emergency services); it does not include mechanisms to monitoring access to services. Second, the initiative is directed specifically at city officers providing city services, rather than populations seeking to use them. Sanctuary legislation is one-sided in addressing fears among immigrants that bar them from accessing city services.

Policy Recommendations

(1) To the Middlesex County Department of Human Services: Middlesex County should establish the proposed Office of Hispanic Affairs within the Department of Human Services. The Hispanic Affairs Commission offers a means of collaboration between county freeholders and leaders in the local Latino and Latino immigrant communities. This interaction is necessary to bridge county initiatives with input from the Latino community and to spread information throughout the Latino immigrant community. This office could be funded through public grant funds directed toward regular assessment of county-level services.

(2) To the Middlesex County Department of Human Services: The County should maintain its partnership with the United Way of Central New Jersey to regularly update the existing database of services available to immigrants. United Way's New Americans Program provides easily accessible information on existing services in both English and Spanish. The County can facilitate dissemination of this database by providing printed copies and information for accessing the online resource handbook to targeted places. These places include public schools with high populations of English language learners and local churches.

(3) To the New Jersey State Office of Immigrant Affairs: Create a statewide database of existing agencies providing services for immigrant communities. This database would be modeled on the resource handbook created by United Way's New Americans Program. The United Way has already created a second resource handbook for Mercer County. With sufficient funds from both county-level organizations and the state body, this database, once established, would be a low-cost means of identifying areas of unmet need in the state.

(4) To the New Jersey State Office of Immigrant Affairs: The statewide immigrant affairs office should appoint an Outreach Coordinator to facilitate state-level outreach to immigrant communities. The Outreach Coordinator should use the agency database to identify key actors in areas of unmet need to improve and facilitate access to public services. The Outreach Coordinator could also serve to provide uniform information on measures affecting immigrants to the entire state. Specifically, should municipalities consider sanctuary city legislation, the State Office of Immigrant Affairs could provide a concise and clear definition of the measure to the media. The Outreach Coordinator should also ensure that necessary documents are translated into the appropriate languages for the state's diverse immigrant population.

Passaic County: Evaluating the effects of “Safe Haven” legislation

This case study evaluates a certain type of local pro-immigrant ordinances, called “Safe Haven” or “Sanctuary City” legislation, using three cities in Passaic County – Passaic, Paterson and Clifton. Together, these three cities contain 60 percent of the county population and all three counties have large percentages of foreign born populations. In 2000, the foreign born population of Passaic, Paterson and Clifton were 48%, 33% and 29 % respectively, while the state average was 17% and in 2006 rose to 20%. On September 11, 2007, the city of Passaic passed a safe haven ordinance, which prohibits city officials from asking residents about their immigration status. Despite their similar characteristics, Paterson and Clifton did not enact similar legislation. Why did Passaic enact safe haven legislation, while the other cities did not? And after enacting such legislation, what was the effect of the safe haven policy on the city of Passaic and its undocumented population?

The case study identifies two factors to explain why Passaic passed safe haven legislation. First, in the city of Passaic, the large foreign born population and a 62% overall Hispanic population (both foreign born and native), provides a critical mass that contributes to the pro-immigrant sentiment within the city, since the vast majority of immigrants are Hispanic in Passaic. And second, a key feature in Passaic City is the high level of civic engagement within the immigrant community, which creates an environment particularly supportive of immigrants and thereby conducive to the passage of the safe haven legislation.

In Paterson, which has also has a large foreign born population and a 50% Hispanic majority, two factors appear to have prevented the city from passing safe haven legislation. First, the large racial, ethnic and national diversity in the city, which is segregated by neighborhood into these different groups, may lead to greater competition and less solidarity among these groups, resulting in less pro-immigrant sentiment for immigrants as a whole in the community. Second, the Passaic County Jail, located in Paterson, detained large numbers of undocumented Arab immigrants following September 11th, which became the central focus of immigrant rights groups, detracting from their concern for other undocumented immigrants in the Paterson community.

In Clifton, three unique features of its immigrant population likely prevented the introduction or passage of safe haven legislation. First, the levels of the foreign born and Hispanic populations, 29% and 20% respectively, are not as high as in the other two cities. Second, Clifton is a more residential municipality with a population that is less densely concentrated, wealthier and better educated. Most importantly, the foreign born population is concentrated in one (northern) section of the city, unlike Paterson and Passaic whose foreign born are evenly dispersed throughout the cities. Segregation of the foreign born community makes it more likely to be perceived as an out-group, potentially inducing anti-immigrant sentiment.

Finally, Looking at Passaic's specific safe haven ordinance, the legislation initially succeeded in improving the safety of the city and welfare of the whole community. According to several key immigrant activists, immigrants were noticeably more trusting of the police and city officials. However, an ICE raid on 19 February 2008, in which Passaic City Police participated, severely eroded the trust between undocumented immigrants and the police that had been gained from the safe haven ordinance. As a result, some of the benefits of the safe haven legislation have been voided.

Policy Recommendations:

(1) For City Councils considering “Safe Haven” legislation, safe haven legislation may not be the best option if any of the following conditions are present:

- **Segregation of the foreign born community in a specific location within the city**
- **Negative media focus on specific immigrant populations or issues within the city**
- **A popular perception in a large or vocal segment of the community that immigrants are using city services disproportionately or unfairly**

The safe haven ordinance in Passaic City was beneficial to the city by creating trust and cooperation between police and undocumented residents, which encouraged the reporting of crimes and improved safety. However, in a town like Clifton that otherwise has anti-immigrant sentiment due to geographical and demographic factors, a safe haven ordinance would not likely win public support and could possibly provoke even greater anti-immigrants reactions. Thus, safe haven legislation should be enacted on a case-by-case basis depending on the specific conditions in a given city.

(2) If safe haven legislation is enacted, local law enforcement must be prohibited from accompanying ICE agents on raids against undocumented residents. Legally, city police are not required to cooperate with ICE agents. While safe haven legislation cannot prevent ICE raids by the federal government, the city must clearly show that local police are not involved with any such raids. In Passaic, the safe haven ordinance led the immigrant community to believe that city police would not be a part of raids against undocumented immigrants. By participating with ICE agents, the city police eroded the trust gained by the safe haven ordinance and nullified the improved safety that had resulted from that trust.

(3) The New Jersey Office of Immigrant Affairs should encourage state and local immigrant rights groups to focus on increasing the civic engagement of immigrants and immigrant communities by forming local associations and community organizations. As shown in Passaic, high levels of civic engagement by immigrant communities produce positive benefits by improving the image of the immigrant community, providing a support network for undocumented residents and increasing services and political support by city officials. The civic engagement of the immigrant residents in Passaic also produced tangible benefits in the form of the day laborer center. But more importantly, civic engagement contributed to the city council’s decision to politically support undocumented immigrants through the safe haven ordinance. Given these benefits, immigrant groups should place a heavy focus on local civic engagement and organization in order to bring immigrants into community affairs and political processes. Successful examples of civic organizations include soccer leagues, labor associations, cultural heritage groups, and community service organizations.

V. Conclusion

New Jersey faces a number of unique challenges in successfully integrating its immigrant communities. The recent arrivals contribute to the size and diversity of the state’s quickly-growing immigrant population. And the unique geographic dispersion of New Jersey’s immigrants

differentiate the state from four of its five larger immigrant-receiving counterparts (CA, NY, IL, and FL), thus creating additional challenges in terms of local, county, and state-level coordination. This task force analyzed nine counties in an effort to address some of these immigrant-related challenges.

The case studies in the areas of education, health, crime and public safety, and “sanctuary city” legislation all analyzed problems and proposed solutions in terms of policy recommendations. These recommendations, presented throughout this overarching report, would serve foreign born residents and their communities by facilitating integration and improving the quality of life for New Jersey’s immigrants, who comprise 20% of the state’s population.

The findings of the nine case studies also support the creation of a New Jersey Office of Immigrant Affairs. In conceiving of and making the recommendations listed, this task force came to the conclusion that immigrant needs in the state require a more coordinated infrastructure of support than what is currently in place. While the task force stopped short of outright recommending an Office of Immigrant Affairs, it did find that New Jersey’s immigrants currently lack a comprehensive approach to integration, and that such an Office may be able to provide the coordination, outreach, data collection and analysis, and oversight that are necessary. At this point, it seems that a New Jersey Office of Immigrant Affairs presents the best chance for a coordinated integration strategy. Therefore, this possibility should be studied further.

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Language Interpretation in the Healthcare Setting

Kimberly Hill and Lisa Capano-Wehrle

Introduction

The problems surrounding the lack of certified interpreters in health care facilities are numerous. The problems for limited English proficient (LEP) patients range from poor quality of understanding medical conditions, lack of knowledge in medication dosing and duration, a general uneasiness and unwillingness to ask questions of their health care provider, and the tendencies to not seek regular health care, which means they often only undergo treatment in emergencies. However, Title IV of the Civil Rights Act of 1964 states that health care providers are required to provide translation services to all in need to assure that equal treatment is given to patients regardless of country of origin.¹ The challenges for states like New Jersey in solving these problems can range from: inadequate policy support; an overall absence of cultural competency; failure to reach a consensus about certification for interpreters and how to integrate them into health care statewide; and perhaps the largest problem, a lack of funding and reimbursement to support the implementation of statewide standard for healthcare interpretation. The following topics are of pertinence to the issue of interpreting in health care and discussion of

¹ Ku and Flores, "Pay Now or Pay Later: Providing Interpreter Services in Health Care," *Health Affairs*, 1- 10, 1, (2005).
<http://content.healthaffairs.org/cgi/reprint/24/2/435?maxtoshow=&HITS=10&hits=10&RESULTFORMAT=&searchid=1&FIRSTINDEX=0&minscore=5000&resourcetype=HWCIT>

these topics demonstrate the benefits of increasing cultural and linguistic competency for both patients, health care providers and facilities, and the State of New Jersey.

Discussion

There are many challenges healthcare interpretation faces with today's diverse population. The following section reviews the literature surrounding the issues of interpretation in the medical setting. It also includes a review of the current situation and data regarding interpretation in New Jersey, and offers best practice models, which may be beneficial for New Jersey to consider. Conclusions and recommendations are then offered, with overall aims at decreasing health disparities for LEP persons within the state.

The importance of having certified interpreters in NJ hospitals and clinics is illustrated by the problems already existing in the health care systems with regards to interpreters, and then examine other states' successes with interpreters. The most significant piece of federal legislature that addresses the limited English proficient population is the Civil Rights Act of 1964, under which patients are required to be treated equitably when receiving health care services, regardless of nativity which includes speaking their native language. Requiring standardized certification of medical interpreters in NJ and their use in medical settings aligns the state with these federal requirements.

Literature Review

The Civil Rights Act of 1964, Title VI, explicitly “prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.”² As Chen illustrated in her review of language access and legal structure, this act “continues to be the single most important piece of legislation for providing LEP individuals a legal right to language assistance services.”³ However, there are many programs and activities, including hospitals and other health care settings that currently receive federal financial assistance, that do not provide interpretation services for persons whose first language is not English language. Flores investigates this issue of healthcare interpretation and its effect on possible clinical errors, and further confirms that such an issue does indeed exist. Flores responds to this form of inequity by stating that “in a guidance memorandum, the Office of Civil Rights stated that the denial of medical care for LEP patients because of language barriers constitutes a form of discrimination, and requires that any recipient of Medicaid or Medicare must provide adequate language assistance to LEP patients.”⁴ Keers-Sanchez further agrees with Flores, stating that the continued problems with such discrimination in a healthcare setting are due to the absence of a “direct statement stating who is required to pay for these necessary services.”⁵ However, not only is the specification of the responsible payment party not stated within this act, but overall

² *Title VI of the 1964 Civil Rights Act*. United States Congress. <http://www.usdoj.gov/crt/cor/coord/titlevistat.php> (10 November 2008).

³ Chen, A. H., Youdelman, M. K., & Brooks, J., “The Legal Framework for Language Access in Healthcare Settings: Title VI and Beyond,” *Journal of General Internal Medicine*, 22, 362-7, (2007), <http://www.springerlink.com.libproxy2.umdnj.edu/content/b831637487g1036g/fulltext.pdf>

⁴ Flores, G., Laws, M.B., Mayo, S.J., Zuckerman, B., Abreu, M., & Medina, L., “Errors in Medical Interpretation and Their Potential Clinical Consequences in Pediatric Encounters,” *Pediatrics*, 111, 6-14, (2003), <http://pediatrics.aappublications.org.libproxy2.umdnj.edu/cgi/reprint/111/1/6>.

⁵ Keers-Sanchez, A., “Mandatory Provision of Foreign Language Interpreters in Health Care Services,” *The Journal of Legal Medicine*, 24, 557-578, (2003). <http://web.ebscohost.com.libproxy2.umdnj.edu/ehost/pdf?vid=3&hid=16&sid=e3aa7f52-242b-4b93-9846-18a5c9493a40%40SRCSM1>.

proactive enforcement does not exist for this issue, as illustrated in Laws' research on interpretation quality.⁶

The need for standard certification in healthcare interpretation is the most repeated issue noted by researchers describing the current status of interpretation in medical settings. The Northern California Translators Association, a chapter of the American Translators Association, notes that interpretation and translation are not interchangeable terms; interpretation refers to “spoken communications interpreted orally” and translation as “written material is translated from one language to another in written form.”⁷ Laws analysis of quality medical interpretation evaluation, finds that there is an imperative need for accurate and appropriate interpretation assurance.⁸ Gerrish describes a similar need in primary care nursing; however, noting that interpreter services within the primary care areas is often unavailable. She finds a lack not only in professional services but also in limited opportunities for professional development and growth in cultural and community language competency⁹ Flores further confirmed that need, by

⁶ Laws, M. B., Heckscher, R., Mayo, S. J., Li, W., & Wilson, I.B. “A New Method for Evaluating the Quality of Medical Interpretation,” *Medical Care*. 42, 71-80, (2004), <http://ovidsp.tx.ovid.com.libproxy2.umdnj.edu/spa/ovidweb.cgi?WebLinkFrameset=1&S=KPLAFPOFPJDDGOKFNCGLABPJHHJAA00&returnUrl=http%3a%2f%2fovidsp.tx.ovid.com%2fspa%2fovidweb.cgi%3f%26Full%2bText%3dL%257cS.sh.15.16.18.40%257c0%257c00005650-20040100-00010%26S%3dKPLAFPOFPJDDGOKFNCGLABPJHHJAA00&directlink=http%3a%2f%2fgraphics.tx.ovid.com%2fovftpdfs%2fPDDNCPJABKFPJ00%2ffs046%2fovft%2flive%2fgv023%2f00005650%2f00005650-20040100-00010.pdf&filename=A+New+Method+for+Evaluating+the+Quality+of+Medical+Interpretation>.

⁷ Northern California Translators Association, *Translation Versus Interpretation*, <http://www.ncta.org/displaycommon.cfm?an=1&subarticlenbr=17> (10 November 2008).

⁸ Laws, Heckscher, et al., *A New Method for Evaluating the Quality of Medical Interpretation*, 71-80.

⁹ Gerrish, K., Chau, R., Sobowale, A., & Birks, E., “Bridging the Language Barrier: The Use of Interpreters in Primary Care Nursing,” *Health and Social Care in the Community*, 12, 407-413, (2007). <http://web.ebscohost.com.libproxy2.umdnj.edu/ehost/pdf?vid=2&hid=13&sid=55f77fae-8f04-4e2e-9f51-14dd63369ca5%40SRCSM2>.

specifying in his review of healthcare access barriers for minority children, that interpreter services needed to be improved, especially in areas of Latino populations.¹⁰

Chen's review of the legal structure of language access noted that "The National Council on Interpreting in Health Care has developed National Standards of Practice for Interpreters in Health Care," but these practice models have not yet been universally adopted".¹¹ Other interpretation services have a national accreditation process, Keers-Sanchez's notes, such as the interpreters for hearing-impaired individuals. Keers-Sanchez further elaborates, stating that such a lack of federal and state requirements "makes it difficult to determine if an interpreter is qualified," and further concludes that the lack of national standards for healthcare interpreters results in "no guarantee that translators will be available to interpret a specific language at the precise moment a medical emergency arises."¹²

Implementing standards for healthcare interpretation would not only increase the overall quality of interpretation, but would also minimally impact the amount of money spent on interpreter services, as the "additional costs for language services are relatively small compared with the gaps in health care access and medical spending that now exist for patients with limited English proficiency¹³" as Ku acknowledged in his findings on payment and interpretation services. Laws' evaluation of interpretation quality found that "omission was the most common form of error," and that errors of clinical significance were commonly found when non-

¹⁰ Flores, Laws, Mayo et al., *Errors in Medical Interpretation*, 7.

¹¹ Chen, Youdelman, M. K., and Brooks, *The Legal Framework for Language Access in Healthcare Settings*, 364.

¹² Keers-Sanchez, *Mandatory Provision of Foreign Language Interpreters in Health Care Services*, 572.

¹³ Ku and Flores, *Pay Now or Pay Later*, 440

professionals served as interpreters.¹⁴ Flores confirmed that such errors hold clinical significance through his research on access to health care within communities of Latino children, stating that 1 out of every 17 parents in one study reported not bringing their child in for needed medical care because of these language issues¹⁵, and many other parents stated that such problems resulted in their child receiving poor medical care, misdiagnosis, inappropriate medications, and even inappropriate hospitalization.¹⁶ These issues lead to unnecessary expenses such as the “\$71 million lawsuit over a misinterpreted word in the emergency department,” where an extended inpatient stay for a perforated appendectomy that may have been prevented if the proper interpreter services were used, or the incorrect case of child abuse that resulted from an inaccurate translated word and the failure to initially contact adequate translation services.¹⁷

Professional health care interpreters’ training includes not only accurate language curriculum, tailored to a medical setting, but also appropriate cultural competence. Abbe’s primary recommendation for improving communication within medical settings was for health care interpreters to increase their intercultural knowledge skills.¹⁸ Dohan also addresses the desire of Russian speakers to have culturally competent interpreters, by way of eliminating a strictly

¹⁴ Laws, Heckscher, et al., *A New Method for Evaluating the Quality of Medical Interpretation*, 77.

¹⁵ Flores, G., Laws, M.B., Mayo, S.J., Zuckerman, B., Abreu, M., & Medina, L. (2003). Errors in Medical Interpretation and Their Potential Clinical Consequences in Pediatric Encounters. *Pediatrics*, 111, 6-14. <http://pediatrics.aappublications.org.libproxy2.umdnj.edu/cgi/reprint/111/1/6>

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Abbe, M., Simon, C., Angiolillo, A., Ruccione, K., & Kodish, E.D., “A Survey of Language Barriers from the Perspective of Pediatric Oncologists, Interpreters, and Parents,” *Pediatric Blood Cancer*, 47, 819-824. (2006), <http://www3.interscience.wiley.com.libproxy2.umdnj.edu/cgi-bin/fulltext/112593063/PDFSTART>.

“word-by-word” interpretation format, and becoming more familiar with the cultural and social differences that allow the patient to accurately understand the treatment issues that may be present.¹⁹ Gerrish further confirms this need, by stating that overall cultural awareness improvement is needed in the primary care area of health as well.²⁰ Ngo-Metzger’s review of language issues within Chinese and Vietnamese communities illustrated their individual cultures differed from other immigrant communities, and that the need for further cultural awareness, specifically in gender-related issues, was an area of training that should be improved.²¹

Doctors and medical professionals who have personally experienced problems with language barriers in patient care are leading the research on interpreter benefits. Dr. Alice Chen and Dr. Glenn Flores have examined language barrier issues and their findings have shed light on problems with universal health care interpretation certification, funding and reimbursement, the hazards of using of ad hoc interpreters (i.e. children, spouses, other patients, or other staff), levels of patient satisfaction and quality of services rendered, and pediatric specific medical treatment. Chen states, in reference to funding and reimbursement, “We need increased support for using trained medical interpreters, through either centralized, direct reimbursement for

¹⁹ Dohan, D., & Levintova, M., “Barriers Beyond Words: Cancer, Culture, and Translation in a Community of Russian Speakers.” *Journal of General Internal Medicine*. 22, 300-5, (2007), <http://www.springerlink.com.libproxy2.umdj.edu/content/q662426k17128108/fulltext.pdf>.

²⁰ Gerrish, Chau, Sobowale et al., *Bridging the Language Barrier*, p. 407-413.

²¹ Ngo-Metzger, Q., Massagli, M.P., Clarridge, B.R., Manocchia, M., Davis, R.B., & Lezzoni, L.I., “Linguistic and Cultural Barriers to Care - Perspectives of Chinese and Vietnamese Immigrants,” *Journal of General Internal Medicine*, 18, 44-52. (2003), <http://www.springerlink.com.libproxy2.umdj.edu/content/n611777966223r7/fulltext.pdf>.

medical interpretation (similar to how our federal judiciary pays for qualified courtroom interpreters) or increased payment to providers that care for patients with language barriers.”²²

The idea of garnering more support for use of interpreting services by offering inducements to health care providers willing to increase their cultural and linguistic competency is one approach.

Investigation into federal and state funding options for adhering to culturally and linguistically unbiased health care protocol should be pursued. Solving the funding mechanism for use of medical interpreters is critical to state policy reforms within the health care field. Similarly, Brach, Fraser and Paez find that, “Public and private purchasers can instruct their actuaries to include the cost of interpreter services in constructing capitation payment and allow for reimbursement of interpreter services in fee-for-service arrangements.”²³ If public and private donors, who are integral influences on funding in medical care, change their requirements for funding to include interpreting services then, health care facilities will be forced to alter the way services are conducted. This will inevitably cause strains in the short term, but in the long term adaptation to and integration of interpreting services would evolve into a more routinized part of health care.

In health care today, much of the translation for medical professionals is done by ad hoc translators such as, family members and children of patients, bilingual staff members, or other

²² Chen, Alice, “Doctoring Across the Language Divide.” *Health Affairs*, 1-6, 6, (2006).

<http://content.healthaffairs.org/cgi/reprint/25/3/808>

²³ Brach, Fraser, and Paez, “Crossing the Language Chasm: An In-depth Analysis of What Language-Assistance Programs Look Like in Practice,” *Health Affairs*, 1-11, 8, (2005).

<http://content.healthaffairs.org/cgi/reprint/24/2/424?maxtoshow=&HITS=10&hits=10&RESULTFORMAT=&searchid=1&FIRSTINDEX=0&minscore=5000&resourcetype=HWCIT>

patients in the facility that speak the same language. This poses numerous problems when patients learn about their medical conditions as they may develop feelings of shame or embarrassment, which are often culturally grounded. There is also the probability of misinformation or withholding of information will occur in the absence of an unbiased interpreter. Julio Mateo states in his example of promising practices with LEP's that, "Ad hoc interpreters are less likely to tell patients about medication side effects and more likely to misinterpret or omit questions asked by physicians. Moreover, their use results in significantly lower patient and physician satisfaction than other interpretation strategies."²⁴ The risk of misinformation being delivered can ultimately cost health care facilities more money than the expense of an interpreter, because of the increased chance of needing to retreat a patient. If a trained and unbiased interpreter is used to translate, then the explanation and treatment of a patient's condition are more likely to be effective the first time.

It is especially dangerous for children to interpret. They frequently are embarrassed by and tend to ignore questions about menstruation, bowel movements, and other bodily functions and are more likely to make interpretation errors with potential or actual clinical consequence [...] Child interpreters also are less likely to have complete command of two languages, and their use may result in parents avoiding discussion of sensitive subjects such as domestic violence, sexual issues, or drug and alcohol abuse.²⁵

²⁴ Mateo et al., "Providing Health Care to Limited English Proficient (LEP) Patients: A Manual of Promising Practices," *California Primary Care Association*, 1-118, <http://www.cPCA.org/resources/research/pdf/PPGuide.pdf>

²⁵ Flores, Glenn, "Pediatrics 2006: Language Barrier," *Agency for Healthcare Research and Quality*, 1- 6, 2, (2006). http://www.healthlaw.org/library/topics.1333-cultural_and_linguistic_access_to_health_care

Gerrish agreed with Ku and Flores, regarding such findings of threatened privacy issues, stating that the use of family members for interpretation services can lead to a violation of a patient's privacy and confidentiality rights; furthermore, family members do not always diligently interpret the physician's conversation especially in discussions that may state negative results or news.²⁶ In addition, such ad hoc interpreters, Youdelman noted, "are likely unfamiliar with the appropriate role of an interpreter, and may compromise patient confidentiality or violate the Health Insurance Portability and Accountability Act (HIPAA)."²⁷ Because of possible negative consequences "some states limit the use of family members and friends as interpreters; Massachusetts and Rhode Island prohibit hospitals from using children as interpreters."²⁸ A child is often the most accessible asset to an LEP patient, but *simultaneously* the child is who the LEP patient will wish to shield from what they view to be frightening or potentially damaging information. Overall, studies show that the act of children interpreting for parents is one of the largest causes of mistakes in diagnosis.²⁹

These topics and view points are few of myriad dissatisfactions with the way that LEP patients and immigrants are treated in health care. On both the federal and state level, it will be challenging to achieve the equilibrium of appropriately caring for LEP patients and immigrants, while not compromising the quality of patient care for native resident patients. Federal mandates and the push for reform on linguistic and cultural competence in health care systems exist; what

²⁶ Gerrish, Chau, Sobowale et al., *Bridging the Language Barrier*, 407-413.

²⁷ Youdelman, Mara K., "The Medical Tongue: U.S. Laws and Policies on Language Access." *Health Affairs* 27, no. 2, 424-33. (2008), <http://web.ebscohost.com.libproxy2.umdnj.edu/ehost/pdf?vid=3&hid=14&sid=1878282a-ac3c-4488-86de-e4d3b86e3999%40SRCSM1>.

²⁸ Ibid

²⁹ Flores, *Pediatrics* 2006, 1-6.

is needed is forward momentum in the actual healthcare facilities to better uphold the standards of Title IV of the 1964 Civil Rights Act. That momentum can be set in motion, if there is policy reform in the state of NJ geared towards awarding equal access to medical services regardless of language barriers. By studying other successful models and implementing gradual reform in health care facilities assimilation of more appropriate patient care can be achieved.

New Jersey and Interpreter Services

Over 27 percent of people living in New Jersey speak a language other than English at home.³⁰ This percentage of languages other than English “grew by 57 percent, and the number of LEP New Jersey-ans increased by 49 percent.”³¹ Persons with limited English proficiency experienced limited access and increased barriers in their attempt to receive adequate and appropriate health care³². An evaluation of quality interpreter services in 67 hospitals in New Jersey, found that “only 3 percent of hospitals have a full-time interpreter, for a ratio of 1 interpreter per 235,769 LEP persons in NJ. Eighty percent of hospitals offer no staff training on working with interpreters.”³³

³⁰ United States Census Bureau, “United States by State: M1601. Percent of People 5 Years and Over Who Speak a Language Other Than English at Home: 2006,” in the American Fact Finder. http://factfinder.census.gov/servlet/ThematicMapFramesetServlet?_bm=y&-PANEL_ID=tm_result&-_MapEvent=displayBy&-tm_name=ACS_2006_EST_G00_M00603&-ds_name=ACS_2006_EST_G00_&-tm_config=b=50|l=en|t=306|z

³¹ Flores, G., Torres, S., Holmes, L. J., Salas-Lopez, D., Youdelman, M.K., & Tomany-Korman, S.C., “Access to Hospital Interpreter Services for Limited English Proficient Patients in New Jersey: A Statewide Evaluation.” *Journal of Health Care for the Poor and Underserved*, 19, 391-415, (2008). http://muse.jhu.edu/login?uri=/journals/journal_of_health_care_for_the_poor_and_underserved/v019/19.2.flores.pdf

³² Youdelman, Mara K. "The Medical Tongue: U.S. Laws and Policies on Language Access." *Health Affairs* 27, no. 2 (2008): 424-33. <http://web.ebscohost.com.libproxy2.umdnj.edu/ehost/pdf?vid=3&hid=14&sid=1878282a-ac3c-4488-86de-e4d3b86e3999%40SRCSM1>

³³ Flores, G, S Torres, D Salas-Lopez, and S Tomany-Korman. "Is What We Have Here a Failure to Communicate? A Statewide Evaluation of the Adequacy of Hospital Interpreter Services for Patients with Limited English

According to the *2007 Update of the Strategic Plan to Eliminate Health Disparities in New Jersey*, developed by the New Jersey Department of Health and Senior Services (NJDHSS), several steps were initiated to improve the current situation in New Jersey. The current steps include the “release of the Communication Picture Board, a poster designed to make it easier for those whose primary language is not English to identify base phrases to access health services in the language they do not speak proficiently.”³⁴ In addition, through a dual collaborative effort by the Office of Minority and Multicultural Health (OMMH) and the New Jersey Hospital Association (NJHA), medical interpretation training for bilingual hospital staff employees was piloted, currently in hospitals within the Atlantic County area. Other initiatives to improve the current health disparity situation within the state include the introduction of focus groups that aim at training “community workers to address language access issues” through a pilot program, and translating useful documents such as “consumer information on the birth defects registry,” the “newborn biochemical screening,” and “newborn hearing screening program” currently in Spanish, with long-range plans to continue translating to additional languages as well.³⁵

Initiatives to improve the current cultural competence of the state are found throughout the State of New Jersey websites.³⁶ However, specific standards and recommendations for improving the

Proficiency" (2005). *National Library of Medicine*. Medical College of Wisconsin/Children's Hospital. <http://gateway.nlm.nih.gov/MeetingAbstracts/ma?f=103622770.html>.

³⁴New Jersey Department of Health and Senior Services, *Strategic Plan to Eliminate Health Disparities in New Jersey in 2007*, <http://www.state.nj.us/health/omh/documents/healthdisparityplan07.pdf> (10 November 2008).

³⁵ Ibid

³⁶ For examples on cultural competence in New Jersey, please see below:

current training and certification of interpreters within the healthcare setting are seldom mentioned. Review of academic literature surrounding this issue voice many concerns for LEP persons, which exemplify an essential need for improvement.

Best Practices

Programs for improving language translation within the health care setting represent a national challenge. One step the state of New Jersey can take to improve such a program within local communities include implementing a universal interpretation certification training program, which would allow healthcare interpreters to be more uniformly trained in the area of health care translation.

Research indicates that the overall limited English proficiency (LEP) population would greatly benefit from a universal and standard language translation certification for health care interpreters.³⁷ Translation by family members and friends results in many patients misunderstanding critical health issues, which could be more accurately discussed with the patient by an interpreter trained within this medical area. Addressing this issue is a top priority for improving the healthcare for immigrants. A national standard is the most effective way to improve the overall condition of language interpretation within immigrant populations, but a

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- <http://www.state.nj.us/njsncc/>
 - http://www.commonwealthfund.org/innovations/innovations_show.htm?doc_id=305358
 - <http://www.state.nj.us/oag/ca/adoption/bmeado47.htm>

³⁷ Chen, A. H., Youdelman, M. K., & Brooks, J. (2007). The Legal Framework for Language Access in Healthcare Settings: Title VI and Beyond. *Journal of General Internal Medicine*. 22, 362-7.
<http://www.springerlink.com/libproxy2.umdj.edu/content/b831637487g1036g/fulltext.pdf>

state-wide initiative may present more opportunities to customize standards that better fit the local communities within New Jersey.

The National Standards on Culturally and Linguistically Appropriate Services (CLAS), a division of the Office of Minority Health within the Department of Health and Human Services, developed fourteen standards to improve the current situation with regard to immigrant health. As recommended within the suggested standards, formal training for healthcare interpreters should be required. Curriculum should include “instruction in interpretation skills and techniques; ethics of interpreting in health care encounters; a review of key medical terminology, basic clinical concepts, and the workings of the American medical system; an overview of the role of culture and how to manage cultural issues; and professional interpretation issues.”³⁸

The state of Massachusetts enacted a law in 2000 that “requires training for interpreters working in acute care hospital emergency departments” and suggested a best practice recommendation “that training be provided for all types of medical interpreters.”³⁹ This form of training would be either by the healthcare institution or by an outside competent training program. Such a formal standard of training would promote “accurate and effective communication between

³⁸ United States Department of Health and Human Services. "National Standards for Culturally and Linguistically Appropriate Services in Health Care." *Office of Minority Health* (2001): 1-139.
<http://www.omhrc.gov/assets/pdf/checked/finalreport.pdf>

³⁹ Torres, Brunilda. "Best Practice Recommendations for Hospital-Based Interpreter Services." Office of Minority Health, Massachusetts (UNK): 1-32.
http://www.hablamosjuntos.org/pdf_files/Best_Practice_Recommendations_Feb2004.pdf

patients/consumers and clinicians,” which is stated to be “the most essential component of the health care encounter.”⁴⁰

A further best practice recommendation to implement training standards within the healthcare setting for language translation may be to partner with external organizations in order to offset possible training costs and reduce health disparities.⁴¹ In 1996, Kaiser Permanente, a managed care organization, created the “Health Care Interpreter Certificate Program to address the dearth of qualified professional health care interpreters in the community.”⁴² The program was developed following the Qualified Bilingual Staff (QBS) model, which “provides internal assessments and trainings in an effort to increase the availability and use of bilingual staff.”⁴³ Other partnerships of value include partnerships with local community health and non-profit organizations, which are highly valuable and work within the “community to improve language services available.”⁴⁴

⁴⁰ Torres, Brunilda. "Best Practice Recommendations for Hospital-Based Interpreter Services." Office of Minority Health, Massachusetts (UNK): 1-32.
http://www.hablamosjuntos.org/pdf_files/Best_Practice_Recommendations_Feb2004.pdf

⁴¹ Baquet, Claudia R., Olivia Carter-Pokras, and Barbara Bengen-Seltzer. "Healthcare Disparities and Models for Change." *The American Journal of Managed Care* 10, no. SP (2004): 5-11.
http://www.ajmc.com/files/articlefiles/A100_04sepSPBacquetSP5_11.pdf

⁴² "Toolkit to Reduce Racial Disparities in Health Care." National Health Plan Collaborative (2008): 1-150.
<http://www.rwjf.org/qualityequality/product.jsp?id=33960>

⁴³ "Toolkit to Reduce Racial Disparities in Health Care." National Health Plan Collaborative (2008): 1-150.
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⁴⁴ Baquet, Claudia R., Olivia Carter-Pokras, and Barbara Bengen-Seltzer. "Healthcare Disparities and Models for Change." *The American Journal of Managed Care* 10, no. SP (2004): 5-11.
http://www.ajmc.com/files/articlefiles/A100_04sepSPBacquetSP5_11.pdf

In addition to establishing training standards, one of the largest challenges in health care interpretation is the need to integrate full-time, certified interpreters into health care practices throughout the state of New Jersey. The increasing numbers of LEP patients certainly demand that health care practices adapt to improve patient care. The benefits of interpreter services are undeniable.

“Almost 50 million Americans speak a primary language other than English at home, and 22.3 million have limited English proficiency (LEP), defined as a self-rated English-speaking ability of less than “very well.” The last decade witnessed a 47% increase in the number of Americans speaking a non-English language at home and a 53% increase in the number of LEP Americans⁴⁵”.

The primary obstacle to achieving this goal is the absence of initiatives to alter long-standing approaches to funding and reimbursement for interpreter services. “At least in the short run, investing in language assistance can raise costs. But purchasers can do several things to make plans and providers willing to incur such costs⁴⁶”. A main concern in adopting a state-wide standard for funding is the initial difficulties that will occur if hospitals and clinics are required to add interpreters to their already large staff and existing methods of patient care. To transition into using interpreting services, state funding for the certification of interpreters is needed just as the state does in the federal court systems for trial interpreters⁴⁷. Once the state is willing to allot

⁴⁵ Flores, *Pediatrics* 2006, 1-6.

⁴⁶ Brach et al., *Crossing the Language Chasm*, 8.

⁴⁷ New Jersey Judiciary. "Provide Equal Access for Linguistic Minorities." *Supreme Court Action Plan on Minority Concerns*. <http://www.judiciary.state.nj.us/interpreters/actnplan.htm>.

funds for language services in health care, then insurance companies and the private sector can induce their funding recipients to administer high quality interpreting training and services. Though clinics and hospitals adaptation to and absorption of generalized language assistance will be arduous, the passage of time and adherence to common standards will improve patient care.

Another reason the state needs to mandate and fund the use of interpreters in health care is to comply with Title IV of the Civil Rights Act of 1964, which requires health care providers supply translation services to all patients to assure that equal treatment is given to patients regardless of country of origin⁴⁸. The fact that the requirements of Title IV are not complied with leads to higher costs in the long term. When a limited English proficient patient does not receive adequate treatment because of the lack of interpreters, or the use of ad hoc interpreters (i.e. children, bilingual staff, or other patients), then the patient will need to seek treatment again, which is mismanagement of time and of resources. When patients are severely misdiagnosed, they may file costly malpractice suits and in an extreme documented case misdiagnosis from lack of interpretation, “led to a \$71 million dollar malpractice settlement associated with a potentially preventable case of quadriplegia⁴⁹”.

The US Office of Management and Budget (OMB) “estimated that interpretation costs an average of \$4.04 per visit by an LEP patient or 0.5 percent of the total cost of a visit.”⁵⁰ Because

⁴⁸ Ibid.

⁴⁹ Flores, *Pediatrics* 2006, 3.

⁵⁰ Ku and Flores, *Pay Now or Pay Later*, 439

this is an estimation, the costs can vary depending on the individual health care facility, but pro-interpretation state legislation could set a static price for interpretation services. Medicaid and State Children’s Health Insurance Program (SCHIP) allow for the state to pay for at least 50 percent of interpreter costs, however, Mara Youdelman notes in her Medicaid and SCHIP reimbursement models that “Currently, the District of Columbia and 12 states (Hawaii, Idaho, Kansas, Maine, Minnesota, Montana, New Hampshire, Utah, Vermont, Virginia, Washington, and Wyoming) are providing reimbursement.⁵¹”

Much of the needed change in New Jersey might be achieved by following California’s examples of integrating interpreters into health care. California allows for the licensure of foreign doctors and dentists once they become proficient in English. The state also enacted a law that mimics Title IV of the Civil Rights Act of 1964, “No state agency or state-funded entity shall discriminate against any person in California on the basis of race, national origin, ethnic group identification, religion, age, sex, color, or disability.⁵²”

In addition to recommendations for standard training requirements and funding options, special initiatives are needed to implement specific practice models for interpretation for pediatric groups. Efforts to initiate a state-wide proposal for Medicaid and Medicare interpreter reimbursement, perhaps following a currently used state-model that has been recently developed

⁵¹ Youdelman, Mara, “Medicaid and SCHIP Reimbursement Models for Language Services: 2007 Update,” *National Health Law Program*, 1-17, 2, (2007), http://www.healthlaw.org/search/item.142454-Medicaid_and_SCHIP_Reimbursement_Models_for_Language_Services_2007_Update_M?tab=pane_search-results-1

⁵² Youdelman and Perkins, “Summary of State Law Requirements Addressing Language Needs in Health Care,” *National Health Law Program*, 1-137, 18, (2008). <http://www.healthlaw.org/library/item.174993>

to match the specific language translation issue within the health care settings of their communities, should be pursued.

Recommendations

Implement state standards for training and certification of healthcare interpreters.

Explore state or private funding to cover the other portion of the training costs for healthcare interpreters.

Integrate the use of existing federal programs, Medicaid, and SCHIP for 50 percent funding of costs of healthcare interpretation in hospitals.

Initiate state incentives for hospitals to integrate healthcare interpreters into clinics and hospitals in New Jersey.

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Colloquium US Immigration Policy
Dr. Christine Thurlow Brenner

**Increasing Enrollment of Eligible Immigrant Children
in New Jersey FamilyCare**

Christine Polit, UMDNJ, and Erich Klothen, Rutgers University-Camden

“Health is a cornerstone of immigrant integration as much as education and learning English.”

-Laura Hogan, Program Director, Access to Health Services, the California Endowment

Problem Statement

Immigrant children in the United States face a double challenge in their attempts to navigate and utilize the health care system. Not only are children in immigrant households less likely to be covered through privately purchased or employment-based insurance programs, they are also less likely to be enrolled in government-sponsored public health insurance programs. Lack of insurance coverage puts immigrant children at increased risk for poor health outcomes. Despite expansions in eligibility for the State Children’s Health Insurance Program (SCHIP) for immigrants, many barriers to enrollment still exist.

Abstract

This report explores the status of children in immigrant households in the United States, to offer both theoretical and applied knowledge to inform the State of New Jersey Governor’s Blue Ribbon Advisory Panel on Immigrant Policy, established April 6, 2007 by Governor

Jon S. Corzine. A brief overview of the uninsured in the United States and SCHIP is followed by a closer look at immigrant families' use of SCHIP, focusing on New Jersey. Existing research exploring the barriers to SCHIP enrollment by immigrant families cites three main barriers: lack of knowledge about the program; cultural or language barriers; and fear due to immigration status or regulations. After discussing general recommendations for increasing SCHIP enrollment, several best practices are presented that can serve as a guide when developing or strengthening programs in New Jersey. Finally, potential resources for funding are discussed, along with recommendations.

Background – The Uninsured and SCHIP

The growing ranks of uninsured and the rising costs of health care are crises of national importance in the United States. According to the U.S. Census Bureau, there are 45.7 million individuals (15.3 percent of the United States population as a whole) in the United States without health insurance.¹ The majority of uninsured individuals are in low-to-moderate income households. Twenty-four percent of households with an annual income of less than \$25,000 do not have health insurance.² For households earning at least \$25,000, but less than \$50,000, 21.1 percent are uninsured.³ In 2007, there were 8.1 million children uninsured in the United States: roughly one in ten children in America is without health insurance.⁴

¹ United States Census Bureau, "Income, Poverty, and Health Insurance Coverage in the United States: 2007," United States Census Bureau, <http://www.census.gov/prod/2008pubs/p60-235.pdf>.

² Ibid.

³ Ibid.

⁴ Ibid.

In response to the high number of uninsured children in the United States, the federal government established the State Children’s Health Insurance Program, known as SCHIP, in 1997. SCHIP was “designed to provide health insurance to low-income children whose family income is above the eligibility level for Medicaid in their state.”⁵ The program was created under Title XXI of the Social Security Act and was originally established as a 10-year block grant program with \$40 million in funding. SCHIP authorization was extended through March 31, 2009 through the passage of Public Law 110-173, the *Medicare, Medicaid, and SCHIP Extension Act of 2007*. States administer their own SCHIP programs, and have flexibility, within the federal guidelines, regarding general program design, eligibility levels, and extent of benefits provided. States cover children in families earning up to 200 percent of the federal poverty limit⁶, and some extend coverage to families at higher income levels.

The effectiveness of SCHIP is documented in numerous studies. More than four million children enrolled in SCHIP programs by the end of 2005.⁷ Research indicates that children who are insured are more likely to receive routine and preventive care, and are less likely to present with complications, and are more likely to have continuity of care.⁸ A study of SCHIP in New York found that enrollment was associated with children having a primary source of medical care, with increased primary care visits and decreased hospitalizations,

⁵ Joel Teitelbaum and Sara Wilensky, *Essentials of Health Policy and Law* (Boston: Jones and Bartlett Publishers, 2007), 92.

⁶ The 2008 Federal Poverty Level for a family of four is \$42,400.

⁷ *Ibid.*

⁸ Y.W. Fry-Johnson et al., “Being Uninsured: Impact on Children’s Healthcare and Health,” *Current Opinions in Pediatrics* 17 (December 2005): 753.

and with reports of improved quality of care as reported by parents.⁹ In a study of the efficacy of NJ FamilyCare, the New Jersey program which administers SCHIP, researchers found that “enrollment in FamilyCare significantly increases the likelihood that children will have a medical home, will receive preventative care and prompt access to healthcare when ill, and that financial barriers will be less likely to prevent children from receiving medication.”¹⁰ By providing health coverage to children who would otherwise be uninsured and visit the emergency room more frequently, SCHIP prevents hospital visits and saves financial resources. A study exploring the benefits of SCHIP expansion in California found that over a 6-year period, 6,324 hospitalizations were prevented, resulting in savings of approximately \$6.7 million.¹¹

SCHIP and Immigrant Families

Non-citizens, including all persons residing in the United States who are legal permanent residents, asylees, refugees, or temporary residents, as well as undocumented immigrants, are over-represented in the uninsured population in the United States and are more likely to face health disparities. Non-citizens comprise seven percent of the general population but are 21 percent of the uninsured in the United States.¹² Weathers found in her study of the impact of immigration status on health access that there was a positive relationship between

⁹ Peter Szilagyi et al., “Evaluation of a State Health Insurance Program for Low-Income Children: Implications for State Child Health Insurance Programs,” *Pediatrics*. 105 (February 2000): 363.

¹⁰ Nancy Southerland et al., “Does Health Insurance Improve Children’s Lives? A Study of New Jersey’s Family Care Program,” (paper, 2002), ED 469 938,
http://eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/1a/82/11.pdf

¹¹ M. Cousineau et al., “Preventable Hospitalizations Among Children in California Counties After Child Health Insurance Expansion Initiatives,” *Medical Care* 46 (2008): 142.

¹² U.S. Department of Health and Human Services Office of the Assistant Secretary for Planning and Evaluation, “Overview of the Uninsured in the United States: An Analysis of the 2005 Current Population Survey,”
<http://aspe.hhs.gov/health/reports/05/uninsured-cps/index.htm>

lack of citizenship and poor access to health care.¹³ That is, non-citizen children were less likely to be able to access care. Similarly, Guendelman found that “foreign-born children in working poor families had lower access and health care use than did their U.S.-born counterparts, uninsured children were worse off than insured children, and uninsured foreign-born children faced the worst access to health care.”¹⁴ In addition to the challenges faced by all Americans, especially those in lower income households, immigrants face some unique challenges. Immigrants are more likely to work in employment sectors that do not provide insurance coverage, to face restrictions on their ability to qualify for public insurance programs, and to live in neighborhoods with lower access to medical services.¹⁵

Immigrants in New Jersey are more likely to be without health insurance than the native-born population. While 12.9 percent of the total native-born population in the State is uninsured, 35 percent of foreign-born residents are uninsured.¹⁶ In New Jersey, 11 percent of children are uninsured.¹⁷ In 2004, approximately 51,835 children were enrolled in the NJ SCHIP program (approximately 2.3 percent of the population): of these 51,835 children, racially 24.5 percent were identified as white, 49.9 percent as black, and 10.2 percent Asian and Pacific Islanders.¹⁸ Twenty-seven percent resided in households whose income was

¹³ Weathers et al., “The Effect of Parental Immigration Authorization in Health Insurance Coverage for Migrant Latino Children,” *Journal of Immigrant Minority Health* 10 (2008): 250.

¹⁴ Guendelman et al., “Unfriendly shores: how immigrant children fare in the US Health System,” *Health Affairs* 1 (2001): 264.

¹⁵ Grantmakers in Health, *For the Benefit of All: Ensuring Immigrant Health and Well-Being* (Charlotte, NC, 2005), 13.

¹⁶ New Jersey Center for Health Statistics, www.state.nj.us/health/chs/hic0104/hic0104.pdf.

¹⁷ Ibid.

¹⁸ Ibid.

below the federal poverty level, and 66.1 percent were at 133 percent or higher of the federal poverty level.¹⁹

The SCHIP Program in New Jersey is administered through the NJ FamilyCare program. This program offers free or reduced cost health coverage to children in households earning up to 200 percent of the federal poverty level. It covers health services for children including regular doctor visits, hospital costs, prescriptions, and dental care.²⁰ New Jersey FamilyCare is available to “qualified immigrants,” including permanent residents, refugees, asylees, and immigrants in a number of other categories.²¹

Immigrants do not have to wait five years after arriving to the United States to be eligible for FamilyCare in New Jersey.²² The original authorization for SCHIP required that legal permanent residents not be eligible for Medicaid or SCHIP for their first five years in the United States; however, New Jersey and over 20 other states use state funding to extend SCHIP benefits to this category of immigrants.²³

Immigrants who utilize the FamilyCare Program in New Jersey will not be considered a “public charge” by the US Citizenship and Immigration Services (USCIS) for accessing services.²⁴ The USCIS defines public charge as “an alien who has become (for deportation purposes) or is likely to become (for admission or adjustment of status purposes) ‘primarily

¹⁹ Ibid.

²⁰ NJ FamilyCare, “What Does It Cover?,” http://www.njfamilycare.org/pages/cover_njfc.html.

²¹ NJ FamilyCare, “Immigrant Information,” http://www.njfamilycare.org/pages/rest_who.html.

²² Ibid.

²³ Kaiser Commission on Medicaid and the Uninsured, “Medicaid and SCHIP Eligibility for Immigrants,” <http://www.kff.org/medicaid/upload/7492.pdf>.

²⁴ NJ FamilyCare, “Immigrant Information,” http://www.njfamilycare.org/pages/rest_who.html.

dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance, or institutionalization for long-term care at government expense.”²⁵ According the USCIS, non-cash benefits such as SCHIP are not to be considered as public charge; however, there is a great deal of confusion and mistrust in immigrant communities regarding questions of public charge.²⁶

Research Perspectives

A number of issues are identified in the current research that may help or hinder immigrant families in the process of enrolling their eligible children in the State Children’s Health Insurance Program. An understanding of this research is vital in developing or evaluating outreach or enrollment activities for SCHIP. Three significant areas should be considered when designing programs for immigrant families: ensuring that immigrant families have knowledge of the program and its guidelines; that the message to immigrant families is linguistically and culturally appropriate; and that families’ fears and misunderstandings regarding their immigration status are addressed.

One important issue that impacts immigrants’ enrollment in SCHIP is knowledge about SCHIP, the guidelines of the program, and how to apply. Flores found that lack of knowledge was often a barrier for immigrant parents in enrolling their children in SCHIP.²⁷ He cited a number of examples focusing on eligibility that indicated parents were misinformed about

²⁵ United States Citizenship and Immigration Services, “Fact Sheet,” http://www.uscis.gov/files/article/public_cfs.pdf

²⁶ Ibid.

²⁷ Glenn Flores et al., “How Medicaid and the State Children’s Health Insurance Program Can Do a Better Job of Insuring Uninsured Children: The Perspectives of Parents of Uninsured Latino Children,” *Ambulatory Pediatrics* 5 (2005): 334.

how issues such as qualifying family income levels, parental employment status, and immigration status of the child to be enrolled affected eligibility.²⁸ Kempe concurred, lack of knowledge and accurate information were barriers to SCHIP enrollment. She noted that “that lack of awareness of CHIP and misunderstandings about eligibility criteria are major impediments to the enrollment of eligible children.”²⁹

Both Flores and Kempe found that misinformation about income levels was a reason parents didn’t enroll their children; *the parents assumed that they earned too much to qualify.*³⁰ Many state SCHIP programs allow children to enroll who are in families significantly above the federal poverty level (FPL). In New Jersey, children in households earning up to 200 percent of the FPL are eligible for FamilyCare. Kempe found that despite significant efforts in Colorado to inform families about program eligibility requirements, many families whose incomes were significantly below the eligibility level for SCHIP believed they earned too much to qualify for the program, and reported that this was one of the main reasons why they did not apply for SCHIP.³¹ Rhee uncovered another knowledge barrier: understanding of the complex and expensive US health care system. She discovered that many of the immigrant parents in her study “described some misperception about how health insurance functions in the US....These perspectives seemed to relate back to the drastically different health care

²⁸ Ibid.

²⁹ Allison Kempe et al., “Barriers to Enrollment in s State Child Health Insurance Program,” *Ambulatory Pediatrics* 1 (2001): 174.

³⁰ Glenn Flores et al., “How Medicaid and the State Children’s Health Insurance Program Can Do a Better Job of Insuring Uninsured Children: The Perspectives of Parents of Uninsured Latino Children,” *Ambulatory Pediatrics* 5 (2005): 334. And Allison Kempe et al., “Barriers to Enrollment in s State Child Health Insurance Program,” *Ambulatory Pediatrics* 1 (2001): 175-176.

³¹ Allison Kempe et al., “Barriers to Enrollment in s State Child Health Insurance Program,” *Ambulatory Pediatrics* 1 (2001): 174.

systems that immigrants described in their native countries, including the much lower cost of care, particularly in developing nations.”³²

Another important topic to explore in understanding the barriers faced by immigrant families is that of language. Without adequate outreach and enrollment information in the native language of immigrants, they may not be able to participate. “Inadequate communication is also a barrier to enrollment for linguistic minorities. Without translated materials or public announcements about the program on television or radio in different languages, non-English-speakers will find it difficult to learn about a program’s existence and the fact that they are eligible.”³³ Flores found that language barriers prevented many parents from accessing full benefits for their child(ren).³⁴ In contrast, however, Kempe reported that few families in her study were unable to enroll their children in SCHIP due to language barriers. However, this discrepancy may be due to the fact that Kempe focused only on Latino families, and the SCHIP Program in Colorado made their SCHIP application available in Spanish as well as offering a Spanish language helpline for families needing assistance.³⁵

Confusion about immigration status and related regulations may also prevent immigrant families from enrolling their eligible children in SCHIP. Families may assume that they do not qualify because of immigration status, or may not apply due to fear that doing so may put

³² Yoona Rhee et al., “An Urban School Based Comparative Study of Experiences and Perceptions Differentiating Public Health Insurance Eligible Immigrant Families with and without Coverage for their Children,” *Journal of Immigrant Minority Health* (2008): 4.

³³ National Conference of State Legislatures, “SCHIP and Access for Children in Immigrant Families,” <http://www.ncsl.org/programs/health/forum/pub6682.htm>

³⁴ Glenn Flores et al., “How Medicaid and the State Children’s Health Insurance Program Can Do a Better Job of Insuring Uninsured Children: The Perspectives of Parents of Uninsured Latino Children,” *Ambulatory Pediatrics* 5 (2005): 335.

³⁵ Allison Kempe et al., “Barriers to Enrollment in a State Child Health Insurance Program,” *Ambulatory Pediatrics* 1 (2001): 1745

at risk their status or pending applications. Flores found that immigration status was a barrier.³⁶ Rhee agreed, stating that “Another family residing in the US on a visa stated that they were afraid that applying for government sponsored insurance would delay their permanent residency application. They also said they had heard from friends that people without a green card would not be able to obtain insurance in the US.”³⁷ Even though the immigration status of the *parent* is not considered when reviewing a *child’s* application for SCHIP, there is a level of mistrust and fear in the immigrant community.³⁸ “Th[e] variation in eligibility within families may affect the parent’s decision to seek benefits and may complicate the provision of services such as immunizations or treatment of communicable diseases.”³⁹

The fear of being considered a public charge also prevents immigrants from enrolling in SCHIP. Public charge status can result in a refusal to admit or re-admit an immigrant to the country, or even deported, although this result is rare. As mentioned above, the US government has made it clear that utilization of SCHIP will not deem an immigrant a public charge. Also, “In publicizing the regulation [about public charge,] HCFA noted that the guidance should remove a major perceived barrier to enrollment for otherwise-eligible immigrants. Immigrant advocacy organizations report, however, that immigrant families

³⁶ Glenn Flores et al., “How Medicaid and the State Children’s Health Insurance Program Can Do a Better Job of Insuring Uninsured Children: The Perspectives of Parents of Uninsured Latino Children,” *Ambulatory Pediatrics* 5 (2005): 335

³⁷ Yoona Rhee et al., “An Urban School Based Comparative Study of Experiences and Perceptions Differentiating Public Health Insurance Eligible Immigrant Families with and without Coverage for their Children,” *Journal of Immigrant Minority Health* (2008): 5.

³⁸ National Conference of State Legislatures, “SCHIP and Access for Children in Immigrant Families,” <http://www.ncsl.org/programs/health/forum/pub6682.htm>

³⁹ *Ibid.*

remain reluctant to approach government agencies – including health agencies – for fear that workers will turn information over to the INS.”⁴⁰

There are a number of regulations, some conflicting, which could lead to a confusion and lack of willingness to apply for benefits. The Personal Responsibility and Work Opportunity Reconciliation Act (also known as welfare reform) of 1996 implemented a waiting period of 5 years for immigrants to be eligible for federal benefits programs.⁴¹ Also, the USCIS requires that immigrants have a financial sponsor upon entering the United States. This sponsor’s income and guarantee prevents many immigrants from being eligible for assistance.⁴²

Recommendations for Increasing Immigrant Enrollment

There are a number of concepts and practices that can be used to increase immigrant enrollment in SCHIP. In outreach efforts to immigrant families, having a personal contact is often the key to following through with the enrollment process⁴³. Rhee also found that a personal contact was critical not only to increasing knowledge of SCHIP, but also served as a source of often-needed assistance in completing the actual application.⁴⁴

Equally important is the fact that outreach messages need to be tailored to the target population, both linguistically and culturally. Cultural sensitivity must be utilized to ensure

⁴⁰ Ibid.

⁴¹ Grantmakers in Health, *For the Benefit of All: Ensuring Immigrant Health and Well-Being* (Charlotte, NC, 2005), 15.

⁴² Ibid.

⁴³ Kaiser Commission on Medicaid and the Uninsured, “Outreach Strategies for Medicaid and SCHIP: An Overview of Effective Strategies and Actions,” <http://www.kff.org/medicaid/upload7495.pdf>.

⁴⁴ Yoona Rhee et al., “An Urban School Based Comparative Study of Experiences and Perceptions Differentiating Public Health Insurance Eligible Immigrant Families with and without Coverage for their Children,” *Journal of Immigrant Minority Health* (2008): 5.

that the message is meaningful and understandable by the targeted population. “Simply translating an English version of materials is often inadequate. Engaging outreach members, who are members of or very familiar with the target population, when developing outreach messages is a tactic helpful in ensuring appropriate and effective messages.”⁴⁵

Developing partnerships with local organizations is a key strategy states can use to increase immigrant enrollment in SCHIP. These partnerships offer a local and familiar setting to families enrolling in SCHIP. A Kaiser Family Foundation study found that “that while broader mass media marketing efforts were important in raising awareness of the existence of health coverage, more targeted community-based outreach and person-to-person strategies helped families overcome barriers to enrollment.”⁴⁶

Best Practices

A number of states have implemented programs to increase the immigrant enrollment in their SCHIP program. These best practices are helpful in developing new programs, or in expanding or evaluating current programs.

New York State Facilitated Enrollment

One model for increasing enrollment of hard-to-reach populations in public health insurance programs is found in New York State. In 2000, the State began implementation of a model termed “facilitated enrollment.” Focusing initially and primarily on children and teenagers, this program utilizes already existing community-based organizations to educate and enroll eligible

⁴⁵ Kaiser Commission on Medicaid and the Uninsured, “Outreach Strategies for Medicaid and SCHIP: An Overview of Effective Strategies and Actions,” <http://www.kff.org/medicaid/upload7495.pdf>.

⁴⁶ Ibid.

families. With over 100 community-based organizations serving as facilitated enrollment agencies throughout the state, in the first five years of program implementation, over 600,000 individuals were enrolled in public health insurance programs⁴⁷. The Census Bureau estimates that there are a quarter million less uninsured children than before the implementation of facilitated enrollment.⁴⁸

The goal of the facilitated enrollment model is “to ensure that applicants get through the application or renewal process and access the health care they need.”⁴⁹ The participating community-based organizations conduct outreach activities in the communities they serve to identify eligible applications, and assist applicants throughout the application process, which can be daunting and complicated. There are some basic tenets of the facilitated enrollment process that have made it successful and that can be replicated throughout the country.

Outreach in the facilitated enrollment model occurs throughout the community and attempts to reach people in their “everyday routines,” such as schools, health clinics, and laundromats. Also, the facilitated enrollment model tailors its outreach materials and information to address the concerns of the specific unique group they are trying to reach.

“A non-English speaking family simply may not know about these programs because the information has never been presented in their language or they may fear their immigration status could be jeopardized. It is often only through the opportunity to

⁴⁷Children’s Aid Society, “Community-based Facilitated Enrollment: Meeting Uninsured New Yorkers Where They Are,” http://www.childrengaid.org/files/cas_cdf_report_05.pdf.

⁴⁸ Ibid

⁴⁹ Ibid, p. 6.

discuss such concerns with a trusted professional from their community that individuals can overcome these issues and get the health coverage they need.”⁵⁰

Once eligible families are identified through outreach efforts, the community-based organizations assist the individuals in every step of the application process, from deciding which program(s) to apply for, to completing forms, to assistance in gathering necessary documents.

Another important key to the success of the facilitated enrollment process is that the community-based organizations offer convenient locations and hours (evening and weekend) for the families they serve. This is crucial as so many uninsured families are working families unable to lose pay by taking a day off to enroll in programs. Also, to ensure effectiveness when working with immigrant families, community-based organizations offer services in a number of languages. “Community-based facilitated enrollment programs aim to reflect the diversity of the populations who are eligible for public health insurance in New York by hiring staff who speak the languages and understand the cultures of the communities in which they are based.”⁵¹

An advantage of the facilitated enrollment model that is especially pertinent in the current economic environment is that it is cost effective. By partnering with already-existing organizations and using inexpensive but effective outreach activities, facilitated enrollment programs are able to maintain a cost-effective system of enrollment.

⁵⁰ Ibid, p. 8.

⁵¹ Ibid, p. 13.

California's Get Enrollment Moving Program

Another innovative program that can serve as a model for states or counties trying to increase their SCHIP enrollment is the GEM (Get Enrollment Moving) Program. This program is sponsored by the Citrus Valley Health Partners in Corvina, California, and since it began in 2001 has enrolled approximately 30,000 people in public health insurance programs in the State.⁵² GEM's model has been successful in engaging the immigrant population: 85 percent of individuals enrolled by the GEM program are Latino, 75 percent have limited English proficiency, and almost 35 percent have at least one undocumented head of household.⁵³ GEM is funded by The California Endowment, Kaiser Permanente, First 5 LA, and the Los Angeles County Department of Health Services.⁵⁴

How does the GEM program reach this segment of the population, and overcome the many barriers that prevent so many immigrant families from enrolling in public health insurance programs? Key to their success is the fact that "GEM recognized that a successful outreach program required not only educating immigrant about their health insurance options but also addressing deep-rooted fears and misperceptions about the immigration consequences of using public programs."⁵⁵ The GEM program model uses *promotoras de salud* (promoters of health), volunteers who personally visit families in immigrant neighborhoods. The volunteers, now numbering over 300, provide health education and information about eligibility for public health insurance programs. GEM also conducts outreach at key community locations, such as

⁵² Grantmakers Concerned with Immigrants and Refugees, "Promising Practices to Improve Immigrants' Health and Well-Being," http://www.gcir.org/system/files/103-124_health.pdf.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

places of worship and community-based organizations. Once identified, eligible families receive support and assistance in completing the appropriate applications.

There are four major keys to the success of the GEM program. These points can be used by other state agencies or non-profit organizations trying to engage immigrant populations. The first key is that GEM volunteers are from the communities they work in.⁵⁶ This approach helps foster a sense of trust and ensures linguistic and cultural competence. A second key is that the *promotoras de salud* are able to influence and direct outreach strategies.⁵⁷ As members of the community themselves, *promotoras* provide key insights and cultural knowledge that may otherwise be missed. A third key to GEMS success is the extensive training provided to the *promotoras*.⁵⁸ This is vital as the *promotoras* may be the only contact point for some immigrant families, and they must fully understand the eligibility requirements and enrollment process. Finally, the fourth strategy is that GEM “provid[es] personal support and professional development opportunities for *promotoras*.”⁵⁹

SCHIP outreach in New Jersey must extend beyond the Latino community to embrace the diversity of the state’s immigrant population. The high level of organization within the Latino community in the United States, and the fact that nationally Latino immigration, especially from Mexico, is the dominant sending region resulted many efforts targeted at healthcare enrollment for Latino children. As such, when social services such as SCHIP seek to increase immigrant enrollment, frequently outreach efforts began in Spanish-speaking communities. While NJ

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

FamilyCare is better than most other state programs at providing access to those with limited English proficiency and a native tongue other than Spanish, outreach programs to non-Latino immigrant communities remains limited.

“Hawai’i Covering Kids” Program

Hawai’i’s “Hawai’i Covering Kids” program provides a paradigm through which phases of a broad marketing campaign were directed towards a number of different immigrant communities including Japanese, Chinese, Filipino, Korean, Vietnamese, Tongan, Marshallese and Latino groups.

The Immigrant Media Campaign consisted of three distinct and different phases, which allowed for a concentrated focus on distinct immigrant communities as well as an even distribution of funding. The goal of the program was “to increase enrollment by educating immigrant families about the state’s free health insurance program.”⁶⁰ The first phase was directed towards Chinese, Samoan, and Filipino parents; the second phase was directed towards Korean, Marshallese, and Vietnamese parents; and the final phase was aimed at Japanese, Latino, and Tongan immigrants.

In all phases of the campaign, culturally and linguistically tailored advertisements were used to target specific immigrant communities. Advertisements appeared in a range of media, including television, non-English and English radio programs, and newspapers, and a number of televised interviews were conducted in various languages. Overall, the campaign utilized over 600 radio

⁶⁰ Hawai’i Covering Kids, “Hawai’i Covering Kids Immigrant Media Campaign Report,” http://www.coveringkids.com/hot_happenings/HCK_ImmMediaCampaigns2002-2007.pdf.

and television spots, in over ten different languages.⁶¹ The specific message of the ads focused on four themes:

1. The fact that enrollment did not threaten a child or family's immigration status;⁶²
2. Specific income thresholds at which a family might qualify (\$42,000) with the caveat that coverage and eligibility depended upon total family size and income;⁶³
3. Specific kinds of visits covered by the program, including eyeglasses, dental care, immunizations and more;⁶⁴ and
4. Health insurance means preventative care that can help avoid long-term illness and unnecessary emergency room visits.⁶⁵

In addition to the newspapers, radio, and television advertisements and public service announcements, informational brochures and packets were distributed to specifically targeted communities through identified community leaders. Such outreach efforts focused heavily on the centers of the targeted communities, relying mostly on communities of faith with substantial immigrant congregations.⁶⁶

Anecdotal evidence suggests that the media campaign was successful not only in reaching immigrant families but also in informing non-immigrant eligible families as well about the benefits available to them. From 2002 to 2007, the years in which the media campaign was conducted, Hawai'i Covering Kids and its associated child Medicare program enrolled over 17,000 children, including 2,000 in the Immigrant Children's program.⁶⁷ There was also a

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid, p. 10

⁶⁶ Ibid.

⁶⁷ Ibid.

decline in overall levels of uninsured children in Hawai'i during the years in which the media campaign was conducted. In 2002, the first year of the program, the rate of uninsured children was seven percent of the total child population; in 2003, it declined to six percent, and by 2004 it had declined to five percent, where it held steady until 2006, the latest year data is available.⁶⁸

Potential Resources

It is crucial that sufficient funding is provided for outreach services. While there is funding specifically for outreach built into SCHIP monies, additional funding is needed to engage and enroll the most immigrant populations. The Kaiser report notes that “adequate funding underpins effective outreach.”⁶⁹ One resource that may help New Jersey expand its FamilyCare outreach and enrollment is the “Back-to-School Campaign” sponsored by the Robert Wood Johnson Foundation. This campaign supports enrollment events, distribution of education and enrollment materials to the families through schools, and increases media coverage of the Medicaid and SCHIP programs.⁷⁰

While states are not eligible, additional funding for public health outreach programs to immigrant populations are available to non-profit and community organizations through the David and Lucile Packard Foundation, Kaiser Permanente's community benefits grant programs, and the Robert Wood Johnson Foundation, among others.

⁶⁸ Annie E. Casey Foundation, “Kid's Count Data Center,” <http://www.kidscount.org/datacenter/>.

⁶⁹ Kaiser Commission of Medicaid and the Uninsured, “Outreach Strategies for Medicaid and SCHIP: An Overview of Effective Strategies and Actions,” <http://www.kff.org/medicaid/upload7495.pdf>.

⁷⁰ Cover the Uninsured, “About the Back-to-School Campaign,” <http://covertheuninsured.org/about/bts/>

Conclusion and Recommendations

New Jersey should be applauded for its many efforts to reach out to immigrants and to enroll all eligible children in its SCHIP Program. New Jersey has increased immigrant enrollment by using state funds to extend benefits to immigrants who have been in the country for less than five years. New Jersey offers SCHIP information and applications in 12 different languages.⁷¹ New Jersey also has community-based enrollment assistance in all counties throughout the state to provide face-to-face assistance to families applying for SCHIP, and developed partnerships with a variety of organizations to attempt to reach all eligible families.⁷² The state of New Jersey was cited as an example in a report from the Kaiser Family Foundation which pointed out a number of New Jersey's outreach methods, including partnerships with the Division of Motor Vehicles, the Division of Taxation, and utility companies.⁷³

The recommendation of the Blue Ribbon Panel is to **increase enrollment in NJ FamilyCare through targeted outreach to immigrant communities and families with limited English proficiency.** This report has outlined a number of key strategies and resources for the State of New Jersey to use in its efforts to reach the immigrant population in the State.

⁷¹ New Jersey FamilyCare, <http://www.njfamilycare.org/index.html>.

⁷² Ibid.

⁷³ Kaiser Commission on Medicaid and the Uninsured, "Outreach Strategies for Medicaid and SCHIP: An Overview of Effective Strategies and Actions," <http://www.kff.org/medicaid/upload7495.pdf>.

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http://www.uscis.gov/files/article/public_cfs.pdf.

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Colloquium US Immigration Policy
Dr. Christine Thurlow Brenner

Workplace Literacy Programs

Mikel Pride, D.O., Brittney Hill and Danielle Kroll

In 2006, the state of New Jersey had the sixth largest population of foreign born individuals in the United States, with 1.75 million¹. Many of these foreign born individuals do not have sufficient verbal or written proficiency in English to obtain or maintain jobs; thereby increasing the importance of English as a Second Language training and other adult education programs. Based on United States Census data from 2000, 26 percent of adults (9.5 million) over age 18 who reported English was not their first language stated they spoke English “less than very well” or “not at all.”² In New Jersey, 23.8% of adults over age 18 reported speaking English “less than very well” or “not at all.”³ Increasing the availability and accessibility English as Second Language, Adult Basic Education and GED completion programs provides opportunities for immigrants to improve language skills, both on and off the job, increase productivity and effectiveness of the job, and further personal career growth and development while contributing to the economic growth of New Jersey.

¹ New Jersey Department of Labor and Workforce Development. "Workforce Investment Act, Title II NGO." http://lwd.dol.state.nj.us/labor/wfprep/edtrain/content/WorkLitNGO_0809.html#1

² U.S. Census Bureau. "Language Use." http://www.census.gov/population/www/socdemo/lang_use.html

³ Ibid.

The term, “literacy skills”, is often not well defined. Research shows that literacy skills refer to the basic skill groups that many employers deem important⁴. In many cases, knowing how to learn, possessing listening and/or oral skills, and creative thinking/problem solving skills, are among the most important⁵ for all potential employees. A major challenge most employers are faced with is that there are different strands of illiteracy. For example, people who can not read at all, require different support than do high school graduates⁶. Increasingly, literacy programs in business and industry are becoming multi-stranded⁷. There are several strands used to address different problems such as English as a Second Language (ESL), special programs for those working on a GED, or high school graduate courses for preparing for technical training⁸. Literacy programs can be offered in different ways, from large group instruction to small group discussions⁹.

There is a definite link between employee performance and employer benefit when working to improve workplace literacy skills. According to Michael Bloom, one of the authors of *The Economic Benefits of Improving Literacy Skills in the Workplace*, there is

⁴ Glynda Hull. "Hearing Other Voices: A Critical Assessment of Popular Views on Literacy and Work."

⁵ Michael Bloom, Alison Campbell and Natalie Gagnon. "The Economic Benefits of Improving Literacy Skills in the Workplace." Ottawa, Ontario: Publications Information Center, Conference Board of Canada, 1997.

⁶ Larry Mikulecky and Paul Lloyd. "The Impact of Workplace Literacy Programs: A New Model for Evaluating the Impact of Workplace Literacy Programs." Philadelphia, PA: National Center On Adult Literacy, 1993.

⁷ Glynda Hull. "Hearing Other Voices: A Critical Assessment of Popular Views on Literacy and Work." Macomb, IL: National Center for Research in Vocational Education Materials Distribution Service, 1991.

⁸ Ibid.

⁹ Larry Mikulecky and Paul Lloyd. "The Impact of Workplace Literacy Programs: A New Model for Evaluating the Impact of Workplace Literacy Programs." Philadelphia, PA: National Center On Adult Literacy, 1993.

a growing recognition that literacy is a critical factor in corporate and personal success¹⁰. Improving literacy skills, which includes enhanced reading, writing, and numeracy skills, in the workplace often contribute benefits to the firm such as production of higher quality products, time savings, and lower costs. Not only does literacy enhancement, benefit employers and the firm's bottom line, but the employees begin to release their potential, which fosters better team performance, labor relations, and ultimately leads to the achievement of corporate goals¹¹.

Individuals with higher literacy skills earn more income, and are less likely to be unemployed. The average income for high-literacy individuals approximately doubles that of individuals with low literacy skills¹². Bloom finds that employers who do not invest in their employees will not reap the full benefits of their employees, regardless of capital gain. The growing complexity of jobs increases the demands being placed on workers and the skill sets considered fundamental in the 20th century are not necessarily sufficient for today's workplace¹³. Employees need to continually acquire new skill sets. "More highly skilled literate people are the key to increasing productivity"¹⁴.

An increase in employee performance is linked to the acquisition of literacy skills. Employees with enhanced literacy skills yield benefits such as, reducing the amount of time required to process information and complete tasks, reduction in the number of

¹⁰ Michael Bloom et al., "The Economic Benefits of Improving Literacy Skills in the Workplace." Ottawa, Ontario: Publications Information Center, Conference Board of Canada, 1997.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

errors, and an increase in product quality.¹⁵ When employees are fluent in literacy skills they are more capable of handling on the job training, and obtain performance goals more quickly... On the contrary, workers who lack confidence in their abilities tend to become intimidated when new workplace concepts or procedures are introduced¹⁶.

Benefits to employers far extend the effect on individual employees, according to a survey conducted by the Conference Board of Canada¹⁷. Companies were often surprised at the extent to which literacy training contributed to labor-management relations. They experienced increased work quality as well as increased output. As the employers began to invest in the literacy enhancement of its employees, the employees began to feel as if the managing company cared about them, thus it encouraged them to work even harder and more effectively.

Employees with increased literacy skills also tend to be safer and healthier in the workplace, because they are more in tune with their surroundings and, therefore, more alert. This improved firm health and safety records and increased retention rates of costumers and employees, reduced absenteeism, and increased organizational flexibility, according to companies involved in the conference board study. Bloom describes this as a win-win proposition, “All organizations face the same competitive challenges, regardless of the nature of their operation. Their success in facing the changes that lie ahead depends in large part on how they capitalize on the most important resource that they all share—their people”¹⁸.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

While employers realize great benefits from investing in their employees, employees stand to reap benefits as well. Improvement of literacy skills enables the employee to move up within the organization. Employees with higher literacy skills tend to earn more than those with low-literacy skills. Studies have shown that a male with high document literacy skills can expect to earn an extra \$585,000 over his lifetime¹⁹. Having high literacy skills increases the continuity of employment for an individual, who can expect to receive more full time employment, promotion, more training, and further education.

Literacy skills are not “fixed” and employees must be continually engaged in the literacy process. “A continuing culture of learning in the workplace is essential to remaining competitive in world markets.”²⁰ Bloom recommends ways employers can improve workplace literacy, based on his Canadian research. First, employers who already run literacy programs and know their value can help by spreading the message. Second, employers, possibly supported by governments, can establish more literacy training programs in workplace and provide more places in those programs for employees who wish to take part. Third, companies can enhance the literacy component of existing jobs and create more literacy-rich jobs. Fourth, companies can develop public policies to strengthen literacy skills. Ultimately, investing in literacy skills development as an integral part of overall training and development in the workplace will benefit both parties²¹.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

Implementing English language skills training in the workplace is an area that provides much success for immigrants and improves their literacy skills. Past studies have shown that immigrants who are literate in only in a language other than English are more likely to have non-continuous employment and to earn lower wages than those people literate in English²². Offering English as a second language (ESL) classes in the workplace permits access to classes that may not be available outside of workplace. With conventional ESL programs, which usually occur in the evening hours, there are often barriers to accessing these programs, such as lack of transportation, not having access to childcare in the evenings, or the tuition fees incurred associated with program participation²³. Workplace ESL programs eliminate these barriers. ESL programs within the workplace have additional benefits, as well. Learning English in the context of work can improve work skills while also improving overall English language skills. ESL workplace programs have outcomes that support increased job productivity and improved safety in the workplace²⁴.

Workplace ESL programs can be tailored to provide different approaches to teaching English language skills. One concept is to provide “work-centered approaches” to learning English skills²⁵. These programs are based on an employer’s perception of their employees language needs in respect to their position. Based on these perceptions, a competency-based approach is utilized to increase English language skills. Thus

²² Miriam Burt, "Issues with Outcomes in Workplace ESL Programs." National Center for ESL Literacy Education, 2004.

²³ Mary McGroarty and Suzanne Scott, “Workplace ESL Instruction: Varieties and Constraints” Washington, DC, 1993.

²⁴ Miriam Burt, "Issues with Outcomes in Workplace ESL Programs." National Center for ESL Literacy Education, 2004.

²⁵ Mary McGroarty and Suzanne Scott, “Workplace ESL Instruction: Varieties and Constraints” Washington, DC, 1993.

language structures, functions, and vocabulary are drawn from the work life of the participants and can range from discrete study of specialized vocabulary items to the more abstract, and often convoluted, language used in procedure manuals or benefits packages, to the language needed to communicate with co-workers²⁶. This approach met with some resistance, as it often does not provide adequate English language skills for use outside of the workplace.

Another approach that can be utilized would be a “worker-centered approach”²⁷. Research has shown that a limitation of competency-based workplace ESL programs is that they dwell on isolated second language skills and ignore participants’ full social identity²⁸. Labor organizations are particularly sensitive to the need to take a “worker-centered” rather than “work-centered” view of the second language instruction, because it includes finding out what workers want to know for their personal lives as well as the tasks they perform in their jobs²⁹. Worker-centered, participatory programs value employees as multi-faceted individuals and they often retain a focus on functional language and teaching workers, for example, how to interact with supervisors or customers in typical production or service settings. Research emphasizes the social construction of work-based learning, the interactive nature of human negotiations on the job and the need to build workers’ self-confidence as well as language skills³⁰.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Mary McGroarty and Suzanne Scott, “Workplace ESL Instruction: Varieties and Constraints” Washington, DC, 1993.

²⁹ Ibid.

³⁰ Miriam Burt, "Issues with Outcomes in Workplace ESL Programs." National Center for ESL Literacy Education, 2004.

More research is needed to further assess how these workplace ESL programs affect participants' language acquisition both in the workplace and in the general society. Some immigrant workers may feel empowered when they use English and try out new workplace behaviors on the job. Others, however, may make a conscious decision not to use the new language or behaviors as a way of asserting their own social identity. The decision to use, or not use, the target language and the accompanying workplace behaviors may be affected by a desire to maintain one's identity³¹ or by the attitude displayed by employers and co-workers when immigrant workers use what they have learned. Additionally, workers living in homes where English is not the language primarily used, or in densely populated immigrant neighborhoods, may have fewer opportunities to practice and retain newly acquired English language skills.

Another important task for employers to undertake is the assessment of language choice. While employers may expect, or even demand, that English be the sole language of instruction, this is not always the most effective use of instructional time³². Recently arrived immigrants and refugees with limited English proficiency may benefit from explanations of workplace procedures and training in their native language. Subsequent to being taught work skills in their native language, teaching of work skills in English to provide some uniformity to the work environment may be an adequate solution. While this style of language development may occur over a longer time period, the benefits may be greater to both the employee and the workplace. Developers thus must determine

³¹ Miriam Burt, "Issues with Outcomes in Workplace ESL Programs." National Center for ESL Literacy Education, 2004.

³² Mary McGroarty and Suzanne Scott, "Workplace ESL Instruction: Varieties and Constraints" Washington, DC, 1993.

whether English, the native language(s) of learners, or some combination of the two is the most effective vehicle for instruction.

Many constraints of workplace ESL programs have been identified³³. The type of ESL program and its underlying philosophy affect course goals, learning materials and methodology. The program type also impacts the length of time, location, frequency and duration of ESL classes. Also, whether or not participation in the program is voluntary or mandatory has been identified as a constraint of these programs.

There are many factors both program developers and English language learners need to consider to make a successful ESL program in the workplace. One major factor that affects the success or failure of an ESL program is the duration of the course. On average, ESL programs range from 40 – 60 hours of classroom learning³⁴. Both employers and their employees often have unrealistic ideas of the amount of time it takes to learn English. A course of this time length is unlikely to result in great gains in language acquisition for the adults receiving this instruction.

As a first step, employers must assess their employees and their workplace to determine what skills are needed. Most program developers conduct some form of needs assessment, although the depth and scope of such assessments may vary considerably, to develop workplace specific language programs. One recent criticism of needs assessment is that the task analyses, or job audits, that normally comprise needs assessments are too

³³ Ibid.

³⁴ Kevin Kavanaugh. "Teaching the Language of Work." *Training & Development* 53, no. 4 (1999): 14

narrowly focused on specific job skills³⁵. An efficient needs assessment should incorporate a larger focus to more accurately gauge the needs of the employers so a better program can be developed. The time required to conduct a comprehensive needs assessment presents another concern. McGroarty et. al. suggests that, at a minimum, six weeks of detailed planning should precede a 40-hour ESL course³⁶. Such lengthy preparation time is unlikely to be universally feasible, so some negotiation will probably take place. Even with considerable lead time to develop curricula, it is not possible to predict all workplace language needs.

The outcomes of workplace ESL programs need to be clearly defined at the start of the program. Measuring training and instructional outcomes in general is problematic. In workplace classes for immigrant workers, there can be a lack of clarity about the outcomes being sought, i.e., an uncertainty about whether the instructional goals are improved productivity or workers speaking English on the job³⁷. Often outcomes are not clearly stated at the outset of the course, monitored throughout the course, and then evaluated at the end. In short program providers may not know what to measure, how to measure or when to measure outcomes of the training. Workplace ESL programs also face difficulties identifying appropriate language assessment measures, particularly for the job-related skills developed as a part of workplace training³⁸. Program developers

³⁵ Mary McGroarty and Suzanne Scott, "Workplace ESL Instruction: Varieties and Constraints" Washington, DC, 1993.

³⁶ Ibid.

³⁷ Miriam Burt, "Issues with Outcomes in Workplace ESL Programs." National Center for ESL Literacy Education, 2004.

³⁸ Mary McGroarty and Suzanne Scott, "Workplace ESL Instruction: Varieties and Constraints" Washington, DC, 1993.

need to define appropriate indicators of instructional quality and tailor standards for evaluating participant outcomes to their particular circumstances.

In some cases, workers in on-the-job ESL programs state that there is often no opportunity provided for the worker to use the new learning³⁹. This may be due to the workers being used to doing the jobs with the language skills, or lack of, that they had prior to being involved in the program, or the use of the English language skills acquired through the program not being enforced by employers. Thus, the English language skills acquired through the program, whether related to language use or prior behaviors, may not be retained.

Participant and employer attitudes and expectations are also important factors in the success or failure of an ESL program. Both workers and employers may demonstrate either skepticism or unrealistically high expectations about what can be accomplished during instruction. The type of information required for a needs assessment and the use of that information must be established and made known to all parties from the program's inception⁴⁰. Transparency about the ESL program's process, goals, and the implementation of expected outcomes is instrumental in the success of a program.

The recruitment and retention of students presents additional challenges for program developers. Previous research findings strongly recommend that participation be

³⁹ Ibid.

⁴⁰ Mary McGroarty and Suzanne Scott, "Workplace ESL Instruction: Varieties and Constraints" Washington, DC, 1993.

voluntary⁴¹. Potential students must be made aware of when the training will occur and if any potential benefits will result from this training, such as potential for bonuses or promotion. Also the timing (during work hours or after) and location (on-site or off-site) of training must be clearly defined. If training does not occur during work hours and at the work site, issues of childcare, transportation and remuneration must also be resolved, all which have been previously identified as barriers to English language skills acquisition⁴².

The final challenge to the utilization and success of ESL programs are the issues of funding and support. Finding financial and organizational support for a workplace ESL program is a multifaceted task. Support is often short term and represents a complex combination of public agency, private employers, union and community-based organizations⁴³. Federal funds are provided under Title II of the Workforce Investment Act (WIA), administered by the state department of labor. This funding was intended to provide for development of skills in the areas of literacy, reading, writing, and speaking the English language, as well as numeracy and problem solving⁴⁴. State funds are provided by the Supplemental Workforce Funds for Basic Skills, which provides grants to employers, educational institutions, and various employer, labor and community-based organizations to provide language acquisition skills, such as ESL courses and through

⁴¹ Ibid.

⁴² Miriam Burt, "Issues with Outcomes in Workplace ESL Programs." National Center for ESL Literacy Education, 2004.

⁴³ Mary McGroarty and Suzanne Scott, "Workplace ESL Instruction: Varieties and Constraints" Washington, DC, 1993.

⁴⁴ New Jersey Department of Labor and Workforce Development, "Competitive Notice of Grant Opportunity for New Jersey's Literacy Skills Grants for New Jersey Housing Authorities." http://lwd.dol.state.nj.us/labor/employer/training/Housing_Authority.html

One Stop Career Center Programs⁴⁵. (One Stop Career Centers are located throughout the state and encompass the Workforce Learning Links that can be utilized to obtain job skills training.)

A major challenge for workplace programs is the creation of a successful coalition among many parties involved⁴⁶. Often times, coordinating ideas and funding among employers, educational institutions, unions, and community organizations to provide these services require complex negotiation. Furthermore, language professionals, accustomed to operating with some measure of autonomy, need to learn to collaborate with employers, employees and officials in public agencies and unions. Finally, there is no single agency that coordinates all workplace ESL programs, although the Department of Education and Department of Labor oversee current federally funded projects⁴⁷. This decentralization makes gathering information difficult for program developers, making the development of a successful workplace ESL program a time consuming and complex task.

A workplace ESL program must incorporate some key factors to be successful. These factors include the following: 1. Employers and supervisors must be involved in the development and planning; 2. Needs must be clearly defined and verified by employers and trainers; 3. The curriculum must be flexible in regards to scheduling, assessment, and teaching; the program must be marketed to employees; 4. An assessment tool specific to

⁴⁵ Ibid.

⁴⁶ Mary McGroarty and Suzanne Scott, "Workplace ESL Instruction: Varieties and Constraints" Washington, DC, 1993.

⁴⁷ Ibid.

the program should be created and utilized; and 5. Course materials specific to the workplace should be used or designed, if necessary⁴⁸.

Best Practices

Workplace English Language and Literacy (WELL) Program (Australia):

The WELL program was first initiated in 1991, with the main purpose of providing assistance to organizations in teaching their employees the English language, literacy, and numeracy skills⁴⁹. Funding for this program is available through grants to companies and organizations for teaching English language and literacy training specifically linked to job-related and workplace training. The WELL program is structured to provide employees with all their workplace training needs. Grants can be applied for by enterprises, representative bodies, local government, group training organizations, or registered training organizations. Grants are competitive and are made available to organizations that have a demonstrated need for language, literacy and numeracy training in the workplace.

WELL funding is available for training projects, resource projects, or strategic projects. Developed training projects directly target those workers who have a demonstrated need to improve in these skill areas⁵⁰. The projected outcome is to improve these skills so these workers can remain, or further progress, in their employment. These programs also

⁴⁸ Dana Grove. "Project Excel-Lence." *Community College Journal of Research & Practice* 29, no. 8 (2005): 637-38.

⁴⁹ Australian Government: Department of Education, Employment and Workplace Relations. "Workplace English Language and Literacy (Well) Program." http://www.dest.gov.au/sectors/training_skills/programmes_funding/programme_categories/special_needs_disadvantage/well/.

⁵⁰ Brewer, Kath, Nina Collins, and Linda Wyse. "Future Directions: An Evaluation of the TDT Australia Workplace English Language and Literacy Programme."

work to avoid possible termination of employment secondary to lack of language, literacy, or numeracy skills. Resource funding is available for various projects. Funding can be used to develop and implement the use of training materials. These funds can be used to develop assessment and reporting of implemented projects. Additionally, funds can be applied to creating professional development resources for educators and trainers. WELL funding grants are also provided to projects that look at strategic methods to support ongoing education and the cost effectiveness of workplace language, literacy, and numeracy training programs.

The New Jersey Department of Labor and Workforce Development (LWD) currently provide Competitive Literacy Skills Training Grants to employers wishing to provide more training for their employees. In 2001, the New Jersey Supplemental Workforce Fund for Basic Skills (SWFBS) was established. This program provides funding for basic skill programs to promote adult literacy in the workplace by providing basic skills training for both unemployed and employed workers⁵¹. This particular program is funded through employer and employee assessments from payroll contributions and a portion of the funding can be used for basic skills training for workers already employed by businesses and organizations located in New Jersey. Also offered are the Competitive Customized Training Grants, which are part of The New Jersey Workforce Development Partnership (WDP) Program, which was established in 1992⁵². These grants are specifically to provide customized skills training to New Jersey workers.

⁵¹ New Jersey Department of Labor and Workforce Development. "Incentives and Training Programs." http://lwd.state.nj.us/labor/employer/training/incentives_training_index.html

⁵² Ibid.

All of the LWD grants are competitive grants. Grants are awarded to employers and organizations that submit proposals showing the potential for positive outcomes. The LWD states positive outcomes as being opportunities for wage increase, career advancement, and job creation. Additional factors should be on increasing job skills and job retention, and an overall positive effect on maintaining jobs within New Jersey.

Utilization of such a program in the State of New Jersey would be beneficial to those workers in need of improvement of their English literacy, as well their employers. Proven benefits of the WELL program include: improved confidence and communication in the workplace; better use of technology; better understanding of the job and related job functions; reduced turnover; and overall increased productivity⁵³. Initiating a program such as the WELL program in New Jersey would not only serve the immigrant population, but the state as a whole, by creating more productive workplaces.

Integrated English Literacy and Civics Education Program

Title II of the Federal Workforce Investment Act (WIA) of 1998 was established between Federal and State governments and localities to provide adult education and literacy services. In New Jersey, the Consolidated Adult Basic Skills and Integrated English Literacy and Civics Education Grant Program supports eligible providers in the development, implementation and improvement of adult education and literacy programs and activities throughout the State. The goal of the Integrated English Literacy and Civics Education program is to develop, implement, and improve English literacy in order to help immigrants and others with limited English proficiency gain the knowledge

⁵³ "Workplace English Language and Literacy Programmes." *Literacy Today* no. 49 (2006): 24-25.

necessary to become active, informed workers and community members⁵⁴. The program supports the statewide mission of ensuring that members of at-risk populations are prepared to succeed as responsible, productive citizens in our global society, thereby enhancing the quality of the State's labor force through the creation of a unified workforce development system. The program's objective is to enable adults with limited English proficiency, including immigrants and others, to acquire the skills necessary to improve their literacy skills in reading, writing and speaking the English language, numeracy, problem solving, English language acquisition and other literacy skills⁵⁵.

Grants are awarded to counties throughout the State based on proposals submitted through the Department of Labor and Workforce Development Division of One-Stop Coordination and Support Center. The grants are available for a variety of programs including but not limited to Potential ABS (Adult Basic Skills), ESL, and Professional Development courses. The potential award for six of the different types of awards amounts by county range from \$255,998 to \$2,444,954 with a total not to exceed \$16,276,460 in total for the state⁵⁶.

The funding guidelines currently limit eligibility to approved providers such as local education agencies and community-based organizations but exclude employers themselves from applying. Various entities can apply for funding however; one of

⁵⁴ New Jersey Department of Labor and Workforce Development. "Workforce Investment Act, Title II NGO." http://lwd.dol.state.nj.us/labor/wfprep/edtrain/content/WorkLitNGO_0809.html

⁵⁵ Ibid.

⁵⁶ New Jersey Department of Labor and Workforce Development. "Notice of Grant Opportunity." [http://lwd.dol.state.nj.us/labor/forms_pdfs/edtrain/NGO%20\(FY%2009\)%20-%20WIA%20Title%20II%20\(final\)%204-14-08.pdf](http://lwd.dol.state.nj.us/labor/forms_pdfs/edtrain/NGO%20(FY%2009)%20-%20WIA%20Title%20II%20(final)%204-14-08.pdf)

qualifying prerequisites is “demonstrated effectiveness in providing literacy services”. Making the funds available to companies, who wish to solicit such services, would facilitate a growing employer-driven demand and expand access to English language learning opportunities.

Private Sector Model: The North West Company

The North West Company (NWC) is one of the leading retailers of food and everyday products serving remote communities across northern Canada and Alaska. NWC is also the largest private sector employer of Aboriginal people in Canada. This company’s approach focused on training in the following areas: communication, computer literacy, and numeracy, reading and writing skills. The company used literacy assessments, needs assessments and feedback surveys in order to tailor their programs for their employees.

One of the main purposes of the training project was to determine how to close the gap between the skills workers required and the worker skills available in the NWC northern stores. NWC increased the basic skills of its employees by offering a variety of training courses and methods, tuition reimbursements, and achievement recognition. As an outcome, customers of the company observed improvements in the employees as well as the stores being run more efficiently. As well, the northern communities have experienced changes such as more employable workers, reduced crime rates, and commitment by young people to stay in schooling.

The NWC partnered with different federal and provincial government agencies in order to hire training consultants to develop performance standards in order to analyze the

literacy gap among its employees. Training programs were then detailed for each store using a variety of learning tools that were customized to the preferred Aboriginal learning styles, which included hand-on training. The top management in NWC was committed to workplace literacy and a desire to have the workforce should reflect all levels of the local population. They challenged stores to promote internal excellence through literacy. Informal mentoring, use of translators, and flexibility in training were other characteristics of the program.

Challenges	Solution
<ul style="list-style-type: none"> • Deliver training to a workforce located across geographical locations 	<ul style="list-style-type: none"> • On-site training , local or regional needs
<ul style="list-style-type: none"> • Diverse employee population/culture. (Inuit, First nations, and Francophone) • 63% of the company’s employees are Aboriginal 	<ul style="list-style-type: none"> • Use translators (Campbell May 2002), to provide training in employees native language, • Flexible meaning training programs

As a result of the workplace literacy training, NWC realized increased productivity and profits and improved employment prospects for their employees. From the management perspective, turnover rates decreased and the perception of NWC in the local community improved.⁵⁷

⁵⁷ Campbell, Alison. *Excellence in Workplace Literacy, Large Business Winner, 2001 The North West Company*. Ottawa, Canada: The Conference Board of Canada, May 2002.

Cameco Corporation, Key Lake Operations - Workplace Adult education

Challenges	Solution
“Work camp” environment thus training is difficult to schedule/employees alternate between being on and off site	Learning center with flexible, open-door policy
Business in remote location	On-site training, Distance education to high school, college courses via satellite
Employees lacked higher educational opportunities due to cultural background	Relay importance of long-term literacy and basic skills development to supervisors, employees, and management
Supporting employee training, expensive!	Company matches one hour paid for one hour of training with employees

The Workplace Adult Education (WAE) program started in 1996 as a pilot program which later, evolved into an established training program. About half of the employees were Aboriginal. The Employees live one week on and one week off site. One of the goals of the program was to strengthen the basic academic elements of reading comprehension, writing, and fundamental mathematics. This in return would yield benefits such as greater productivity, improved efficiency and increased job safety

awareness. Another objective of the WAE program was to help employees achieve their personal educational goals.

The program targeted the Aboriginal cultural groups, which were least likely to participate in workplace literacy training due to personal schedules. As a solution to this challenge, the company offered the classes away from the work place environment. Those who participated were able to learn in a safe, private, and attractive atmosphere. The training site offers access to books, computers, and study space. The company matches one hour of paid training time for each hour donated by the employee. The program includes an on-site flexible instructor, who is an employee of Northland College. Because of the business' remote location, distance education is offered via satellite. Employees have the opportunity to take high school, or college courses, and receive tuition reimbursement. A unique factor of the program is that the employees' information remains confidential. This encourages and motivates the employee to participate.⁵⁸

Recommendations for Workplace Literacy Programs

Worker-centered approaches to workplace literacy programs, which are participatory and value employees as multi-faceted individuals, should recognize the importance of social construction of work-based learning, the interactive nature of

⁵⁸ Campbell, Alison. Excellence in Workplace Literacy, Medium Business, Winner, 2001. Cameco Corporation, Key Lake Operations. Case Study, Ottawa, ON: The Conference Board of Canada, May 2002.

human negotiations on the job, and the need to build workers' self-confidence as well as language skills.

Working immigrants should be given the opportunity to improve English literacy skills through programs within the workplace. These programs should be provided through State grants and employer partnership grants. These programs will increase language skills, promote job productivity, and improve safety standards.

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New Jersey Department of Labor and Workforce Development. "Notice of Grant Opportunity." [http://lwd.dol.state.nj.us/labor/forms_pdfs/edtrain/NGO%20\(FY%2009\)%20-%20WIA%20Title%20II%20\(final\)%204-14-08.pdf](http://lwd.dol.state.nj.us/labor/forms_pdfs/edtrain/NGO%20(FY%2009)%20-%20WIA%20Title%20II%20(final)%204-14-08.pdf)

New Jersey Department of Labor and Workforce Development. "Workforce Investment Act, Title II NGO." http://lwd.dol.state.nj.us/labor/wfprep/edtrain/content/WorkLitNGO_0809.html#1

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RUTGERS
CAMDEN

Colloquium US Immigration Policy
Dr. Christine Thurlow Brenner

Discrimination in Education

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Problem Statement

In New Jersey, all children are entitled to an education through that state's public school system. Two years ago, the state issued a reminder to all school districts that they are not allowed to ask for certain documents when students are being registered for school. This year, a study showed that many school districts in the state are continuing in the practice of trying to restrict the number of students from registering in their respective districts. There are numerous legislative acts prohibiting such restrictions, however, many school districts continue to in this practice. It is imperative to not only ensure that school districts cease the practice of requiring certain unnecessary documentation during the registration process, and educating parents and guardians of school aged children of their entitled rights of an efficient public education.

Introduction

One of the most contested topics in the past several years is the issue of immigration. Many have debated the issue of immigration in terms of costs, ethics, legality, and human rights. An area where all of these traits combine is in education, where many school districts continue to discriminate against individuals by discouraging the registration of children in certain K-12

public school institutions; a right that is granted to all children of legal school age regardless of citizenship status. The following sections will delve into the history of discrimination in the education system in the United States, and detail how the policies of today were reached. The following will also explain that tactics that school districts use to deter registration, what can be done to prevent this from occurring, and how can discrimination in the education system be further decreased.

Historical Context

Discrimination in education is historically problematic in the United States. The earliest challenges to institutional discrimination in the educational system date back to the late nineteenth century and early twentieth century. Two of the more prominent cases, *Cumming v. Richmond (Ga.) County Board of Education* and *Gong Lum v. Rice* exemplify the early history of discrimination in the United States. In an 1899 ruling, in the case of *Cumming v. Richmond (Ga.) County Board of Education*, the Supreme Court refused to issue an injunction preventing a school board from spending tax money on a white high school when the same school board voted to close down a black high school for financial reasons¹. In a 1927 ruling, *Gong Lum v. Rice*, the Supreme Court upheld a school's decision to bar a person of Chinese descent from a "white" school².

One of the most famous Supreme Court rulings of all time, *Brown v. Board of Education of Topeka*, took place in 1954. The ruling called the desegregation of schools unconstitutional

¹ Find Law, "History of Brown v. Board of Education," Thomson Reuters. <http://public.findlaw.com/civil-rights/race-discrimination/brown-vs-boe-history.html>

² Ibid, 1.

because of the Fourteenth Amendment. Supreme Court Chief Justice Earl Warren concluded, “We conclude that, in the field of public education, the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal [...] we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment³”. Chief Justice Warren declared, “[t]o separate [minorities] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone⁴”. The ruling precipitated the desegregation of public schools; no longer could a school board constitutionally withhold one’s right to attend based on race, ethnicity, or religious affiliation.

Legislative action in the latter half of the twentieth century also addressed issues related to breaking down barriers which disproportionately affected immigrant, racial and ethnic minority students. The Bilingual Education Act in 1968, which passed during an era of growing immigration and an energized civil rights movement, provided federal funding to encourage local school districts to try approaches incorporating native-language instruction⁵. The other important piece of legislation, the Equal Educational Opportunity Act of 1974, prohibited discrimination against faculty, staff, and students, including racial segregation of students; it also

³ Supreme Court of the United States, “Brown v. Board of Education,” The National Center for Policy Research. <http://www.nationalcenter.org/brown.html>.

⁴ Sonya D. Jones, Erin N. Ramsey, “Discrimination Veiled As Diversity: The Use Of Social Science To Undermine The Law,” *Journal of Educational Controversy*, Western Washington University. ISSN 1935-7699. http://www.wce.wvu.edu/Resources/CEP/eJournal/v002n001/a003.shtml#_ednref2

⁵ Rethinking Schools Online, “History of Bilingual Education,” Rethinking Schools. Vol.12, No. 3 Spring 1998. http://www.rethinkingschools.org/archive/12_03/langhst.shtml

required school districts take the necessary action in order to overcome language, physical, or mental barriers, to allow for students' equal participation⁶.

In 1982, the United States Supreme Court faced another case that had discrimination in K-12 education at the forefront. The case was based on a challenge to a 1975 Texas statute that withheld funding from local school districts for the education of children who were not "legally admitted" into the United States and authorized local school districts to deny enrollment to such children⁷. The Supreme Court ultimately ruled in a 5-4 majority decision, in a case known as *Plyler v. Doe* that the enacted Texas statute is a violation of the Fourteenth Amendment⁸. Supreme Court Chief Justice Marshall's concurring opinion stated, "It continues to be my view that a class-based denial of public education is utterly incompatible with the Equal Protection Clause of the Fourteenth Amendment⁹".

Problematic Tactics

Although legislation and US Supreme Court rulings have made it unconstitutional for public school districts to discriminate against students, claims of discrimination continue to occur. One of the ways this is occurring is that many school districts are requiring students to provide either a green card, Social Security Number, or proof of citizenship when registering students for school, which is against New Jersey state law. Parents and legal guardians of school-aged children must only prove that they live in the school district. Proof of residency includes such evidence as a rental lease or an official mailed document that includes the name and address of

⁶ US Education Codes, "US Education Codes," US Codes. <http://uscode.house.gov/download/pls/20C39.txt>

⁷ Enfacto: Plyler v. Doe, "457 U.S.202 Plyler v. Doe," Sonya Labs, <http://www.enfacto.com/case/U.S./457/202/>

⁸ Ibid, 1.

⁹ Ibid, 1.

the residing guardian¹⁰. In 2006, the American Civil Liberties Union warned school districts that it is illegal to ask for proof of citizenship when students are being registered for school; however, despite these warnings, many still continue this practice.

On September 4, 2008, the American Civil Liberties Union published an updated report, and included a survey of the state of New Jersey's school districts' enrollment policies for the 2008 school year. The American Civil Liberties Union surveyed 516 of the state's 635 school districts and charter schools and found that 139 of those surveyed districts continued to illegally ask for the information, while another 48 districts recommended or suggested that immigration or citizenship information would help in aiding the registration process¹¹. The result of the survey was that 36.2 percent of the school districts surveyed continued to illegally request the information for registration purposes, even after several warnings from the American Civil Liberties Union.

In response to the to the report, New Jersey Department of Education spokeswoman Kathryn Forsyth said that Education Commissioner Lucille Davy was very disturbed by the report, and that districts have been told yet again to remind all staff of the law¹². Forsyth also stated that the state will not tolerate continued non-compliance and will develop its own monitoring system and consider potential penalties, which include withholding state aid from districts that continued to violate the law¹³. American Civil Liberties Union Executive Director Deborah Jacobs said, "Some districts may still be having a hard time getting rid of the bad habit of requesting a Social

¹⁰ Diane D'Amico, "ACLU says schools still illegally ask for immigration information," *The Press of Atlantic City*, published September 4, 2008, <http://www.pressofatlanticcity.com/179/story/247634.html>

¹¹ *Ibid*, 1.

¹² *Ibid*, 1.

¹³ *Ibid*, 1 .

Security number, but if the result is keeping children out of school, the problem must be addressed¹⁴”.

Best Practices in Reducing and Reporting Cases of Discrimination

Many steps were taken to prevent discrimination in the educational system; however, evidence suggests that it continues to occur. One of the better practices used in reducing discrimination in the education system throughout the country is providing information on the rights of children and parents. The most effective way this is done is when school districts physically mail out handbooks, brochures, or pamphlets listing the rights that parents and children have to residents of the school district. Handbooks effectively limit educational discrimination by empowering parents with knowledge. Parents’ awareness of students’ rights in an educational setting and the process for exercising their parental rights, if they feel their child’s rights were abridged, levels the power differential between parents and teachers and administrators.

The most effective way this is done is when school districts physically mail handbooks, brochures, or pamphlets listing the rights that parents and children have to residents of the school district. These handbooks usually are in at least two-different languages, and allow parents or legal guardians of school-aged children to be knowledgeable of their rights. The practice of mailing handbooks pertaining to the rights that students and their families have usually is common in large school districts, such as New York City. The handbook details what their educational rights are, and what to do if parents or legal guardians feel that their child’s rights are

¹⁴ *Ibid*, 1. The entire list of school districts who request information proving citizenship status can be found here: <http://www.aclu-nj.org/downloads/092908vio.pdf>.

being violated. Physically mailing or directly giving these handbooks to parents or legal guardians of school-aged children is important to ensure the adults receive the information.

Another common practice that school districts use in dispersing the information about student and parental rights is posting the document on the internet. Providing this type of information on the internet can be a useful practice in cases where handbooks are not distributed, or a parent loses their copy of the handbook. The Philadelphia school district is a local city that provides a handbook online detailing the rights that students and parents have in the education system¹⁵. The handbook is updated annually, and provides information on the policies of the school district, and the procedures that can be taken if an individual feels action needs to be taken. The Philadelphia school district website also can be translated into nine different languages (Albanian, Arabic, Chinese, English, French, Khmer, Russian, Spanish, and Vietnamese) allowing for non-English speaking individuals to read the site in their native language¹⁶. Providing this type of information online is very useful, because people outside the jurisdiction who may be interested in moving to the area can view these online handbooks, and those currently in the school district and who are interested in enrolling their children can read the list their rights, and who to contact if these rights are infringed upon.

School districts need to consider that some households may not have access to the internet. Disproportionately, low-income minority and immigrant households have more limited internet access. If the school district is concerned that internet access may be a problem for some

¹⁵ The School District of Philadelphia, "Code of Student Conduct," The School District of Philadelphia, http://www.phila.k12.pa.us/offices/administration/policies/CodeofConduct_0809.pdf

¹⁶ The School District of Philadelphia, "Home Page," The School District of Philadelphia <http://www.phila.k12.pa.us/>

households, then a letter sent to parents and guardians informing them of the school district website as well as public access internet locations in the district, such as public libraries, addresses the digital divide. To be fully accessible to immigrant parents, the school website, especially portions pertaining to student and parental rights, should be available in multiple languages.

Sometimes an independent source provides the literature detailing the rights that parents and their children have in the public schools. In the state of New Jersey, the New Jersey Immigration Policy Network, a broad-based coalition of New Jersey organizations dedicated to protecting immigrant rights and promoting inclusiveness and full participation of immigrants in the life of the country, provides an online booklet to parents detailing their rights¹⁷. The New Jersey Immigration Policy Network (NJIPN) has recently become active in efforts to aid adults in learning a variety of languages spoken worldwide. This is an important effort, especially in the state of New Jersey, because the US Census Bureau's 2007 American Community Survey indicated that 945,464 New Jersey residents have difficulty speaking English, and 2,262,008 residents reported to speak a language other than English at home¹⁸.

Multicultural Education, Training, and Advocacy Inc. (M.E.T.A.) is a private, non-profit, national advocacy organization specializing in education issues affecting poor and minority

¹⁷New Jersey Immigration Policy Network, "Ensuring Effective Education to Immigrant Students and Families," NJIPN, http://64.233.169.104/search?q=cache:0g9_8WfAImgJ:www.sbatsr.org/objects/EducationRightsofImmigrantStudentsandFamilies_000.doc+school+district+discriminates+against+immigrants&hl=en&ct=clnk&cd=11&gl=us

¹⁸ US Census Fact Finder, "New Jersey Social Characteristics: Language Spoken at Home" US Census, http://factfinder.census.gov/servlet/ADPTable?_bm=y&-context=adp&-qr_name=ACS_2007_1YR_G00_DP2&-ds_name=ACS_2007_1YR_G00_&-tree_id=307&-_caller=geoselect&-geo_id=04000US34&-format=&-_lang=en

youth¹⁹. They also provide a handbook detailing the student and parent rights, and explain the documents that school districts may legally ask for during registration.²⁰ The benefit that M.E.T.A. provides, since it is a national advocacy organization, is that their handbook provides contact information for a number of different states, should a case of educational discrimination occur, and it is easily accessible to those using the internet.

There are instances when discrimination still occurs in the education system, and the best practice when this happens is to have an Ombudsman to make decisions. An Ombudsman, similar to an arbitrator, acts as a neutral party in a dispute and seeks to resolve school-related problems as quickly and efficiently as possible²¹. When making a decision, the Ombudsman is granted access to all essential and related school files to the case²². Locally, the Montgomery County Board of Education in Maryland is a school district that appoints an Ombudsman in cases when issues of discrimination are raised²³. Nationally and internationally, Ombudsmen are used in many schools districts including: Ontario (Canada), Hawaii, Tucson, and the District of Columbia²⁴. The practice of using an Ombudsman is important, because the person serving in that capacity does not have a stake in the decision they make. An Ombudsman's most important characteristic is their independence. Having this neutral party protects both the school district or Board of Education and the student and his or her parents.

¹⁹ Multicultural Education, Training and Advocacy Inc., "Handbook for Immigrant Parents," M.E.T.A. Inc., <http://www.ncela.gwu.edu/pathways/immigration/handbook.htm>

²⁰ <http://www.ncela.gwu.edu/pathways/immigration/handbook.htm>

²¹ Board of Education for Montgomery County, Maryland, "Ombudsman," Montgomery County Board of Education, <http://www.montgomeryschoolsmd.org/boe/contact/ombudsman.shtm>

²² Ibid, 1.

²³ Ibid, 1.

²⁴ Government of the District of Columbia, "Office of Ombudsman," Ombudsman Report, http://ombudsman.dc.gov/ombudsman/lib/ombudsman/pdf/February_2008_Ombudsman_Report.pdf

Conclusion

All children residing in New Jersey are entitled to an adequate public education, and more measures must be taken in order to ensure that this right is not being violated. School districts that discriminate against students through the process of requesting unnecessary, unlawful documentation should incur consequences in the form of sanctions from the NJ Department of Education.

Recommendations

1. **Distribute handbooks detailing the student and parental rights in the New Jersey public schools.** It is imperative that the school districts abide by New Jersey law and provide “a thorough and efficient” public education to school-age children in their district, without discriminating against immigrants; sanctions may be required to enforce this right.
2. **The NJ Department of Education should send memo annually to each school district, reminding them that proof of citizenship and social security numbers should not be requested for school registration.** A single page information sheet that can be distributed in immigrant communities should also be prepared. The memo should include a list of potential sanctions, if a school district is found requesting this information after the memo has been received.
3. **An Ombudsman, responsible for handling all claims of educational discrimination and civil right violations, should be appointed by the State.** The Ombudsman would be an independent party in a dispute, and would not have a stake in the outcome of their

ruling. Parents or guardians with limited English proficiency should be able to enlist the services of another independent person who could aid them in with filling out the paperwork and actually filing the claim, so that an Ombudsman can hear the case. The current appeals process is confusing and fragmented.

4. **Either the Department of Education or an independent organization or agency should be provided funding to conduct biennial, random surveys of New Jersey school districts to monitor compliance with anti-discrimination sections of the New Jersey Educational Code.** The survey period should include the time when districts are registering new students.

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Early Childhood Development

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Problem Statement

An important aid to early childhood development is early education programs. These programs are vital, because they help to build social and communication skills, as well as place children in structured environments at an early age. One of the challenges with these programs; however, is that they are not wide widely publicized, and many parents do not know they can take advantage of early childhood development programs. On the occasions that these are programs widely publicized, the publicity is rarely available in languages other than English, deterring many non-English speaking individuals from attending because of the presumptive language barrier.

Introduction

It is critical that the state of New Jersey not only make early childhood education programs readily available, but also to make individuals aware that these programs exist. There are many barriers that are currently keeping children from attending early childhood education programs and much improvement can be made to increase these programs availabilities. The following sections will detail the importance of early education programs and especially their importance

relative to the state of New Jersey. Best practices are noted that could possible serve as a model for the state. The final section will offer recommendations on how to improve early childhood education programs in New Jersey.

Early Childhood Development

Early childhood education can potentially address issues of school readiness and language acquisition for children of immigrants¹. Early education also aids the integration of children and their families into the American education system. Early education programs enable children of immigrants to enter elementary school with more developed English skills and prepare them to succeed to succeed in school. Special needs children in immigrant families benefit from early intervention programs that connect their families to additional support services. Family literacy programs and other parental involvement components can help immigrant parents learn English in order to gain employment skills and actively participate from the beginning in their children's formal education².

Until the age of five, many children of immigrants are less likely than children of U.S.-born citizens to participate in pre-school or other center-based care³. Research indicates that immigrants are under-represented in early child care and development programs throughout the country. Nationally, immigrant children at three years of age comprise 30 percent of children attending pre-school, compared to 38 percent of native born citizens. At age four, 55 percent of

¹ Hannah Matthews, and Danielle Ewen. *Reaching All Children? Understanding Early Care and Education Participation Among Immigrant Families*. Policy Brief, Washington : Center for Law and Social Policy, 2006.

² Ibid, 1

³ Ibid, 9

children of immigrants attend pre-school, compared to 63 percent of the children of U.S.-born citizens⁴.

Effective early childhood education is culturally competent and addresses the diversity within the immigrant population⁵. A culturally supportive environment encourages a child's sense of security and self-concept⁶. Additionally, contact with people of similar ethnic and cultural backgrounds minimizes the stress and solitary emotions expressed by many new immigrants⁷. Due to high costs and parents' limited knowledge of options, many immigrants are unable to participate in many of these programs⁸. Much of the immigrant community is left out of essential systems of child care due to the inability of traditional service providers to connect effectively with immigrant children and their families. Language barriers, concerns regarding citizenship status, general distrust of the government and cultural stigma further undermine efficient delivery of early childhood educational services. Increased funding, targeted outreach to immigrant communities, coordinated services, appropriate translation services and improved parent engagement would begin to eliminate the barriers to accessing quality early childhood education⁹.

Full time child care with better availability is essential. The New Jersey Cares for Kids Program offers subsidized child care to many low-to-moderate income families in NJ; however, the

⁴ Ibid, 10

⁵Rasmia Kirmani and Vanessa Leung. *Breaking Down Barriers: Immigrant Families and Early Childhood Education in New York City*. Policy Brief, New York: Coalition for Asian American Children and Families, 2008.

⁶ Elizabeth Schnur, et al., "Family Childcare and New Immigrants: Cultural Bridge and Support." *Child Welfare*, 1995: 1237-1248.

⁷ Ibid, 1239

⁸ Kirmani and Leung. *Breaking Down Barriers: Immigrant Families and Early Childhood Education in New York City*.

⁹ Ibid, 1

waiting lists for these programs are as long as two years. The extreme lack of funding is the cause for the long wait. Immigrant families are eligible for the voucher program or Head Start program as long as their child is a U.S. citizen¹⁰. The eligibility process is usually stopped before it can even start, since many families do not have access to forms that have been translated¹¹.

The challenges or barriers which child care providers identified include inadequate training to help providers reach out to diverse immigrant communities; lack of funding to maintain child care facilities and provide a quality educational experience for immigrant children; and a lack of bilingual staff¹². The Coalition for Asian American Children and Families found that providers need more funding for translation services and language access for immigrant families. Many communities, however, lack the infrastructure (e.g. community based organizations, collaborations with providers and bilingual workers) necessary to greatly increase their access to quality child care¹³.

Immigrant parents agree, regardless of country of origin, that trust is the most important criterion when selecting child care¹⁴. Child day care can play a major role in facilitating their children's adjustment to a new country. Most new immigrants to the U.S. are in their child-bearing years and many are members of the working poor. For many, child day care serves as the primary

¹⁰ Ibid, 5

¹¹ Ibid, 5

¹² Ibid, 7

¹³ Ibid, 8

¹⁴ Ibid, 9

point of “extra-familial contact”¹⁵. Child day care may serve as a buffer for these young families and aid their integration with the host country’s culture¹⁶.

Most parents prefer child care programs that prepare their children for school, including programs pertaining to activities that develop language and math skills, and social skills necessary to interact with others¹⁷. Many families prefer family child care, because of the flexible hours offered¹⁸. Immigrant parents also express the desire for flexible hours in terms of drop-off and pick-up.

From the overwhelming amount of paperwork to the lack of full-day child care programs; immigrant parents have a difficult time overcoming the systemic barriers to obtaining quality child care that is affordable¹⁹. Sharing information on child care programs within immigrant communities is mostly by word of mouth, not formal information provision²⁰. Agencies and child care providers are not effectively using direct, outreach that is language-appropriate, or ethnic media to inform immigrant parents²¹.

Another barrier to accessing child care is the stigma associated with using public assistance. Families are afraid that accessing subsidized care will label them as burdens on the government, or public charges, which they fear may jeopardize their immigration status²². An alternative may

¹⁵ Elizabeth Schnur, et al., "Family Childcare and New Immigrants: Cultural Bridge and Support."

¹⁶ Ibid, 1239

¹⁷ Kirmani and Leung. *Breaking Down Barriers: Immigrant Families and Early Childhood Education in New York City*.

¹⁸ Ibid, 11

¹⁹ Ibid, 10

²⁰ Ibid, 14

²¹ Ibid, 14

²² Ibid, 5

be to use immigrant or community-based organizations to provide training in early childhood education for family child caregivers. This strategy is effective in reaching out to grandparents and other family caregivers, because it raises the caregiver's awareness of how to incorporate teachable moments into their daily activities.²³

Bilingual staffing is essential to the success of early child care for immigrants. Without bilingual staff to communicate with, parents don't always receive the feedback they need regarding their child's progress toward the academic and social goals of early childhood education. Parents with limited English proficiency need to understand the challenges, as well as successes, their children experience every day in child care programs.

There are many reasons why participation of children of immigrants in early childhood education programs is lower than that of natural born citizens²⁴. The first is the lack of written information available in the native language. Second, there is not enough outreach to immigrant communities about programs and services available to them. Third, there is not enough training for child care professionals to help develop their cultural competency and understanding of the unique challenges facing immigrant families and children. Lastly, there are high costs associated with child care programs and a lack of funding to agencies to develop and maintain current child care programs and facilities.

²³ Morales, Alfonso. I will send you the full citation.

²⁴ Matthews and Ewen. *Reaching All Children? Understanding Early Care and Education Participation Among Immigrant Families*.

Participation can be increased in early childhood education programs by identifying systemic barriers and improving access to the programs for immigrant families²⁵. Children of immigrants are more likely than children of native born citizens to live in households characterized by poverty, low parental education attainment, and low maternal employment²⁶. Immigrant families are also less likely to utilize public benefits that may lessen the hardships associated with poverty, or they may not be eligible for these benefits depending on their immigration status²⁷. Children in families below 200 percent of the poverty level are less likely to participate in early education program than children in higher-income families²⁸. Children of immigrants are under-enrolled in pre-school in New Jersey, according to the 2006 American Community Survey, especially Latin American foreign born population. Of the 231,084 foreign born Latin American students in NJ ages 3 and up, only 2.3 percent are enrolled in nursery school or pre-school programs²⁹.

A child's school success depends not only on what takes place in the classroom, but also on the parental involvement in the school culture and the school's connection to the home³⁰. Schools and families need to work together toward the same goals³¹. It is not enough to simply encourage parental involvement in their children's learning at school. The school must connect

²⁵ Ibid, 13

²⁶ Ibid, 13

²⁷ Ibid, 2

²⁸ Ibid, 13

²⁹ *U.S. Census Bureau American FactFinder 2006 American Community Survey*. 2006.

http://factfinder.census.gov/servlet/STTable?_bm=y&-geo_id=04000US34&-qr_name=ACS_2006_EST_G00_S0506&-ds_name=ACS_2006_EST_G00_&-_lang=en&-redoLog=false&-CONTEXT=st.

³⁰ Selina L. Mushi "Acquisition of Multiple Languages Among Children of Immigrant Families: Parents' Role in the Home-School Language Pendulum." *Early Child Development and Care*, 2002: 517-530.

³¹ Ibid, 527

to the family to bridge the child's home and school experiences³². Information on other services available to eligible immigrants could be provided (food stamps and TANF), could be provided by the school. Bridging could also be thought of as bringing communities that are culturally and linguistically similar together to accomplish a set goal. Examples of a set goal could be establishing a low-cost child care clinic funded by a local community or faith, or a network of family care providers which are culturally and linguistically similar to their immigrant clients.

Over a quarter of all young children of immigrants live in poor households. These children were 20 percent less likely to attend the Head Start program than children of natives³³. Head Start programs have reported difficulty enrolling and communicating with non-English speaking families, as well as difficulty recruiting well-trained bilingual staff³⁴. Head Start completion significantly improved test scores and reduced grade repetition for Latino children³⁵. Gains from pre-school are typically found to be larger for economically disadvantaged children and those with lower levels of cognitive skills³⁶.

As in the K-12 educational system, neither the Head Start Program nor pre-school programs funded through Title 1 of the No Child Left Behind Act, can ask about the immigration status of enrolling families³⁷. According to the Supreme Court decision for *Plyer v Doe*, local school

³² Ibid, 527

³³ Matthews and Ewen. *Reaching All Children? Understanding Early Care and Education Participation Among Immigrant Families*.

³⁴ Ibid, 13

³⁵ Katherine Magnuson, Claudia Lahaie, and Jane Waldfogel. "Preschool and School Readiness of Children of Immigrants." *Social Science Quarterly*, 2006.

³⁶ Ibid, 1244

³⁷ Nancy L Commins, *Immigrant Integration Educator Resource Guide*. Resource Guide, Denver: Colorado Department of Education and The Colorado Trust, 2007.

districts cannot deny enrollment to children who are in the U.S. without authorization³⁸. This would be a violation of the Equal Protection Clause of the Fourteenth Amendment³⁹.

Best Practices

All children living in the United States deserve quality childcare that is affordable. There are child care programs available to immigrant families, however many are not aware that these programs exist⁴⁰. Greater communication with immigrant communities would increase knowledge of available child care programs. Government agencies should take advantage of ethnic radio and television to disseminate information about available programs, and work with immigrant groups and community-based organizations as another network to share program information.

Family child care programs are in many ways ideal for immigrant families. Family child care offers flexible hours and providers that are intrinsically culturally competent as well as bilingual and service at a lower cost as compared to care at a child care facility. The Jewish Childcare Association of New York (JCCA) was designed to serve low-income immigrant families from the former Soviet Union⁴¹. The program is publicly funded, and provides child care at either no charge or a low cost to parents with low incomes. Parents who receive a subsidy are required to be employed, in training programs, or looking for employment⁴². JCCA's network consists of providers who are trained, supported, and monitored by the agency, which is all necessary for the

³⁸ *Supreme Court Collection: Plyer v. Doe*. June 15, 1982.

http://www.law.cornell.edu/supct/html/historics/USSC_CR_0457_0202_ZS.html.

³⁹ *Ibid*, http://www.law.cornell.edu/supct/html/historics/USSC_CR_0457_0202_ZS.html

⁴⁰ Kirmani and Leung, *Breaking Down Barriers: Immigrant Families and Early Childhood Education in New York City*.

⁴¹ Elizabeth Schnur, et al., "Family Childcare and New Immigrants: Cultural Bridge and Support."

⁴² *Ibid*, 1240

program's success⁴³. JCCA providers attend lectures and workshops to increase their knowledge of Jewish culture, heritage and traditions. Providers are monitored in their homes at least eight times per year by JCCA's staff members. Staff members also function as mediators if conflicts arise between providers and parents⁴⁴. The practices of the JCCA could be implemented by states in a non-sectarian fashion. The core concepts of offering no cost or low cost care, training for family child care providers, ensuring culturally competent programs, conflict mediation, and the monitoring of providers in their homes is highly replicable.

Educating immigrant parents on how to assist with their children's educational success is a best practice cultivated by AVANCE-Dallas parenting program. Many immigrant parents arrive in the United States with limited formal education, which leaves their children at an educational disadvantage⁴⁵. AVANCE-Dallas provides guidance, tools, and support in order for parents to become their child's first teacher⁴⁶. This nine-month program encourages parents to become an active participant in their child's education, helping to bridge the gap of their low formal education⁴⁷. AVANCE-Dallas seeks to address attitudes and behaviors exhibited by parents through a stimulating bilingual early child development program⁴⁸. The goal is to start the program during the child's earliest years, so that the child has a parent participating in their education and helping them to succeed. The AVANCE-Dallas program provides information about positive mother-child interactions, playtime activities that teach developmental skills, and

⁴³ Ibid, 1241

⁴⁴ Ibid, 1241

⁴⁵ Ana Schaller, Lisa Rocha, and David Barshinger. "Maternal Attitudes and Parent Education: How Immigrant Mothers Support Their Child's Education Despite Their Own Low Levels of Education." *Early Childhood Education Journal*.

⁴⁶ Ibid, 351

⁴⁷ Ibid, 352

⁴⁸ Ibid, 352

the mother's role as the child's first teacher⁴⁹. With guidance, parents with little formal academic background can inspire their children to achieve⁵⁰. Parental involvement is shown to positively influence the child's development in the classroom and the completion of homework⁵¹. The first years of a child's life are critical, and programs like AVANCE-Dallas help parents become engaged in their child's education in a systematic way and future life success.

Conclusion

Early childhood education programs are extremely important in childhood development. Students participating in early childhood education programs tend to be more successful in terms of educational attainment than those who do not; however, for many, these programs are not widely known or readily available to them. It is imperative that these programs be offered to a broader base of individuals, and that these programs are well publicized in all communities.

NJDOE Note on LEP Students in Early Childhood Education Programs

The following is from the Bilingual Education Code adopted in August, 2008. It has not yet been published in the Federal Register, thus it shows the language that was eliminated (in brackets []) and added (underlined).

N.J.A.C. 6A:15-1.3 Identification of eligible limited English proficient (LEP) students

The district board of education shall also use age appropriate [assessment instruments to identify the English language proficiency and readiness of preschool LEP students to determine individual student

⁴⁹ Ibid, 352

⁵⁰ Ibid, 353

⁵¹ Ibid, 355

eligibility for bilingual, ESL or mainstream classroom instruction] methodologies to identify limited English proficient preschool students in order to determine their individual language development needs.

All district boards of education shall also provide appropriate instructional programs to eligible preschool LEP students based on need according to the New Jersey Preschool Teaching and Learning Expectations: Standards of Quality (2004). These standards are guidelines for good practice and are intended for districts that provide preschool programs. ⁵²

⁵² <http://www.nj.gov/education/ece/code/expectations/expectations.pdf>

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Bilingual/ESL Education Programs

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An Overview: New Jersey K-12 Education and Limited English Proficient Students

The state of New Jersey enrolled upwards of 60,000 limited English proficient (LEP) students during the 2007-2008 academic year.¹ New Jersey schools experiencing significant LEP student enrollment developed educational programs and practices to address the needs of divergent immigrant students. In 2006, the New Jersey Department of Education (NJDOE) created an initiative to identify and recognize programs with best practices for educating LEP students. The four programs, which were honored as Outstanding Second Language Programs, were developed locally and are structured according to the individual school's needs. Schools apply for this designation, and if selected by the state, are required to host program visitations and provide mentorship to other New Jersey schools. On a statewide level, educators and students still confront several gaps and barriers in bilingual and English as a Second Language (ESL) education.

¹ Governor's Blue Ribbon Advisory Panel on Immigration Policy. Education Subcommittee. Revised Recommendations. *Immigration Policy Panel*, September 27, 2008.

The purpose of this report is to examine LEP student achievement in relation to the institution and actors of public education in New Jersey. Nationally and in New Jersey, there is a discussion about the quality and effectiveness of bilingual and ESL-only programs. This research will advance our understanding of New Jersey's bilingual and ESL-only programs, including understanding LEP students and their needs. In addition, it examines the significance of administrative and support staff and teachers cultural competency in relation to New Jersey's immigrant and English language learning youth. By examining bilingual and ESL-only program effectiveness, recommendations on how to evaluate and improve these programs are provided.

No Child Left Behind in New Jersey

The U.S. Congress passed No Child Left Behind (NCLB) legislation in 2002, which explicitly holds states responsible for facilitating the education of all students k-12. Limited English proficiency is defined in N.J.A.C. 6A:15-1.2. "Limited English proficient students means students from pre-kindergarten through grade 12 whose native language is other than English and who have sufficient difficulty speaking, reading, writing or understanding the English language as measured by an English language proficiency test so as to be denied the opportunity to learn successfully in the classrooms where the language of instruction is English."² All New Jersey school districts are required to identify potential LEP students and administer an English language proficiency test every year.³ Once a student is designated as having limited English

² New Jersey Administrative Code 6A: 15-1.2.

³ Raquel Sinai, Coordinator of Bilingual and ESL Programs, New Jersey Department of Education. Email correspondence October 30, 2008.

proficiency, they are placed in a bilingual program until it is determined that the student has satisfied exit criteria, which includes passing an achievement test, the student's reading level in English, classroom performance, and if the teaching staff responsible for the student has determined that student will perform comparably to their non-LEP peers.

Bilingual, ESL and Dual Language Programs

There are several approaches that are used to teach English as a second language. Dual language, bilingual and ESL-only programs are examined as the mechanisms for achieving English proficiency for LEP students in New Jersey. Greene and Commins argue that successful bilingual/ESL programs start with enrollment, which includes better identification and monitoring of progress towards English language acquisition for students who are English language learners (ELL).⁴ They find that from an economic perspective, better data collection systems reduce long-term spending on ELL students by identifying specific English language development needs and addressing LEP student learning program fallacies and integration challenges early. Effective identification of students' initial English language proficiency and following language acquisition progress are the prelude to quality education for ELL students. Torres-Guzman finds that once a student is proficient in two languages, they can transfer knowledge and skills from one language to another and understanding two languages advances cognitive abilities.⁵

⁴ Greene, Jay. "A Meta-Analysis of the Effectiveness of Bilingual Education." (1998), 1-21.
<http://www.hks.harvard.edu/pepg/PDF/Papers/biling.pdf>

⁵ Torres-Guzman, Maria. "Dual Language Programs: Key Features and Results." *Directions in Language and Education*, no. 14 (2002). <http://www.ncela.gwu.edu/pubs/directions/14.pdf>

Challenges to developing ELL student identification and data collection systems include the perception by ELL students and their families that providing too much information to a school district may expose their residency status. The American Civil Liberties Union of New Jersey (ACLU-NJ) conducted a survey in 2008 assessing the legality of enrollment processes in the 635 school districts in New Jersey.⁶ Their findings illustrate that at least 20 percent of New Jersey's school districts are not abiding by state law, which prohibits schools from requesting any information, including social security numbers, that might reveal the immigration status of students or their families.

The NJDOE is addressing school districts requiring improper documentation for enrollment through a memo from the Commissioner clarifying what are acceptable documents for enrollment. IN addition, NJDOE is developing a statewide student identification (SID) system. This system will allow the NJDOE to follow students throughout their K-12 academic career, as long as they remain in a school in New Jersey, without any information that would reveal residency status. As the state moves forward with developing identification and systems to monitor annual progress of ELL students, there should be special care in identifying information that is necessary for appropriately placing students in ELL programs. These programs must maintain the integrity of the law and should instill confidence in the students and their families that any information requested regarding the student's proficiency is strictly for that student's academic success.

⁶ Jacobs, Deborah. "At Least 20 Percent of NJ Schools Use Illegal Barriers to Public Education for Immigrant Children, ACLU-NJ finds" *American Civil Liberties Union of New Jersey (ACLU)*, (2008). <http://www.gaypasg.org/GayPASG/PressClippings/2008/Sep/At%20Least%2020%25%20of%20NJ%20Schools.htm>

The NJDOE is developing the NJ Standards Measurement and Resource for Teaching (NJ SMART) database, which is used to generate SIDs. The purposes of NJ SMART are to provide the DOE with better student data on the individual level so performance goals may be more effectively monitored, meet federal NCLB standards for data collection and reporting, and provide stakeholders with more complete and comprehensive data when reporting. Of the seven new pieces of data being collected from each school district, two are specifically about LEP students: LEP start date and completion date. This information will provide educators, parents and policy makers with an indication of the length of time associated with English language acquisition. One caveat is that under the new state funding formula, districts receive additional weighted compensation for LEP students.⁷ As the NJ SMART database is fully functional and able to provide time series data, ensuring districts exit students from LEP programs in a timely fashion based on the student's English language acquisition must be monitored closely. All data included in the NJ SMART data warehouse is scheduled to be accessible by November 18, 2008.⁸

While ESL, bilingual and dual language programs are meant to facilitate proficiency in English; there are differences between them. An ESL program is often a “pull out” program, whereby the student is removed from regular classes for targeted instruction in English.⁹ This emphasizes the language difference between LEP students and the rest of the student body, may stifle cognitive and social development, and inhibits the integration

⁷ New Jersey Department of Education. 2007. A Formula for Success: All children, all communities. Revised Dec. 18.

⁸ NJ SMART <http://www.state.nj.us/education/njsmart/data/>

⁹ Washington University. <http://depts.washington.edu/tepacct/rice/esl/bilvesl.htm>

process. Often ESL programs do not offer classroom instruction in both the native and second language.¹⁰ Therefore, not only is the cultural component of LEP student immersion lost, the cognitive benefits of receiving instruction in two languages is lost as well. Bilingual and dual language programs provide instruction in both the native language and English. The goal of these programs is to have students achieve proficiency in English while maintaining cognitive sensitivity to the primary language(s) through classroom instruction.¹¹ New Jersey law requires bilingual instruction when there are 20 or more LEP students from the same language background enrolled in one school.¹² The primary difference between bilingual and dual language programs is that bilingual programs do not include students who speak English as a primary language. Dual language programs are designed in such a way that all students may participate, not just LEP students. By involving LEP and non-LEP students in dual language programs, there is a two-way approach to bridging the language and cultural gaps that exist within a diverse student body.

Learning a second language is labor-intensive. Effective Language Instruction Education Programs (LIEP) involve active participation by educators, administrators and the students. Dual language programs are unique in that they facilitate the participation of all students.¹³ Maria Torres-Guzman defines and discusses dual-language programs, the goals they seek to accomplish and how the relationships between languages, learning and cognition affect these goals. Linguistic, sociocultural and pedagogical considerations are

¹⁰ Ibid.

¹¹ Immigration Integration, Colorado Department of Education.

¹² Raquel Sinai, Coordinator of Bilingual and ESL Education, New Jersey Department of Education.

¹³ Torres-Guzman, *Dual Language Programs*.

incorporated in dual language programs, which provide flexibility in implementation and application to accommodate the varying needs of different school districts.¹⁴ Guzman emphasizes that dual language programs seek to promote equality for ESL and LEP students. She suggests that the best way to realize this goal is by providing 50/50 instruction in each language for all students enrolled, not just LEP students. By including all students in dual language programs, LEP students integrate into the school system at the most important level, the peer level. Furthermore, LEP students are positioned in a role whereby they may provide language assistance to their English-speaking peers, which increases their participation and advances them from their position of dependence to that of facilitator. Because New Jersey hosts students from 168 different language backgrounds¹⁵, the administrators' dilemma is to determine which language to incorporate into a dual-language program and how to accommodate LEP students that speak a language other than the one chosen for the program. Often dual language programs are located in districts with a single dominant native language other than English.

Ensuring there are high-quality educators available for New Jersey K-12 schools requires a clear definition of high quality and strategies for increasing the pool of certified ESL, bilingual and dual language teachers and aides. Guzman defines a high-quality educator for LEP students as someone the student body as a whole may connect with while serving as a monolingual model for LEP students.¹⁶ Table one presents the correlation

¹⁴ Ibid..

¹⁵ Governor's Blue Ribbon Advisory Panel on Immigrant Policy, Education sub-committee.

¹⁶ Feinberg, C. Rosa. "Administration of Two-Way Bilingual Elementary Schools: Building on Strength." (1999), 1-22. <http://brj.asu.edu/v231/pdf/ar5.pdf>

coefficient between the percent of students listed "Limited English Proficiency" (LEP) and the percent of highly qualified teachers with temporary certification in New Jersey schools in 2007. The results indicate that the two variables are highly correlated, which means the persistence of one will accompany the persistence in the other. It is highly problematic when English language learners in New Jersey who want to develop their English language proficiency are assigned a high percentage of teachers who are working with temporary certifications. This clearly indicates a pipeline issue, and more research is needed to identify why so many teachers in districts with a high percentage of ELL lack permanent certification and what strategies the NJDOE may need to employ to assist those with temporary certification advancing on the professional educational ladder to full certification.

Effective educators cultivate a learning environment that advances scholastic, linguistic, and social skills through classroom instruction and engages the students in linguistic-centric activities in more than one language. Feinberg suggests that to achieve linguistic diversity teachers in districts with high concentrations of ELLS may also instruct in their native tongue.¹⁷ If the goal is to improve bilingual/ESL education in New Jersey, he suggests more individuals whose first language was not English are needed as educators.

Torres-Guzman finds enrichment models for bilingual education programs have four key features. They are:

¹⁷ Ibid, 1.

1. “Instruction through two languages, where the target language is used for a significant portion of the students’ instructional day;
2. Periods of instruction during which only one language is used;
3. Both native English speakers and native speakers of the target language are participants; and
4. The students are integrated for most content instruction.”¹⁸

These approaches assist teachers in promoting LEP student integration.

The importance of parental involvement in the process of LEP student integration and cultivating successful student development cannot be underestimated. Guzman discusses the importance of community support structures and parental involvement to promote cultural competency amongst the various actors involved in LEP student education.¹⁹

New Jersey’s Bilingual Parent Advisory Councils provide an ideal source of information and can foster better understanding between the immigrant community and administrators, support staff and educators. Cultural competency is essential to bridging the social and development needs of all students. “Cultural competence is defined as a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or among professionals and enables that system, agency, or those professionals to work effectively in cross-cultural situations.”²⁰ An effective program for English language

¹⁸ Torres-Guzman, *Dual Language Programs*, 3.

¹⁹ Ibid.

²⁰ For example see: Cross, T.L., Bazron, B., Dennis, K.W., Isaacs, M.R. 1989. *Towards a Culturally Competent System of Care: A monograph on effective services for minority children who are severely emotionally disturbed*. Georgetown University Child Development Center, Washington, DC. CASSP Technical Assistance Center.

learners should be accompanied by continuing education for administrators, support staff and educators regarding cultural competency.

A Student's Perspective: ESL Program and Education

“My experience with ESL programs was something new and interesting. I was born in Nigeria. I came to the U.S at the age of 10. I spoke more English in Nigeria than my native language Igbo, but when I started middle school here in the United States, I was placed in an ESL program. The kind of ESL program I had is the ESL “pull out”. In ESL “pull out”, students spend part of the school day in a mainstream class room, but are pulled out for a portion of each day to receive instruction in English as a second language. I had an ESL teacher that traveled from one school to another. Although I already knew how to speak English, the ESL program helped me improve both in English and academically. I was in the program for about a year and half. I remember my ESL teacher used to make me read lots of novels and made me write papers about my readings. ESL programs are really beneficial. In programs such as ESL, it’s all about learning and acquiring new things. I really don’t think there’s any disadvantages in ESL programs. Some immigrants might think they know English well enough that they don’t need ESL programs, but the truth is you can become better both in English skills and your social life. I know some immigrants might be ashamed to be in a program such as ESL, because they think is going to make them look like they don’t know English at all.

They point is that I benefited from the ESL program. Hopefully other kids that are immigrants will get the chance that I had as a young girl trying to adjust to a new culture, become better and feel good about themselves.”

Undergraduate student in a New Jersey university.

Some communities use summer to reinforce the English language learning that students receive during the regular school year. Toronto, Canada has an innovative program that operates an ESL summer camp program for students ages 8 to 18. Held during July and August, camp lasts from two to four weeks. Students stay in dorm rooms and the program provides food and transportation. The morning is devoted to English language instruction and there are afternoon activities, tours, or sports. There are four goals and purposes for ESL summer camp in Canada. One purpose is increased oral and visual communications to help students understand, interpret, and use oral English, and related visual cues, in a variety of contexts and media. Students read a variety of informational and literary texts for different purposes, using a range of reading strategies, to address the second goal of improved reading and writing skills. Students learn to communicate clearly in writing for a variety of purposes and audiences. Thirdly, academic preparation helps students to understand the concepts, content, applications of theory and practices, and vocabulary for the major subject areas needed to qualify for entry into a regular North American public school. Lastly, ESL summer camp focuses on social and cultural competence to help students understand and value their own cultures, appreciate the variety of languages and cultures in Canada and the USA, and to demonstrate social and cultural competence in a wide range of situations.²¹

²¹ ESL camp Toronto, Canada

Table 1
Relationship between Percent of NJ LEP Students and Percent of NJ Highly
Qualified Teachers with Temporary Certification
New Jersey Public Schools, 2007

		Percent NJ students classified with "Limited English Proficiency" (LEP)	Percent NJ highly qualified teachers with temporary certification
Percent NJ students classified with "Limited English Proficiency" (LEP)	Pearson Correlation	1.000	.251**
	Sig. (2-tailed)		.000
	N	480	479
Percent NJ highly qualified teachers with temporary certification	Pearson Correlation	.251**	1.000
	Sig. (2-tailed)	.000	
	N	479	695

** . Correlation is significant at the 0.01 level (2-tailed).

Source: New Jersey Department of Education.

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<http://www.ncela.gwu.edu/pubs/directions/14.pdf>



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Dr. Christine Thurlow Brenner

Credentialing of Foreign Professionals

Don Garvey and Richard Tarallo, Rutgers University-Camden

A substantial number of immigrants come to the United States with high levels of education. More than 6.1 million immigrants over the age of 25 had a bachelors degree or higher as of 2006.¹ A recent report from the Migration Policy Institute projects that more than half of these immigrants received their education abroad.² Transferring those credentials for United States equivalency is a difficult and confusing process, with no nationally recognized or standardized method for evaluating foreign credentials. Unlike countries like Australia or Canada, who have government agencies that oversee foreign credentialing, the United States utilizes a free market approach that relies on private credentialing services and professional organizations to sort out foreign equivalencies that has no clear market leader.³

While the State of New Jersey cannot enforce a national system for credentialing of foreign professionals, it can take steps to provide clarity and information to the

¹ Batalova, Jeanne and Michael Fix. “Uneven Progress: The Employment Pathways of Skilled Immigrants in the United States. With Peter A. Creticos.” (Washington, DC: Migration Policy Institute, 2008), 1.

² Ibid., 26.

³ Ibid., 40.

prospective immigrants, work with professional organizations to encourage them to do the same, and adapt or adopt some best practices outlined by other organizations. The task set before the immigrant professional is currently a confusing and difficult one. One New Jersey State website only provides guidance to the extent that it suggests the applicant “check the yellow pages or the internet” for a foreign credentialing service.⁴ Many foreign universities or colleges are absent from their respective approved lists of educational resources. To further add confusion, many universities and colleges are listed as approved, but only for graduating in specific years.⁵ These examples only serve to demonstrate a very small fraction of the complications associated with transferring the credentials one earns in another country to United States equivalency.

The significance of outlining a path to accreditation in a clear and encouraging fashion is a potential economic benefit to the State as a whole. While no statistics exist for the United States, Australia has estimated an AU\$100 million to AU\$350 million “loss” because it under-recognized foreign degrees since 1990. Similarly, Canada estimates a CAN\$2 billion annual “loss” associated with the economic impact of not recognizing more credentials for immigrants.⁶ Inaccessibility of information for incoming professionals creates unnecessary hurdles that discourage the foreign professional from gaining licensure in the State of New Jersey. This discouragement

⁴ Licensure & Credentials Document Number 1145, “Degree Equivalency for Studies Completed in Foreign Countries.” State of New Jersey Department of Education, (State of New Jersey Department of Education n.d.)(29 September 2008).

⁵ Educational Commission for Foreign Medical Graduates (ECFMG), “Requirements for ECFMG Certifications.” Educational Commission for Foreign Medical Graduates, (Educational Commission for Foreign Medical Graduates (ECFMG) n.d.)(accessed 29 September 2008).

⁶ Batalova, Jeanne and Michael Fix. “Uneven Progress. 33.

leads the foreign professional to accept work in positions that do not express their full potential.⁷ It can be reasonably assumed, based on the Australian and Canadian financial estimates that New Jersey can only benefit from finding ways to provide leadership guidance to the professional immigrant by helping to create an accessible pathway towards credentialing.

Foreign professionals seeking credentialing in the State of New Jersey face many challenges in fulfilling all necessary requirements. Four separate professions and the steps that must be taken to gain licensure are examined in the fields of medical, legal, education, and translation. Each has different guidelines along with various accessibility issues regarding the needed information to gain licensure. First, a foreign professional must identify the organization that regulates the specific profession and then they must be able to gain access to the required information, a process that may be difficult for the recent or prospective immigrant. In each professional field the organization that has established the credentialing guidelines is examined in the field of medicine the American Medical Association; in the legal field, the New Jersey State Board of Bar Examiners; in the field of education, the New Jersey Department of Education; and in the profession of translation the American Translators Association offers the credentialing needed in the United States of America. These organizations each have separate guidelines for a path to credentialing; different costs for obtaining an evaluation of foreign credentials and recommendation vis-a-vis credentialing; and the ease of information accessibility the organization provides for the information to be obtained. Each of these organizations outlines a mission that

⁷ Ibid., 26.

involves improving both their own professions and the people that are affected by the profession.

The profession of Physical Therapy outlines a very clear and easy to follow requirement to gain the credentials to be licensed in New Jersey. An applicant for licensure must have his/her credentials evaluated by an International Evaluation Committee. The profession recognizes three private sector credentialing evaluation services with the closest located in Newark, Delaware.⁸ The ability of this profession to identify the services that they recognize protects the foreign professional from wasting time and money on potential credentialing scams, the foreign credentialing equivalent of a “diploma mill.” The credentialing evaluation service recommends whether the applicant should be granted a certificate to sit for the physical therapy credentialing exam. This recommendation is sent directly to the Board of Physical Therapists from the credentialing service thereby taking the evaluation out of the hands of the applicant and avoiding potential tampering with the recommendation. If the certificate is granted to the applicant by the Board of Physical Therapists based on the external evaluator’s recommendation, the candidate can then sit for the Board Certification exam provided by the New Jersey State Board of Physical Therapists.⁹

The profession of translation requires the ability to prove a combination of both education and work experience for the candidate to be eligible to sit for the

⁸ American Physical Therapy Association of New Jersey, “Credentialing Foreign Trained PT’s.” American Physical Therapy Association of New Jersey, (American Physical Therapy Association of New Jersey n.d.).

⁹ Ibid.

certification exam. The American Translators Association outlines what schools are approved, and if your school is not named, presumably the case for foreign trained individuals, you have the ability to contact the association in defense of your education.¹⁰

In the legal profession, the requirements are not as specific as previous examples. To be admitted to the New Jersey State Bar, the applicant must qualify for and then pass the New Jersey Bar exam. In order to qualify to take the bar exam, the applicant must be above the age of eighteen, complete the appropriate law school education and be in good standing legally in the applicant's jurisdictions.¹¹ This creates issues regarding what is an appropriate law school education because unlike the American Translator Association, the New Jersey Bar does not specify what schools are approved. Additionally, the New Jersey Bar does not provide information regarding transcript evaluation. These three examples show the requirements needed to sit for the proper certification exam so that the foreign professional can be licensed in the State vary among different fields.

In education, the requirements or qualifications required for a foreign educated professional to become a teacher in the State of New Jersey are almost as difficult to discover as in the legal industry. If one visits the New Jersey Department of Education – Licensure & Credentials web site, only one of the 36 links on this page

¹⁰ American Translators Association, "ATA Certification Program Eligibility Requirements." American Translators Association, (American Translators Association n.d.) (29 September 2008).

¹¹ New Jersey Board of Bar Examiners, "General Description of Qualifications." New Jersey Board of Bar Examiners, (New Jersey Board of Bar Examiners n.d.)(accessed 9/26/08).

addresses Foreign Credentialling. This site instructs the reader that “the NJDOE is not authorized to determine the equivalent of studies completed in other countries for education in the United States” and then suggests the reader to “consult a credential evaluation service by searching the yellow pages or internet”, then describes what the reader should request from the credentials evaluation service.¹² There are no links to any credential evaluation services, or any advice on how to select one. The website does specify that United States citizenship is a requirement for licensure, and that a “five-year non-citizen licence may be issued to an eligible applicant upon completion of a sworn affidavit to become a United State (sic) citizen”.¹³ If the reader follows other links that one may believe would help in determining requirements for the foreign professional to become a licensed teacher in the State of New Jersey, they will find little help or clarification. For example, the link for “Certification Reciprocity” from the main Licensure & Credentials web site directs the internet browser to a web-page that does not refer to or mention foreign credentials.¹⁴ The New Jersey State Department of Education Office of Licensure & Credentials’ Guide to Certification in New Jersey/2007-08 publication omits any reference to the foreign professional. The same can be said about the New Jersey Professional Education Portal (NJPEP) website.¹⁵

¹² State of New Jersey Department of Education, "NJ Department of Education - Licensure & Credentials." State of New Jersey Department of Education (State of New Jersey Department of Education n.d.)(accessed 12 October 2008).

¹³ Ibid.

¹⁴ State of New Jersey Department of Education, "Certification Reciprocity." State of New Jersey Department of Education (State of New Jersey Department of Education n.d.)(accessed 12 October 2008).

¹⁵ New Jersey State Department of Education Office of Licensure & Credentials, " Guide to Certification in New Jersey / 2007-08." New Jersey State Department of Education Office of Licensure & Credentials(New Jersey State Department of Education Office of Licensure & Credentials n.d.)(accessed 12 October 2008).

It would not be appropriate to restrict the discussion of obtaining certification to exams and pre-qualifiers, just like his or her American counterpart, the foreign professional is required to pay for these various certifications and reviews. Each of the professions outlined have a specific cost to gain the certifications to practice in the State. In the field of translation a non-refundable \$35 verification fee and a \$300 exam fee are due at the same time the candidate submits his or her application form. If the candidate fails to meet the standards the exam fee will be returned but the verification fee will still be held.¹⁶ The legal profession is more costly. It costs \$475 to take the bar exam, if it is taken at the closest scheduled exam in February. If the exam is taken in May, the fee rises to \$625. Along with this fee are miscellaneous bar fees, including a \$40 wall fee and a \$10 certificate of good standing.¹⁷ These costs may create a hardship for foreign professionals who need to find work in the state and may have already paid these fees in their countries to gain the same certifications. It can be challenging to a foreign professional seeking to meet these credentialing guidelines and the concomitant costs associated with the certifications.

Access to credentialing information is not easy to find, if you do not know the exact organizations that regulates each profession. The State of New Jersey website does not provide this kind of information in an easy to find format nor are there links to most organizations that the foreign professional needs to contact to achieve licensure.

¹⁶ American Translators Association, "List of Approved Translation and Interpreting Schools." American Translators Association, (American Translators Association n.d.)(accessed on 29 September 2008).

¹⁷ Ibid.

While the State can do better, many of the professional organizations are also vague and do not outline how a foreign professional would gain the proper credentials. For example the New Jersey Bar Examiners outline the requirements for licensure, but do not take into consideration foreign professionals in any regard. Information pertaining to foreign transcript evaluation is not provided and the information provided leads you to dead links that don't resolve to any webpage, or only have vague information regarding the issue. When contacted, the Bar Examiners did not respond and alternate communications with the New Jersey Bar Association lead to the same issues of not being able to find the information. The Bar Association should be encouraged to adopt the model presented by other professions and clearly describe the eligibility requirements for their respective examinations.

Some organizations are further ahead in addressing the issue of foreign training. In the issue of credentialing foreign professionals, the profession of physical therapy is one step ahead of the other professions, and may serve as a model for other professions. Physical therapy has outlined a clear cut way for foreign professionals to gain the needed credentials in the State of New Jersey that has no dead ends and no misleading information. When accessing the American Physical Therapy Association webpage, they provide access to individual states and their ability to help the foreign professional. The New Jersey association has a website that allows easy access to a consumer guide to physical therapy. This consumer guide has a designated section for foreign credentialing. The physical therapy association clearly states that anyone educated outside of the United States, or licensed outside of the United States must

have their credentials evaluated by an International Evaluation Committee. The New Jersey Board of Physical Therapists only recognizes three evaluation services which they place on their website along with the each service address and company name.¹⁸ After you send your credentials to be reviewed by one of the three services everything is out of the hands of the foreign professional. The independent evaluation committee will send their recommendation to the NJ Board of Physical Therapy indicating whether they believe the applicant should be granted certification. Once the decision is made if the applicant receives the certification he/she will be able to sit for the exam.¹⁹ This profession shows the goal is to gain the certification to sit for the exam and if not achieved the applicant will not be able to gain licensure.

The profession's website shows a pathway to licensure and identifies the services needed to gain the certification. They pick the evaluation services they respect and have a connected association with that service, so that the foreign professional is able to understand the process. Other professions simply state that the credentials must be reviewed without providing a suggestion for an appropriate evaluation service or stating which services they recognize. This best practice clearly shows that every organization has the ability to provide a clear cut pathway to credentialing.

Canada and its provinces provide excellent examples of condensing important information for foreigners and prospective immigrants into easy to find and navigate sources of information on the internet. A Google search for "foreign credentials

¹⁸ American Physical Therapy Association of New Jersey, "Credentialing Foreign Trained PT's."

¹⁹ American Physical Therapy Association of New Jersey, "Credentialing Foreign Trained PT's."

Canada” returns an extensive and useful list of websites and press releases regarding the subject. A similar search for “foreign credentials United States” returns a list of non-government agencies that provide foreign credential services, as does a search for “foreign credentials New Jersey”. The first returned response in the Canada query is a link to the Government of Canada’s Foreign Credentials Referral Office website (www.credentials.gc.ca)²⁰. The home page of this website features articles about the Foreign Credentials Referral Office, a “Spotlights” section that provides links to concise information such as the 2007-2008 Progress Report, Getting Started, Frequently Asked Questions, and a link to a webpage about Best Practices in Foreign Credential Recognition. When the internet browser clicks any of these links, he or she will arrive at a web-page that contains a well formatted and well categorized breakdown of information and additional links that narrow the individuals focus toward their profession.²¹

It is important to analyze the tiered structure of Canada’s web presence for immigration, but because the State of New Jersey does not have a dedicated office for foreign credential referrals, the State should not require the level and depth of information offered on the Canadian website. For a best practice example at the comparable state level, one needs to view the Alberta Province’s website (www.albertacanada.com)²². The first menu link on this page is titled “Immigrate To

²⁰ Government of Canada, “Foreign Credentials Referral Office.” Foreign Credentials referral Office, (Government of Canada n.d.)(accessed 12 October 2008).

²¹ Government of Canada, “Foreign Credentials Referral Office.”

²² Alberta Canada, “Alberta, Canada.” Alberta, Canada, <http://www.albertacanada.com/> (accessed 10 October 2008).

Alberta”. Clicking the link brings the internet browser to a dedicated section titled “Alberta’s Official Immigration Website”²³. It is obvious that Alberta is using the website as a marketing tool in a way that New Jersey may not, but it nonetheless contains easy access to useful information for immigrants in a way that New Jersey should adopt. For example, within two clicks, the internet browser arrives at a page titled “Recognition of Credentials” that contains useful links for inquirers to determine how to have their credentials evaluated.²⁴ There are 25 sub-pages that each contains roughly 500 words arranged in short paragraphs and bulleted lists. It is unlikely that a New Jersey web page would require even that level of detail considering the less structured nature of foreign credentialing workflow in the United States.

The State of New Jersey should adopt the Alberta paradigm and create a similar web page for foreign professionals seeking employment in the United States that is specifically geared toward immigrants who target New Jersey as a destination. The information presented for the New Jersey web-page will require adaptation to reflect New Jersey and United States rules and information. For example, the Alberta website contains information specifically aimed at Americans who seek to immigrate to Alberta, and Alberta has a government agency, called the International Qualifications Assessment Service (IQAS), that performs education evaluations in a way that no US

²³ Alberta Canada, “Alberta’s Official immigration website.” Alberta, Canada, (Alberta Canada n.d.)(accessed 10 October 2008).

²⁴ Alberta Canada, “Recognition of Credentials.” Alberta, Canada, (Alberta Canada n.d.)(accessed 10 October 2008).

or New Jersey based government agency provides.²⁵ The New Jersey equivalent site should mimic the majority of the design framework displayed on the Alberta Office's site. Sections containing information about how to find a job, occupations, self-employment, temporary foreign workers, the workplace, jobs, and industry sector fact sheets should be retained. Similar before and after arrival checklists should be developed along with an extensive frequently asked questions page. Links to documents and publications should be present, along with links to other New Jersey and United States government agencies applicable to the process. A later phase version of the New Jersey site could be expanded to include some of the "softer" features of the Alberta site, for example sections containing immigrant success stories, links to news items, direct links to job searching web-sites, and even more expanded State specific advice.

The State of New Jersey should also adopt and combine elements that are successfully applied by the American Physical Therapy Association by honing the credential review options and creating a single point of internet presence for those seeking information about foreign credentialing the same way that the Canadian Province of Alberta does. The greatest aspect of the American Physical Therapy Association's process for credentialing foreign professionals is the way it limits and endorses the number of foreign credential evaluation services. The State should clearly and explicitly reference a limited number of evaluators and certify them as authoritative in New Jersey. Whether New Jersey based firms have the expertise to

²⁵ Alberta.ca, "International Qualifications Assessment Service (IQAS)." Alberta.ca, (Alberta Canada n.d.)(accessed 10 October 2008).

perform these evaluation services may be taken into consideration in designating approved evaluators. The State may want to work with the many professional organizations that operate within its jurisdiction to adopt those same evaluation services, or at least encourage them to create a limited and clear list of evaluation services of their own choosing. The State should create a website or sub-website similar to that of the Alberta Province that covers the key pieces of information that new immigrants to New Jersey require called “Immigrate to New Jersey”. The “Immigrate to New Jersey” would provide critical information to persons considering coming to New Jersey, and might be as extensive or in-depth as the Alberta site in its pilot release. As the web presence matures, New Jersey should strive to ultimately create a site as robust as the Alberta one, including white papers, demographic information, links to New Jersey employment sites, and other soft elements such as anecdotal articles about the success of recent immigrants to New Jersey. The requirement to have foreign educational credentials evaluated is universal, regardless of any additional exams, residencies, or criteria required by specific professional organizations. By sharpening that process and providing clear guidance for the credential evaluation phase for the new immigrant, the State will immediately eliminate a lot of confusion, wasted time, and risk to the immigrant. When the “Immigrate to New Jersey” website is completed, the immigrant will have a single authoritative source for discovering how to have their credentials evaluated, how to proceed, and who to contact for the next steps in transferring into a similar professional job in the United States.

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<http://www.nj.gov/education/educators/license/reciprocity/> (accessed October 12, 2008).

State of New Jersey Department of Education. *Licensure & Credentials Document Number 1145*. <http://www.state.nj.us/education/educators/license/1145.htm> , State of New Jersey Department of Education.

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<http://www.nj.gov/education/educators/license/> (accessed October 12, 2008).

Adult Education for Immigrants

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New Jersey has a long history of supporting the education of adult immigrants and the state has long recognized the importance of developing English, literacy and the other skills needed support full integration of immigrants from all communities. At the start of the 20th Century (in 1907) New Jersey was the first to establish a state-funded immigrant education system, and as we move into the 21st Century the state has an opportunity to once again provide a model for the rest of the nation.

Adult immigrants come to New Jersey with different resources, strengths, and needs. Some have advanced degrees in their own countries, and indeed, adult immigrants in New Jersey have a higher average level of education than immigrants in other states.¹ On the other hand, there are immigrants who come to the state with limited education in their own country, and some have limited literacy skills in any language. Regardless of their background, however, many of these immigrants need some help in becoming fully participating citizens of the state. Programs that offer English, literacy, citizenship or job training classes are essential if immigrants are to realize their full potential and if the state is to take full benefit of their commitment to making a new home in New Jersey. For example, studies note that immigrants with English proficiency make 13 – 24% more in income than those without English proficiency.² Not surprisingly, English proficiency also supports a stronger attachment to the

¹ Espenshade, T. (1997). *Keys to Successful Immigration: Implications of the New Jersey Experience*. The Urban Institute

² McHugh, M., Gelatt, J., & Fix, M. (2007). *Adult English Language Instruction in the United States: Determining Need and Investing Wisely*. Washington, DC: Migration Policy Institute

workforce.³ From a different perspective, parents who have increased their English skills through family literacy programs have been found to participate more in the life of their children's schools.⁴ Parents play a key role in the intergenerational transfer of knowledge. Efforts to improve outcomes and decrease drop-outs in K-12 schools should thus include support for parents. Finally, in New Jersey, there are large numbers of adult immigrants who are on the path to citizenship. Currently, 373,000 that are already eligible and 134,000 are soon to be eligible.⁵ A key aspect of naturalization is mastering English, and recently the citizenship test was made more difficult to pass. Without the proper language and content area support (e.g., US history, government, etc.) many of these potential citizens will be not be able to naturalize. For the reasons noted above, we call on New Jersey to develop a system that supports adult immigrants across their lifespan and through multiple types of education. This needs to be done in a judicious manner, so that we make best use of the resources we have and target specific areas for increases in spending and coordination.

Background Information:

Current data suggests that the need for English classes outstrips the classes that are being offered. In 2006, statewide there were 747,018 working age adults who have Limited English Proficiency (LEP), or 13.6% of all 18-64 year olds.⁶ There are an estimated 25,265 adults

³ Ibid

⁴ Shanahan, T., Mulhern, M., & Rodriguez-Brown, F. (1995). Project FLAME: Lessons learned from a family literacy program for linguistic minority families. *Reading Teacher*, 48, 586-593.

⁵ Montalto, N. (2006). *Out of the Many, One: Integrating Immigrants in New Jersey*. Washington, DC: National Immigration Forum.

⁶ Source: 2006 American Community Survey, Measure C16004: Age by language spoken at home by ability to speak English for the population 5 years or older

currently enrolled in state-administered ESL programs.⁷ Not surprisingly, given the disparity between the number of LEP individuals and the number of those enrolled in English language classes, there are reports of long waiting lists at programs that do offer ESL. For example, one survey found some 20% of respondents having difficulty finding ESL support.⁸ Additionally, although there is lot of emphasis on getting immigrants into the workforce, immigrant participation in programs covered by WIA Title 1 is low.⁹ Immigrants do not need to be convinced of the need to learn English or develop job skills – they need opportunities and access. As a first step, the State needs to take a clear accounting of how many more seats are needed to reduce waiting lists and provide appropriate classes for all that want them. This should be done in partnership with immigrant communities in order to get a full sense of what classes are being offered and what resources communities already have.

Even before the results of such a needs analysis are known, it is clear that the State should expand the support it already provides and re-invigorate programs that have been in place. For example, the Evening School for Foreign Born Residents grant is limited to \$211,000 at the state level, with a maximum of \$5,000 per school district that match the grant dollar-for-dollar – this number has remained low even while the number potential students is rising. Even more problematic, the set-aside specifically earmarking the funds for adult high schools was removed three years ago. Now local school district administrators can utilize these funds for any purpose including “No Child Left Behind” or an array of other programs. Consequently, many

⁷ Office of Vocational and Adult Education, Division of Adult Education and Literacy (2006). State-administered Adult Education Program, Program Year 2003-2004 Enrollment.

⁸ South Asian Americans Leading Together (ND). *A Community of Contrasts: South Asians in New Jersey*. Retrieved on November 14, 2008, from www.fundfornj.org/files/saaltnpjpdf.pdf

⁹ Asian American Justice Center (2007). *Adult Literacy Education in Immigrant Communities: Identifying Policy and Program Priorities for Helping Newcomers Learn English*. Washington, DC.

adult high school programs around the state have ceased to operate. The closing of Adult High School programs jeopardizes the state's ability to use federal funding (the Title II Program for Adult Basic Skills) and diminishes the State's overall capability to provide meaningful opportunities for adult learners to earn a high school diploma and the skills necessary to fully participate in our economy and our society. For many adult immigrants, these adult high schools provided the best access to English, literacy and other classes that they need. The State should move to increase its support for adult high schools and other programs that successfully provide educational opportunities for immigrant adults. The State should also include immigrant adult students in programs that support the transition from adult basic education to post-secondary programs. This is necessary because studies have shown that the real economic benefit of getting a GED is that it allows for entering post-secondary programs (rather than having a GED as a terminal degree).¹⁰

As part of the needs analysis suggested above, the State should review how other changes in state policy (e.g., the creation of the Consolidated Aid line of the budget, the transfer of federal adult basic education money into Department of Workforce and Labor, the creation of regional consortia) has impacted the ability of immigrant adults to access educational programming. Regional variations in access appear to be a growing issue. At the same time that recent waves of immigrants have moved directly into suburbs and exurbs (bypassing cities), there are counties with no ESL programming. For that reason the state needs to develop a clear sense of what is happening on the ground, and revisit relevant policies.

¹⁰ Tyler, J. (2005). The General Educational Development (GED) Credential: History, Current Research, and Directions for Policy and Practice. In J. Comings, B. Garner, & C. Smith (Eds), *Review of Adult Learning and Literacy, Vol 5*, pp. 46 – 84. National Center for the Study of Adult Learning and Literacy. Mahwah, NJ: Lawrence Erlbaum Associates.

In addition to increasing slots in programs, the state need to examine the intensity of education provided. Research indicates that it takes 110 hours for learners to gain one level of English competency.¹¹ So depending upon a student's background, it could require 500 – 1000 hours to gain high level of English proficiency.¹² This process takes longer than most people think, and many people do not recognize the complexity of the language that is required to survive in most contemporary workplaces (compared to employment situations earlier in the 20th century). A short time spent studying ESL will only produce modest gains, while the intensity of the program is associated with larger gains.¹³ In countries like Australia and Germany immigrants are eligible for over 600 hours of education.¹⁴ New Jersey should also make a commitment to provide at least 600 hours, and determine what that means in terms of required resources. For example, within the state, Mercer County estimates that it would need 60,000,000 hours to address the English language class needs of its residents, at the cost of \$3.2 Million.¹⁵ The needs analysis should include a study of how many hours would be necessary to address the English language needs of adult immigrants across the state, and what can be reasonably provided.

¹¹ Comings, J., et. al (2000). *New Skills for a New Economy: Adult Education's Key Role in Sustaining Economic Growth and Expanding Opportunity*. Boston, MA: Massachusetts Institute for a New Commonwealth.

¹² Asian American Justice Center (2007). *Adult Literacy Education in Immigrant Communities: Identifying Policy and Program Priorities for Helping Newcomers Learn English*. Washington, DC.

¹³ Purcell-Gates, V., Degener, S., Jacobson, E., & Soler, M. (2002). The Impact of Authentic Adult Literacy Instruction on Adult Literacy Practices. *Reading Research Quarterly*, 37(1), 70 - 92.

¹⁴ McHugh, M., Gelatt, J., & Fix, M. (2007). *Adult English Language Instruction in the United States: Determining Need and Investing Wisely*. Washington, DC: Migration Policy Institute

¹⁵ Mann, A. (2008). *The Faces of Immigration in Mercer County*. Trenton, NJ: New Jersey Policy Perspective.

Although new funding will have to be made available, the State can also increase the availability of educational opportunities through better coordination of existing programs, allowing the state to make maximum use of the resources it already has. For example, there are issues with the availability of public transportation, and the timing of classes – even when there are slots available, potential students cannot take advantage of the because they cannot access them. The state should take a lead in coordination between programs, public transportation, and employers. It is also possible for the State to increase educational opportunities by supporting partnerships within the state that do not require new ESL classes being created. For example, in California the “Eating Well, Living Well” project brings together health educators and ESL teachers to collaborate on community-based health education. This effort is sponsored by the Healthy California Nutrition Network for Healthy, Active Families (part of the Department of Public Health). Without requiring whole new funding lines, such synergies can meet multiple outcomes. Similarly, better coordination will help students get into the programs that fit them. Across the nation and across the state, students are often placed in classes or programs that have slots, regardless of their own level.¹⁶ Some end up in classes for people who are on welfare or unemployed, even though they are already working.¹⁷ Revisiting the structure of these programs would likely improve educational options without increasing the cost of running them.

As noted above, one key area that the State can support is vocational training and workplace literacy programs for adult immigrants. Increases in language skills are related to

¹⁶ Asian American Justice Center (2007). *Adult Literacy Education in Immigrant Communities: Identifying Policy and Program Priorities for Helping Newcomers Learn English*. Washington, DC.

¹⁷ Montalto, N. (2006). *Out of the Many, One: Integrating Immigrants in New Jersey*. Washington, DC: National Immigration Forum.

improved earning for both the individual and the company.¹⁸ Benefits include safer and healthier workplace, reduced absenteeism, and increased organizational flexibility. As part of this effort, the State should create opportunities for students to be concurrently enrolled in vocational and ESL classes, which has been found to increase student development.¹⁹ These programs should be provided through State grants and employer partnership grants, which are specifically to be used for the development and implementation of workplace ESL programs. The State already has a number of grant programs offered through the New Jersey Department of Labor and Workforce Development (e.g., the Competitive Literacy Skills Training Grants, Supplemental Workforce Fund for Basic Skills, the Competitive Customized Training Grants, etc.) and current programs should be examined to see how well they are meeting the needs of adult immigrant learners.

Although entering the workforce is important, it is not the only reason for education. There are seniors in immigrant communities that will never enter the workforce. For example, among South Asian communities in New Jersey, half of all seniors are LEP.²⁰ Although the State will not benefit in terms of employment, there are clear health benefits from getting elderly immigrants out of their homes and into contact with other people. This is an example of where natural collaborations can occur – education programs should collaborate with departments that work with seniors. Regardless of their age, these fellow residents of the state might need help to join the life of the community. The same is true for all residents who want to become citizens.

¹⁸ Bloom, M., Burrows, M., Lafleur, B. & Squires, R. (1997) "The Economic Benefits of Improving Literacy Skills in the Workplace." Ottawa, Ontario: Publications Information Center, Conference Board of Canada.

¹⁹ Chisman, F. & Crandall, J.A. (2007). *Passing the Torch: Strategies for Innovation in Community College ESL*. New York: Center for the Advancement of Adult Literacy.

²⁰ Testimony to the New Jersey Blue Ribbon Panel on Immigrant Integration, December 10, 2007, pg. 16. Citing U.S. Census 2000, Summary Files 1- 4. Figures calculated on race alone or in combination.

Although citizenship classes can help students pass the test, these classes should prepare students for life after becoming a citizen. Such classes can coordinate with larger efforts aimed at integrating immigrants into the democratic fabric of the state.

Finally, the state can maximize its support for adult immigrant learners by fully funding professional development for adult educators. Most teachers that work with adult learners across the state are part-time, and they do not have to have any accreditation in ESL or adult education. In the long term, the State should explore the benefits and costs of accreditation for adult educators. In the short term, professional development is crucial to improve the quality of education offered in classrooms. For example, while studies show that a student's native language can be helpful in class²¹ and that students benefit from the use of real-life materials,²² teachers often make limited uses of those resources. Teachers need help to change this and other aspects of their practice (such as moving from generic workbooks to using more New Jersey specific texts.²³) Professional development must entail more than one-shot workshops, which do little to change teachers' practice,²⁴ and should include opportunities to work together in on-going projects. For example, at the State's workforce learning institutes and centers, much of the instruction is computer-based. We do not know how effective this is for second language learners. To address this issue, teachers could be provided support to conduct classroom-based

²¹ Condelli, L., Wrigley, H.S., Yoon, K., Cronen, S., & Seburn, M. (2006). *"What Works" Study for Adult ESL Literacy Students*. Washington, DC: American Institutes for Research.

²² Purcell-Gates, V., Degener, S., Jacobson, E., & Soler, M. (2002). The Impact of Authentic Adult Literacy Instruction on Adult Literacy Practices. *Reading Research Quarterly*, 37(1), 70 - 92.

²³ Asian American Justice Center (2007). *Adult Literacy Education in Immigrant Communities: Identifying Policy and Program Priorities for Helping Newcomers Learn English*. Washington, DC.

²⁴ Smith, C.; Bingman, M. B.; Hofer, J.; and Medina, P. (2002). *Connecting practitioners and researchers: An evaluation of NCSALL's Practitioner Dissemination and Research Network*. Cambridge, MA: National Center for the Study of Adult Learning and Literacy (ED 469 857).

research projects. Information and insights gained about using computer-based instruction with immigrant learners would benefit the state as a whole. To support adult learners, the state must support teachers that work with adult learners.

Recommendations

*** The state should work in partnership with immigrant communities to determine productive ways to respond to the needs of adult learner and potential adult learners.**

*** The state should conduct a fully coordinated needs analysis, with the goal of identifying how much of the demand for English language education is being met and where there are gaps in programming.**

*** The state should support a full range of learning opportunities for adult immigrants (including family literacy, citizenship classes, and job training programs) and provide support for the transition to post-secondary education.**

*** The state should increase funding in programs that provide the best service for immigrant adults (based on the results of the needs analysis).**

*** The state should support collaborations between departments that increase learning opportunities for adult immigrants.**

*** The state should support professional development for teachers that work with adult immigrant students.**



RUTGERS
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Colloquium US Immigration Policy
Dr. Christine Thurlow Brenner

Local Day Labor Worker Centers

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Problem Statement

Day laborers are some of the state's most vulnerable citizens, especially day laborers who are also immigrants. They are contingent workers, primarily recent immigrants, employed in a variety of sectors and industries, including manual labor, construction, service industries, and factory work¹. Most often, day laborers have limited English proficiency and other skill sets, and they seek jobs on street corners, in parking lots, and in public rights-of-way². These temporary labor marketplaces have both real and perceived spillover effects on the host community, and in New Jersey, the informal portion of the day labor market is unregulated.

Contingent Employment in New Jersey

Day labor, as referenced in this report, is the term used to define the contingent daily or temporary employment of workers. This practice evolved since medieval times³ and was estimated in 2006 to be the employment process for approximately 117,000 people in the United

¹ Abel Valenzuela, et al. *On the Corner: Day Labor in the United States* (Los Angeles: University of California, Los Angeles Center for the Study of Urban Poverty, 2006), 34.

² Ibid, 34.

³ Abel Valenzuela, *Day Labor Work* (Los Angeles: University of California, Los Angeles, 2003), 312.

States⁴. This report will focus on the community interventions in the informal day labor market that connects workers and employers in New Jersey. This report will not focus on the formal sector of the day labor market that is facilitated by temporary employment agencies.

Background

With the current economic crisis, the unregulated status of the day labor market is of greater issue. Rising unemployment, a decreased number of jobs available across sectors, and a focus on cutting costs by using cheaper labor brings a heightened awareness of the public issues that come with day labor⁵. Immigrant integration policy, therefore, must take into account the competing desires of stakeholders, and incorporate meeting the demands of the local labor market by addressing the concerns of community members and businesses, and respecting the dignity, human and labor rights of day laborers.

Political concerns and the sometimes emotional nature of immigrant relations in New Jersey demand a consensus-driven, community solution to the objective of regularizing and structuring certain aspects of the temporary labor market. This report will explore worker centers as a way to address community integration. Worker centers are “community-based and community-led organizations that engage in a combination of service, advocacy and organizing to provide support to low-wage workers,” and offer a positive solution for municipalities seeking to regularize this often chaotic employment practice⁶. By involving all stakeholders, worker centers establish a place for immigrant laborers and others to seek gainful employment; they serve as

⁴ Arturo Gonzalez. *Day Labor in the Golden State* (San Francisco: Public Policy Institute of California, 2007), Web Appendix B, located at: http://www.ppic.org/content/other/707AGEP_web_appendix.pdf.

⁵ Kirk Semple. “With Economy, Day Laborer Jobs Dwindle,” *New York Times*, October 19, 2008.

⁶ Janice Fine, *Worker Centers: Organizing Communities at the Edge of a Dream* (Ithaca, London: Cornell University Press, 2006), 2.

mediating institutions, which advocate for the low wage worker, and interface with the larger community⁷. Worker centers enable the temporary labor market to function in a more equitable and effective way, and serve an important role in integrating immigrants into the life of a community.

Community Issues in New Jersey

Meeting the Demands of the Local Labor Market

Historically, informal shape-up sites like street corners where laborers gather to seek work have existed throughout communities in the United States, most often situated near worksites as well as existing community institutions, such as homeless shelters and welfare offices⁸. Recent trends in human resource management and the current state of the economy contributed to a rise in non-standard work arrangements across all sectors⁹. As a result, the population of day laborers has grown increasingly diverse, as have organizing locations and the consequences on the host communities¹⁰. Formalizing the temporary labor market through worker centers offers the opportunity to address community issues and the economic future of the state¹¹. For the most tailored and effective policies, day laborers, those that employ day laborers, and community members need to have a role in crafting local public policy responses. Stakeholder involvement helps to increase investment in community institutions and projects, and is highly important for a project's success. These groups include: local community members, businesses, unions, community- and faith-based organizations, immigrant advocacy groups, and day laborers.

⁷ Ibid, 245.

⁸ Nikolas Theodore. "A Fair Day's Pay? Homeless Day Laborers in Chicago," (University of Illinois at Chicago: Center for Urban Economic Development. 2000).

⁹ Ibid.

¹⁰ Abel Valenzuela. "Controlling Day Labor: Government, Community and Worker Responses" in California Policy Options 2001, eds. Daniel J.B. Mitchell and Patricia Nomura, (Los Angeles: UCLA Anderson Business Forecast and School of Public Policy and Social Research, 2001).

¹¹ Valenzuela, *Day Labor Work*.

For instance, choosing a convenient location for employers and potential employees to come together is paramount, and must incorporate transportation routes, such as interstate highways and public transit lines¹². Day laborers must also be directly involved in establishing the center and setting the rules in order to address the resistance of joining worker centers or other organizing efforts for fear that in queuing, they may lose their competitive edge and become less attractive to employers¹³. Employers are attracted to employing day laborers because they are cheaper than contracted employees, in terms of salary, health and injury benefits¹⁴. As such, some employers have been documented to employ fewer day laborers once a formal structure is in place, as the presence of worker centers can lead to higher wages, and more protections and rights offered to workers.¹⁵ It is important to maintain the aspects of day labor that are appealing to employers—“their flexibility, accessibility, and low cost”—while advocating for workers’ and community rights¹⁶. Human rights of day laborers are addressed further in this report. In terms of the market and economic benefits, companies, individuals and communities benefit from a more organized hiring process.

Addressing the Concerns of Community Members and Businesses

Researchers identify worker centers as beneficial to not only the businesses and workers involved, but the greater community as well. Valenzuela highlights the attraction of services that day labor centers provide, including: shelter, bathrooms, food, tool exchanges/borrowing, and

¹² Leslie Wimmer. “City investigating day labor center alternatives,” *Fort Worth Business Press*, September 22, 2008.

¹³ Valenzuela, *Day Labor Work*, 327.

¹⁴ Valenzuela. *Day Labor Work*, 325.

¹⁵ Fine. *Worker Centers*, 73.

¹⁶ Abel Valenzuela, National Day Labor Organizing Network, “*Day labor myths*,” http://ndlon.org/index.php?option=com_content&view=category&layout=blog&id=62&Itemid=79.

assistance with wage disputes, setting minimum wage standards, and negotiability of wages¹⁷. Increased business activity for the sponsoring agency strengthens the feasibility and benefits of entering into an agreement to run a day labor center, whether it is city/municipal, community-based or a private entity.

Immigrant Latino day laborers in New Jersey demonstrate the connection between the barriers that immigrants face upon moving to the United States and day labor work¹⁸. The two-fold disadvantages of immigrant day laborers in New Jersey, both the physical and societal barriers, are elaborated on further in this report. The United States General Accounting Office reports that many day laborers in the United States are young Hispanic men with limited educational skills and significant language barriers, with some portion also being undocumented¹⁹. Although it also reported that most of these men are responsible community members, many business owners and residents view day laborers with scorn and fear²⁰.

Members of neighborhoods where day laborers congregate fear that immigrants may bring down property values, take jobs from local residents, drive wages down, and cause various problems on the street corners, including: loitering, noise, public urination, and rushing cars of potential employers in parking lots²¹. The divide between community groups and day laborers is apparent through these tensions and misconceptions and can lead to conflict and political pressure, as evident in anti-immigrant ordinances in changing communities, such as the events that have been

¹⁷ Valenzuela, *On the Corner*.

¹⁸ Michele Ochsner, et al, *Immigrant Latino Day Laborers in New Jersey* (New Brunswick: Occupational Training and Education Consortium School of Management, Labor Relations Rutgers University, 2008).

¹⁹ United States General Accounting Office, "Worker Protection: Labor's Efforts to Enforce Protections for Day Laborers Could Benefit from Better Data and Guidance," (Washington, D.C.: September 2002), 2.

²⁰ Ibid.

²¹ *Police Chiefs Guide to Immigration Issues* (Alexandria: International Association of Chiefs of Police, July 2007), 16.

unfolding in the Riverside, NJ community in recent years²². According to Valenzuela, community disputes and tensions tend to dissipate with the creation of day labor centers, as the issue of loitering while soliciting work is effectively made “invisible²³” by organizing the ad-hoc labor market²⁴.

Therefore, when creating coalitions for involvement in the process of establishing a worker center, Fine stresses the importance of including influential community members, such as the police, city council members, leaders of communities of faith, immigrant advocacy groups, local business and neighborhood associations and day laborers themselves²⁵. Worker centers function best when incorporated into the community structures that govern everyday life, such as existing social organizations. According to Fine, worker centers in general draw in those that have been harder to organize into traditional labor unions²⁶. By crafting a community centered approach, New Jersey communities are able to address vital labor and community relations issues. By offering tools to all community members, a cohesive, equal environment is established.

Respecting the Dignity, Human and Labor Rights of Day Laborers

Disadvantages for day laborers encompass the danger at informal locations, demographic challenges of immigrant groups and the cycle of poverty that is inherent in the contingent labor market²⁷. Physical dangers from the current unorganized approach include health and safety violations by employers, unfulfilled compensation for work, arbitrary charges for transportation

²² Toni Callas. “On guard in Riverside,” *Philadelphia Inquirer*, July 29, 2006.

²³ Valenzuela, *Day Labor Work*.

²⁴ Anonymous Editorial, “Day Laborers and Home Depot,” *New York Times*, August 13, 2008.

²⁵ Janice Fine, “A Marriage Made in Heaven?: Mismatches and Misunderstandings between Worker Centres and Unions,” *British Journal of Industrial Relations* 45 (2) (2007): 335-360.

²⁶ Nicholas Montalto, “Out of Many, One: Integrating Immigrants in New Jersey,” (Washington, D.C.: National Immigration Forum, New Jersey Immigration Policy Network, 2006), 19.

²⁷ Theodore. *A Fair Day’s Pay?*

and contracting by temporary employment agencies, and the lack of workers' compensation insurance in the case of physical injury on the job²⁸. For immigrants, additional harassment and fear of deportation are documented and are permitted by the informal market²⁹. In *On the Corner: Day Labor in the United States*, Valenzuela reports that one in three day laborers experienced theft of wages, while one in five experienced a serious worksite injury in 2006³⁰. How to stem the growing number of injuries, fatalities, and abuses of immigrant day laborers and how to fully integrate them into the labor workforce are increasingly important issues in New Jersey.

The often exploitive conditions that exist for immigrant day laborers point to a moral dilemma for New Jersey communities³¹. The chaotic hiring procedure and compensation issues for day laborers do not square with societal norms of what is right for the individual worker or the future of the state. Because private market temporary hiring agencies do not regulate employment conditions or temporary employee rights, there is a need for community institutions that allow for organization, training, and protection from discrimination and wage and overtime violations and for injury or disability benefits³². Contemporary scholars agree that that day labor centers provide a safe place for laborers to congregate and look for work: a place that shields them from extreme temperatures, where non-payment and underpayment of wages are less likely to occur³³. In a comprehensive study of services offered by worker centers, Fine lists the scope of services offered, including: legal services and clinics, English as a second language classes, education on

²⁸ Gonzalez, *Day Labor in the Golden State*.

²⁹ Easton, Terry. *Geographies of Hope and Despair: Atlanta's African American, Latino, and White Day Laborers*. 2007.

³⁰ Valenzuela, *On the Corner*.

³¹ Montalto, *Out of Many, One*, 18.

³² Valenzuela, *On the Corner*, 325.

³³ Easton, *Geographies of Hope and Despair*.

immigrant and worker rights and community organizing, employment services, citizenship training, health education and services, and cooperative lending and financial aid programs³⁴. Additional benefits of worker centers include assurance of fair wages, integration services such as training for workers, and increased participation in community and democratic structures³⁵. By conducting needs assessments for New Jersey communities on a state and local levels, particular community issues can be addressed through worker centers and the “match-making” services that they provide by networking with other service providers³⁶.

Best Practices

Policy goals can be refined to address the issues that surround worker centers and increase the equitable treatment of contingent workers and their ability to earn a living wage in New Jersey³⁷. By looking at municipal and state responses, New Jersey can explore the successes and issues of worker centers in order to identify and help to support centers that are effective and efficient in meeting the needs of the members of the community, various organizations, and the day laborers themselves. Occupational, health and safety advocates, and researchers find that drawing on existing social networks is important in overcoming distrust of individuals and groups outside the immigrant community. Outreach through worker centers and other community-based advocacy organizations is one successful strategy for reaching immigrant workers, so that they may integrate successfully into New Jersey communities and gain the skills to progress into the formal labor market³⁸.

³⁴ Fine, *Worker Centers*, 74-93.

³⁵ Ochsner, et al, *Immigrant Latino Day Laborers in New Jersey*.

³⁶ Fine, *Worker Centers*, 93.

³⁷ Easton, *Geographies of Hope and Despair*.

³⁸ Ochsner, et al, *Immigrant Latino Day Laborers in New Jersey*.

Interdepartmental Sharing: Illinois Day and Temporary Labor Services Act

The Illinois Day and Temporary Labor Services Act of 2000³⁹ and its recent amendments created a model of state collaboration for immigrant integration and earned the state the status of “most aggressive state...to end abuses against day laborers”⁴⁰. As of 2006, “approximately 150 day labor and temporary labor service agencies with nearly 600 branch offices are licensed throughout Illinois”⁴¹. The act aims to decrease the abuses of day laborers by these agencies by addressing a gap in law enforcement authority to protect employment rights. This act does not incorporate non-profit or unlicensed day labor agencies⁴², but was extended in 2005 through amendments to the Day and Temporary Labor Services Act and the Illinois Prevailing Wage Act to carry more penalties for licensed agencies for non-compliance⁴³. The acts had a distinct impact on the day labor market, as evidenced through increasing literacy of employers of requirements in hiring day laborers⁴⁴.

Illinois has also been heralded for its non-profit community organizing of immigrants through the New Americans Initiative of the Illinois Coalition for Immigrant and Refugee Rights. The state of Illinois adopted the program, and now funds services to “integrate newly arrived immigrants into mainstream society through English courses, citizenship classes and other

³⁹ Joint Committee on Administrative Rules, “Title 56, Chapter 1, Subchapter B., Part 260: Day and Temporary Labor Services Act,” (Springfield: Effective April 17, 2000, amended May 29, 2008), <http://www.ilga.gov/commission/jcar/admincode/056/05600260sections.html>.

⁴⁰ Cairo Gate. *New Illinois labor laws protect workers and wages*. Cairogate.com. December 29, 2005.

⁴¹ Josh Cable, “Illinois Law Aims to Protect Temporary Laborers,” *EHS Today: Magazine for Environment, Health and Safety Leaders*, June 9, 2005.

⁴² Day and Temporary Labor Services Act. Justia.com. January 2006.

⁴³ Office of the Governor, Illinois. *Gov. Blagojevich applauds General Assembly for productive session*. May 31, 2005.

⁴⁴ Kelly Powis, “Client Memorandum: Hiring Temporary Workers in 2006,” *Gardner Carton and Douglas*, December 2005, <http://www.drinkerbiddle.com/files/Publication/6b8b23e7-6ba3-481d-a2c3-16e593958ed9/Presentation/PublicationAttachment/a931107b-35a7-4b32-9d94-a0e19049b0c9/HiringTemporaryWorkers.pdf>.

programs”⁴⁵. By creating a network of small organizations, the New Americans Initiative reaches out to a wide scope of immigrant groups, and addresses community issues in a responsive way. The two-fold approach the Illinois has taken to protect and integrate immigrants into mainstream society has proven successful and a community-wide concern, as seen through the bipartisan support of the initiative⁴⁶.

Federal-State Shared Funding: New Iowan Centers

The New Iowan Centers (NICs) were established in 2006 through United State Department of Labor funding to the Iowa Workforce Development, after multiple successful pilot projects were implemented in the state⁴⁷. NICs provide assistance to individuals, employers, and communities through education, job placement, immigration assistance, other services by center, and link new Iowans to other service providers⁴⁸. Immigrants are recognized as “critical to Iowa’s long-term social and economic health,” and NICs are instrumental in community adaption and integration by offering skills to speed integration and services to spread economic growth⁴⁹. As of 2007, NICs exist in eight communities, and will be expanded into three more⁵⁰. Branching out by forming collaborations with the Iowa State University extension offices, NICs will be able to provide educational services to immigrant business owners⁵¹. Location and collaboration within the Iowan government enables the success of the NICs, as they are located within local One-Stop

⁴⁵ Chicago Tribune, “Illinois Coalition for Immigrant and Refugee Rights,” <http://www.chicagotribune.com/topic/politics/migration/illinois-coalition-for-immigrant-refugee-rights-ORCIG000021.topic>

⁴⁶ Luvia Quinones. “What is the New Americans Initiative?” (presented at the “Immigrant Civic Participation: A Challenge for New Jersey and the Nation” Conference, October 20, 2008).

⁴⁷ Legislative Fiscal Bureau, “Fiscal Update,” (Des Moines: Iowa Legislature General Assembly, February 6, 2001), 5.

⁴⁸ Iowa Workforce Development, “Services Available at the New Iowans Centers,” <http://www.iowaworkforce.org/centers/newiowan/services.htm>.

⁴⁹ Mark A Grey, *Iowa’s Workforce and the Economy*, (Des Moines: Workforce Data and Business Development Bureau, Iowa Workforce Development, 2007), 47.

⁵⁰ *Ibid*, 48.

⁵¹ *Ibid*.

Career Centers so that partnerships with One-Stop career centers, local community-based organizations, and local Chambers of Commerce to develop regional strategies⁵². Community response to NICs has been positive, as the state recruits immigrants to bolster their growing economy and guard against a shrinking workforce⁵³.

Community Partnerships: Wind of the Spirit Immigrant Resource Center, Morristown, NJ

Morristown, New Jersey, is a contentious space for immigrants and day laborers. Documented as far back as February 2006⁵⁴, vocal public opposition to day laborers' presence in Morristown is an example of the community conflict that stems from misunderstandings surrounding day labor. Wind of the Spirit Immigrant Resource Center worked in Morristown to empower day laborers by informing them of their labor rights and striving to develop community cohesion.

By bringing media attention to the fear that many immigrants have of local law enforcement, Wind of the Spirit was able to voice the concerns of day laborers and suggest ways to improve the quality of life for the whole community⁵⁵. It is well documented in the criminal justice literature that fear of police has direct relationship to one's willingness to cooperate with police and report crimes⁵⁶. The Center organized community groups, immigrants, and immigrant advocates to rally against controversial law enforcement policies in the municipality. Besides developing community cohesion, Wind of the Spirit also empowered immigrants to advocate for

⁵² Barbara Bobb, *New Iowan Centers*, (Des Moines: Iowa Workforce Development, January 2006).

⁵³ Bill O. Hing, "Answering challenges of the new immigrant-driven diversity: considering integration strategies," *Brandeis Law Journal* 40 (861), (2002), 861-907.

⁵⁴ Rob Seman, "Workshop held to explain, teach immigrant rights," *Daily Record*, February 26, 2006.

⁵⁵ Michael Daigle, "Day worker crackdown stirs angst in Morristown," *Daily Record*, November 7, 2006.

⁵⁶ Brad W. Smith & Malcolm D. Holmes, "Community Accountability, Minority Threat, and Police Brutality: An Examination of Civil Rights Criminal Complaints," *Criminology*, 41 (4), (2003), 1035-1064.

themselves by increasing awareness of their political rights and avenues for change in American society⁵⁷.

The results of this community action are far-reaching. The recent campaign for day laborers' rights, in light of the municipality's bid to deputize law enforcement officers to enforce United States Immigration and Customs Enforcement (ICE) regulations, is an example of the way that increased civic participation engaged the community for more responsive government⁵⁸. The organization of immigrants and immigrant rights advocates led to federal funding for a day labor center in Morristown from the United States Department of Labor⁵⁹. This two-year commitment shows the investment of the federal government and the community to increase safeguards and fairness in day labor practices in Morristown⁶⁰. Encouragement for this agreement is visible through the AFL-CIO backing of the Center, and further benefits from the Center's campaign for day laborers' rights are predicted to span the community⁶¹.

Pilot State Project for Vibrant Economies and Cohesive Communities: United States Department of Labor and Arkansas Department of Workforce Services

The Arkansas Department of Workforce Services (ADWS) has a mission to "speed the transition of new Arkansans into communities, promote stability and rapid employment with good wages, and enhance economic development"⁶². With funding from the United States Department of Labor (USDOL), the ADWS implemented a pilot welding training program in 2002. This

⁵⁷ Julie O'Connor, "Day laborers in Morristown rally for rights," *Star Ledger*, June 18, 2007.

⁵⁸ J. V. Hughes, "Police Seek Help in Criminal Deportation," *New York Times*, February 24, 2008.

⁵⁹ Maura McDermott, "Alliance aims to ensure labor safeguards," *Star Ledger*, April 6, 2007.

⁶⁰ Minhaj Hassan, "Feds to help underpaid Morristown day workers," *Daily Record*, April 5, 2007.

⁶¹ Paul Brubaker, "Day laborers gain some clout: Union leaders wary of AFL-CIO pact," *Herald News*, August 10, 2006.

⁶² Artee Williams, "Department of Workforce Services 2005 Annual Report: Jobs for People, People for Jobs," <http://www.state.ar.us/esd/Publications/DWS%20Annual%20Reports/2005%20Annual%20Report.htm>.

program and its partnerships were developed by using the New Arkansan Resource Network (NARN). After the initial cycle of training sessions, several trainees were hired by a local welding company in the town where the training was held⁶³. ADWS, with its goal of being the essential provider of employment needs for employers and job seekers⁶⁴, uses its partnership with NARN to build on this goal to “prepare legal immigrants for employment in high-growth industries.”⁶⁵ The centers provide “job placement, translation assistance, language and occupational training, resettlement assistance, and community service referrals” through a grant from the USDOL⁶⁶. By recognizing areas with a high influx of immigrants, identified through the program as Little Rock, Rogers, Russellville and Malvern, the ADWS and NARN aim to offer services to increase the success rate and shorten the timeframe in which new Arkansans are integrated into communities and employment⁶⁷. By targeting areas in transition, the program established a connection between new residents and areas of need in the labor market, and led to further partnerships between private companies, NARN and social service providers in the state⁶⁸.

City-Sponsored, Worker-Run Centers in Austin, Texas

Austin, Texas, has responded to community issues with day laborers through two tax-funded day labor centers, a First Workers' Day Labor Center North and a First Workers' Day Labor Center South. Early construction on the city's convention center in 1990 caused laborers to be displaced

⁶³ Artee Williams, “Arkansas Department of Workforce Services 2007 Annual Report,” <http://www.state.ar.us/esd/Publications/DWS%20Annual%20Reports/2007%20Annual%20Report.htm>.

⁶⁴ Williams, “DWS 2005 Annual Report,” 1.

⁶⁵ Williams, “DWS 2007 Annual Report”.

⁶⁶ Ibid.

⁶⁷ Williams, “DWS 2005 Annual Report,” 3.

⁶⁸ Ouachita Technical College. “Welding Class at DLM” in *At the College Circle: February 2007*, 1.

and more frequent targets of theft by unscrupulous contractors⁶⁹. The request of the City Council's Sixth Street Subcommittee to address the gathering of day laborers on downtown street corners brought about the city planning department staff's recommendation that Austin expand a structured program for those seeking work⁷⁰. The process of coming up with a permanent solution evolved over many years, and included efforts of the city government, residents and other community members, and also the day laborers. With the help of immigrant advocacy groups, the support of residents, and the success of the pilot informal hiring site, the city of Austin created a commission to build a permanent, formal hiring site.

The city officially launched the formal Day Labor Program in April 1998. The program matches workers' skills with employers' needs by issuing each worker an identification card and by collecting each employer's license plate to ensure that the laborers are paid. There is no paperwork for employers to fill out and no fee charged for this service. Employers can also call ahead to request a specific worker with whom they have worked previously. Hourly rates and job specifics or requirements are negotiated between employers and workers. First Workers' success over the years is directly tied to community support and a demand for services provided through the program. First Workers continues to be a model day labor program for the country⁷¹.

The southern center is located on a major freeway with easy access to the facility, which also has drive-through accommodations for its customers. According to the model instituted by Svensson,

⁶⁹ Breaux, Brenda J. "Seeking an Honest Day's Work-Construction Uproots Austin Day Laborers." *Austin American-Statesman*, February 20, 1990, City/State Section, Final Edition, p. B1.

⁷⁰ Garcia, Guillermo X. "Day Laborers Catch City's Eye-Plan Would Discourage Street-Corner Work Force, Employers." *Austin American-Statesman*, February 23, 1991, News Section, Final Edition, p. A1.

⁷¹ City of Austin-Austin City Connection, "Day Labor-Program Overview." Austin City Connection. http://www.ci.austin.tx.us/health/day_labor.htm.

all decisions relating to the center result from the consensus of the workers⁷². The program is now run by the workers themselves with the help of bilingual city staff. Workers participate in the administration of the site, and organize the order of workers and jobs for the day. The democratic nature of the center is apparent in the workers collaboration in writing and enforcing the set of rules to which they voluntarily subject themselves. The workers' commitment to the southern center is apparent in their activities to address the community issues that led to the centers' creation; Workers also patrol the neighborhood in crossing guard-orange safety vests to control against loitering in the surrounding neighborhood and soliciting work outside the day labor site⁷³.

Non-profit Day Labor Center, Pomona, California

The Pomona Day Labor Center, located in Pomona, California is a non-profit organization with the goal to provide safe and fair day laborer employment, and various educational and referral services according to the needs and interests of the day laborers⁷⁴. After passing a city ordinance in late 1997, Pomona decided to create a manageable regulatory policy regarding day labor within city limits. After the passage of the ordinance, various civic and community leaders worked together to design a plan under which the enforcement of the law could be best managed.

⁷² Johnson, Jenny S. "Men at Work: Day Laborer Program Sees Progress." The Austin Chronicle, November 12, <http://www.austinchronicle.com/gyrobase/Issue/story?oid:74654>

⁷² Ibid.

⁷² Pomona Day Labor Center. "Background and history of the Pomona Economic Opportunity Center (PEOC)". Pomona Day Labor Center. http://pomonadaylabor.org/PLC/English?ABOUT_US/History.htm 1999, News section, Home edition. <http://www.austinchronicle.com/gyrobase/Issue/story?oid:74654>

⁷³ Ibid.

⁷⁴ Pomona Day Labor Center. "Background and history of the Pomona Economic Opportunity Center (PEOC)". Pomona Day Labor Center. http://pomonadaylabor.org/PLC/English?ABOUT_US/History.htm

This collaboration of city leadership lead to the establishment and initial endowment of a city-endorsed day labor center⁷⁵.

Prior to the establishment of a day labor center, day laborers and employers alike faced potential safety hazards and misunderstandings; After the center was formed, workers and employers could be paired in a safe and just manner. The Pomona Employment Opportunity Center facilitated the development of health education and outreach programs for day laborers through a \$10,000 grant from the California Foundation. These and other programs were made possible in Pomona through the collaboration of the community, a part-time day laborer health coordinator and a volunteer intern from the nearby Pitzer College⁷⁶.

Public-Private Funding for Five Maryland Day Labor Centers

Maryland has five day labor centers that are run by CASA de Maryland and operated with public and private funding sources. One of its centers emerged in the early 1990s when an informal hiring center in the area ran into difficulties, including complaints by local businesses and raids by the Immigration and Naturalization Service. Before taking on the day labor center's operations, CASA de Maryland organized meetings among participants, neighbors and law enforcement to address the community issues that were developing⁷⁷.

Under the CASA system, workers register by filling out a form outlining their skills, language capabilities, address and phone number; They are then issued a CASA photo identification card. Employers, likewise, must register with CASA before hiring its workers, providing their name,

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ @grass-roots.org. "Groups that change communities: Casa De Maryland." @GRASSROOTS.ORG/Casa de Maryland <http://www.grass-roots.org/usa/casamd.shtml>

address, phone, the type of work and the wage that they are willing to pay. Each day, workers sign in for work and receive a random lottery number; job assignments are then distributed by the lottery system. This process was developed to address the issue of sometimes dangerous, physical competition that is characteristic of some hiring sites⁷⁸.

Recommendations

- 1. Responses to regulate the informal day labor market should be tailored to community needs and be focused on empowering and uniting community members.**
- 2. Funding should be made available to existing community institutions to increase day laborers' access to the mainstream economy and steady, equitable employment in the day labor market.**
- 3. NJ should adopt a similar ordinance to the Illinois law to regulate labor facilities and to protect the payment, health and safety rights of day laborers.**
- 4. Funding should be made available to build the skills and capacity of day laborers, to quicken the transition to full-time employment in the mainstream economy.**

Conclusion

Worker centers in New Jersey offer a vehicle to address the issues that many communities and individuals currently face throughout the state. The recommendations of this report are based on day labor and community research, and can be naturally applied to New Jersey. Established

⁷⁸ Ibid.

organizations throughout the state are already engaged in building the capacity of immigrant temporary workers, and by supporting these efforts the state and local municipalities can decrease the costs and efforts necessary to establish worker centers while maintaining the focus of its efforts. Successful centers in New Jersey, such as those profiled in the best practices section of this report, as well as others, such as CATA (the Farmworker Support Committee)⁷⁹ and New Labor⁸⁰, provide points of entry for the state. It must be noted that although worker centers offer many benefits to communities in transition, some issues must be continually managed. In developing worker center programs, New Jersey entities must be aware that day laborers may continue to look for work informally, and that centers may experience low levels of work, low wages for workers, and issues with leadership, management, and developing a job distribution system. Existing programs such as those profiled in this report provide opportunities for the state to use the innovation and energy of public and private organizations to complement its efforts to respond effectively to the impact of an unregulated day labor market on New Jersey communities.

⁷⁹ CATA-Farmworkers.org. “Organizing.” <http://www.cata-farmworkers.org/english%20pages/organizing.htm>.

⁸⁰ Newlabor.net. “About Us: Educational Programs.” <http://www.newlabor.net/home.php?id=10>.

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RUTGERS
CAMDEN

Colloquium US Immigration Policy
Dr. Christine Thurlow Brenner

Immigrants and Affordable Housing

Kristina Smith and Alison Whittenberg, Rutgers University-Camden

Problem

Throughout New Jersey (NJ), homeownership and renting are huge burdens on immigrant populations, due to the lack of affordable housing. In addition to the problems with the housing supply issue, NJ has the second highest median monthly housing costs in the country and the third highest median rental prices.¹ Statewide, 46.1 percent of homeowners and 48.5 percent of renters spend over 30 percent or more of their monthly incomes on housing costs.² When compared with the rest of the country, these percentages show NJ has the fourth highest mortgage costs and third highest rental costs, with averages nationwide at 37.5 percent and 45.6 percent, respectively.³ Other factors exacerbate the problems of locating affordable housing including: discriminatory landlord practices; anti-immigrant ordinances; exclusionary zoning; overcrowding; and lack of access to credit.

¹ U.S. Bureau of Census, American Fact finder. Selected Median Monthly Housing Costs for Owner-Occupied Housing Units with a Mortgage (Dollars): 2007 & Median Monthly Costs for Renter-Occupied Housing Units (Dollars): 2007. <http://www.factfinder.census.gov>

² U.S. Bureau of Census, American Fact finder. Selected Percentage of Mortgaged Owners Spending 30 Percent or more of Household Income on Selected Monthly Owner Costs: 2007 & Percent of Renter-occupied Units Spending 30 Percent or more of Household Income on Rent and Utilities: 2007. <http://www.factfinder.census.gov>

³ Ibid.

Discriminatory Practices and Anti-Immigrant Ordinances

Discrimination based on national origin, race or color is prohibited by the Fair Housing Act (FHA), which includes refusing to rent, sell, make housing unavailable or deny a dwelling after a bona fide offer has been received.⁴ According to the Department of Housing and Urban Development (HUD) and their 2007 Annual Report of Fair Housing, more than 14 percent of the 10,328 complaints filed throughout the country were due to discrimination based on national origin.⁵ With HUD reporting that minority groups experienced a high degree of adverse treatment, possibly one in every five encounters, Hispanic, Pacific Islander, and Asian renters reported even higher incidents of discrimination.⁶ The HUD report also states the majority of instances of discrimination go unreported, because victims lack the knowledge of their rights and whom they should complain to.⁷

Landlords are increasingly using discriminatory practices to select potential tenants, either basing their choices on their own personal prejudices or adherence to municipal anti-immigrant ordinances⁸. Both practices result in landlords resorting to short-cuts, “such as discriminating based on accent, surname, appearance or other ethnic markers”⁹. Anti-immigrant ordinances, enacted by individual municipalities seen frequently throughout the country as well as New Jersey, have devastating effects on unintended targets. In an attempt to remove undocumented immigrants from a specific area, local officials require landlords to verify the immigration status

⁴ U.S. Department of Justice-Civil Rights Division. Fair Housing Act: Section 804[42 U.S.C. 3604]. Updated July 25, 2008. <http://www.usdoj.gov/crt/housing/title8.php>

⁵ U.S. Department of Housing and Urban Development. Fiscal Year 2007 Annual Report on the State of Fair Housing in America. Pg. 19. March 31, 2008: Washington D.C.

⁶ U.S. HUD, 2007 Annual Report, 17.

⁷ Ibid, 24.

⁸ Rigel C. Oliveri, “Between a Rock and a Hard Place: Landlords, Latinos, Anti-Illegal Immigrant Ordinances, and Housing Discrimination,” *Vanderbilt Law Review*, Vol. 62, No.1 (2008): 3.

⁹ Ibid.

of their tenants and if the ordinance is not followed, then penalties ensue.¹⁰ Through these ordinances, the landlords' failure to identify the status of their tenants could result in monetary fines, revocation of rental licenses, and prohibitions of collecting rent from any tenant. Anti-immigrant ordinances create a sense of fear in a community, specifically for non-white residents with legal residency status and U.S. citizens, who fear harassment and being singled out as a possible criminal or public nuisance.¹¹ Many families find themselves with mixed status households, having members with various levels of immigration status that can further complicate their position to potential landlords and property owners. These ordinances are in direct violation of the FHA by prohibiting the due process of landlords and tenants, thus proving to be unconstitutional in most cases.

Townships that enact anti-immigrant ordinances essentially force property owners and landlords to determine the validity of immigration status without any authority or training in assessing authenticity of documents.¹² This creates a no-win situation for property owners and landlords. In most instances, a landlord feels trapped by bureaucratic obstacles because one authority, the local officials, is enforcing ordinances and penalizing non-compliers through fines and loss of privileges; while another authority, HUD's Fair Housing Act, prohibits discrimination based on national origin with penalties involving civil discrimination suits.¹³ Some landlords may refuse to conduct business with anyone looking or sounding "foreign" to avoid any hassle of the two conflicting pressures.

¹⁰ Oliveri, "Between a Rock and a Hard Place": 2.

¹¹ Kristina M. Campbell, "Local Illegal Immigration Relief Act Ordinances: A Legal, Policy and Litigation Analysis," *Denver University Law Review*, Vol. 84 No.4 (2007): 1044.

¹² Oliveri, "Between a Rock and a Hard Place": 26.

¹³ Oliveri, "Between a Rock and a Hard Place": 26.

Local municipalities' financial consequences for enacting anti-immigrant ordinances are not only the costs involved in enforcement, but also in defending their actions in the courts. Anti-immigrant ordinances enacted in municipalities are almost immediately appealed, and the appeals process typically lasts for extended periods of time. All of these costs are paid by the citizens of the township, thus increasing the financial stress to the municipality and its residents.¹⁴ The issues which the ordinances were supposed to eliminate, such as loss of jobs and housing shortages, do not disappear and will most likely have negative effects on business owners conducting their daily activities.¹⁵

Recent recommendations made by the Center on Wisconsin Strategy, *Cities and Immigration* to the state of Wisconsin to improve on local policies to create immigrant-friendly cities, suggests that utilizing local police resources to carry out immigration civil law is not productive.¹⁶ Using local resources to enforce and monitor anti-immigrant ordinances diminishes the police's capacity to provide public safety to all communities and proves difficult to prevent possible civil rights violations of law-abiding citizens. The Wisconsin Study also suggests that the "mixed status" of many families contain undocumented immigrants who have spouses, partners, or children who are citizens or legal residents, creating an impossible situation to police.¹⁷

Exclusionary Zoning

Another obstacle to immigrants finding affordable housing is the use of exclusionary zoning in many NJ municipalities that created an unfair distribution of low-to-moderate income housing.

¹⁴ Campbell, "Local Illegal Immigration Relief Act Ordinances": 1051.

¹⁵ Ibid, 1047.

¹⁶ Jessica Halpern-Finnerty et al., *Cities and Immigration: Local Policies for Immigrant-Friendly Cities*. The Center on Wisconsin Strategy, 2008: 8.

¹⁷ Ibid.

Land regulated by this type of zoning forbids construction of apartments, duplexes, and mobile homes, which typically house low income residents. Such zoning further restricts access to jobs, education, and quality of life¹⁸ for immigrants and other low-to-moderate income individuals. The Township of Mt. Laurel, NJ originated the case against exclusionary zoning, but according to the latest 2000 census, Mt. Laurel still supplies less than half (16%) of the statewide average of 34 percent.¹⁹

New legislation was signed into law in July 2008, a comprehensive affordable housing reform bill that included the elimination of Regional Contribution Agreements (RCAs).²⁰ The RCAs allowed municipalities to transfer up to 50 percent of their affordable housing obligations to neighboring municipalities through a negotiated payment, essentially severely restricting the number of affordable units in certain areas.²¹ RCAs were coordinated through inter-municipal deals, thus permitting affluent suburbs to pay struggling cities to take on their portion of affordable housing quotas, further segregating communities²². The law most notably requires municipalities to provide housing for the very poor, and includes some earning less than 30 percent of the area's median income²³. Once the housing reform bill was signed, Speaker of the Assembly, Joseph Roberts explained that suburbs will no longer be shielded of their obligation to provide housing for the needy²⁴.

¹⁸ Robert L. Liberty. "Abolishing Exclusionary Zoning: A Natural Policy Alliance for Environmentalists and Affordable Housing Advocates." *Boston College Law Review*, Vol. 30, No. 3 (2003): 581.

¹⁹ *Ibid*, 601.

²⁰ NJ Legislature. A-500, P.L.2008, c.46. July 23, 2008. Trenton, NJ.

²¹ NJ Legislature. NJ Fair Housing Act, 52:27D-312 Regional Contribution Agreements: 1985.

²² James Ahearn, "The Affordable Housing Compromise," *The Record* (Hackensack, NJ), July 28, 2008.

²³ David Levinsky, "Corzine signs overhaul of state housing law," *The Burlington County Times* (Willingboro, NJ), July 18, 2008.

²⁴ Ahearn, "The Affordable Housing Compromise."

Symptom of Exclusionary Zoning: Overcrowding

Overcrowding is one result of limited affordable housing, which may create an environment laden with health and public safety concerns. In a 2007 HUD-commissioned report conducted by Econometrica, Inc., it was determined that over-crowding with more than 1.5 persons per room has negative effects on physical and mental health, personal safety, and childhood development and education.²⁵ Similar to the HUD report, an Australian National University report on overcrowding concluded the same results, stating overcrowded housing provides inadequate access to cleaning and cooking facilities, thus creating an environment of rapid transmission of infectious diseases and poor health.²⁶

The effects of overcrowding on adolescents in schools analyzed 10 years of data from the French Labor Force, and the results show that children in overcrowded homes have more than a 60 percent chance of being held back a grade in primary and middle schools.²⁷ Another important finding concludes that these same adolescents have a significantly increased probability of dropping out of school when compared with their counterparts in non-overcrowded housing.²⁸ Additionally, the overcrowded conditions cause increased incidents of prolonged sickness, mostly due to respiratory and pulmonary problems, and can lead to stress and illnesses linked to anxiety.²⁹

²⁵ Rebecca S. Kellerson et al., “Measuring Overcrowding in Housing” (paper prepared for the U.S. Department of Housing and Urban Development: Office of Policy Development and Research, Bethesda, MD, 2007).

²⁶ Alison Booth and Nick Carroll. “Overcrowding and Indigenous Health in Australia”. (Paper prepared for The Australian National University, No. 498, 2005).

²⁷ Dominique Goux and Eric Maurin, “The Effect of Overcrowded Housing on Children’s Performance at School.” *Journal of Public Economics* 89 (2005): 800.

²⁸ Ibid.

²⁹ Goux and Maurin, “The Effect of Overcrowded Housing on Children’s Performance at School”: 801.

In the Northeast, an estimated 4.5 percent of households experience over-crowding, which is symptomatic of affordability issues and housing-related stress.³⁰ As of 2003, 35 percent of very-low-income Hispanic households were overcrowded, and they shared higher rates of overcrowding with foreign-born noncitizens.³¹ The primary cause HUD cites as the reason for over-crowding is a lack of affordable housing, in addition to a lack affordable housing units large enough to sustain large families. The lack of large units is found to exist because smaller households prefer larger units as well and tend to keep them out of the market.³²

Lack of Access to Credit

Another major obstacle for immigrants in the United States is their lack of access to credit, along with a lack of credit history needed when obtaining rental housing or a home mortgage. Bank policies can have discouraging effects on the financial participation of immigrants because of the procedures involved in obtaining checking and savings accounts³³. The majority of U.S. banks (80%) use the ChexSystem database to screen potential customers when opening a new account, thus generating the credit history of the customer³⁴. If any type of screening practice is used, immigrants tend to utilize alternative financial services, for example check cashers, because they offer anonymity, no documentation required, no minimum balance requirements, and convenience³⁵.

Effects of Rent-Controlled Cities

³⁰ U.S. HUD, *2007 Annual Report*, 53.

³¹ Ibid.

³² Ibid.

³³ Anna Paulson et al., *Financial Access for Immigrants: The Challenges and Opportunities Facing U.S. Depositories*. Prepared for the Federal Reserve Bank of San Francisco, 2006.

³⁴ Ibid.

³⁵ Ibid.

From a 2003 Rent Control Survey administered by the New Jersey Tenants Organization (NJTO), Gilderbloom and Ye analyzed data to determine the effects rent control had on the amount of rent, number of rooms, quality of units, and new rental construction³⁶. Their study focused on 76 cities that were classified as having moderate rent control ordinances and populations over 10,000, which were also found to have a larger non-white percentage of their population than non-rent controlled cities³⁷. The most notable results of the study showed that rent controlled cities had a significantly lower median number of rooms per rental unit than cities without rent control ordinances³⁸. Another important finding was the significantly higher percentage of rental units with a plumbing deficiency, which the authors used to determine the quality of the rental housing³⁹. The rental amount per room was also higher in rent controlled cities and the city-wide vacancy rate was lower when compared to non-rent controlled cities⁴⁰.

Gilderbloom and Ye attribute the reduced median number of rooms per rental unit in rent controlled cities to landlords who create more units within the same building, seeking an increased profit⁴¹. These types of practices can lead to overcrowding, because a reduction in the amount of rooms might not deter immigrants from renting a reduced unit with the same amount of family members. Coupled with a smaller number of rooms, plumbing deficiencies have negative health effects on the residents living in the unit and diseases can be easily spread. Instead of rent control ordinances, the authors suggest the policymakers and housing activists of NJ find new approaches to address housing affordability issues⁴².

³⁶ John I. Gilderbloom and Lin Ye, "Thirty Years of Rent Control: A Survey of New Jersey Cities". *Journal of Urban Affairs* 29 No. 2 (2007): 207.

³⁷ *Ibid.*, 212.

³⁸ *Ibid.*, 211.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*, 216.

⁴² *Ibid.*, 217.

Recommendations

Encourage multiple approaches to creating affordable housing, including accelerating building processes, bonuses for developers, fees for non-residential building, and recovery programs. Fast-track permitting, density bonuses, and linkage fees are three approaches Rolf Pendall suggests in his article, “*From Hurdles to Bridges*”.⁴³ Placing affordable housing development at the forefront of the development line is a technique called fast-track permitting, which accelerates the approval process and generates housing quickly.⁴⁴ Density bonuses, offering density incentives in areas without affordable housing mandates, and linkage fees, charged to developers of non-residential space in order to fund affordable housing subsidy programs, are directly administered to the developers. Pendall also infers that because local land regulations have too many restrictions and not enough incentives to build affordable housing, this constrains housing supply while increasing demand, further boosting rental prices⁴⁵.

Best Practices

Also supporting the use of linkage fees, sometimes known as impact fees, are Moon-Gi Jeong and Richard Feiock, who conducted a study in 66 Florida counties. The study monitored impact fees and their positive effects on development and growth management. A major challenge Florida currently faces, noted Jeong and Feiock, is rapid population growth and subsequent rising demands for public housing, services, and expenditures⁴⁶. The authors specifically

⁴³ Rolf Pendall, “From Hurdles to Bridges: Local Land-use Regulations and the Pursuit of Affordable Rental Housing.” *Joint Center for Housing Studies at Harvard University* (Prepared for Revisiting Rental Housing: A National Policy Summit, November 2006).

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Richard C. Feiock and Moon-Gi Jeong, “Impact Fees, Growth Management and Development: A Contractual Approach to Local Policy and Governance.” *Urban Affairs Review* 2006; 41; 754.

mention immigrants, along with the elderly and school-aged, as the fastest growing segments of our population, who are assisted through the use of impact fees⁴⁷. Local governments impose the costs of new development on the private sector allowing for the accommodation of citizens' needs for infrastructure and quality of life, while also meeting growth demands⁴⁸. Once impact fees have been collected, they can be distributed in various ways, but most importantly to develop more affordable housing.

Another program established by the Township Council of Toms River, NJ converts homes threatened by foreclosure into affordable housing units by using funds from the Affordable Housing Trust Fund to reduce the homeowner's mortgage⁴⁹. The Foreclosure Prevention/Affordable Housing Program relieves the homeowner of foreclosure, and then restricts the deed on the property to be sold only as an affordable housing unit in the future.⁵⁰ By restricting the deed on the property, the township ensures a future available affordable housing option in the future.

Encourage the use of Second Unit Housing, which promotes the creation of a larger supply of affordable housing units and reduces overcrowding by increasing availability. Sometimes referred to as accessory dwelling units (ADUs), second units are self-contained residential dwellings with a kitchen, sanitary facilities, and sleeping quarters⁵¹. Second units are typically created within an existing home, but also through conversion of an existing accessory structure

⁴⁷ Ibid.

⁴⁸ Feiock and Jeong: 755.

⁴⁹ Lauren Kidd, "Toms River approves affordable housing program", Asbury Park Press (Neptune, NJ), September 25, 2008.

⁵⁰ Ibid.

⁵¹ State of NJ Legislature. The Second Unit Housing Authorization Act (A827), January 25, 2008.

or addition to an existing home or accessory building⁵². Municipalities are allowed to create ordinances authorizing second units in single-family and multifamily residential zones, thus increasing availability of affordable housing opportunities⁵³. Municipalities are given standards in creating local ordinances and are granted options to adopt less restrictive requirements, which allow for variations that suit the needs of individual areas⁵⁴. The bill also prohibits the adoption of municipal ordinances that preclude second units, unless the ordinance can justify specific adverse impacts on public health, safety, and welfare⁵⁵.

Best Practices

The city of Los Angeles' Boyle Heights Community Plan acknowledges that immigrant communities have different housing needs and that expanded flexibility in housing arrangements are needed. The community plan cites the accommodations the city makes for the corporate forces of globalization through expansive development and infrastructure, and expects the same level of commitment to marginalized populations in the city⁵⁶. Through the creation of appropriate infrastructure low-income minority and immigrant populations can participate in the economic life of their communities while improving the quality of their lives.⁵⁷

Many municipalities across the country initiated the use of "accessory dwelling units" (ADUs), sometimes referred to as granny flats, in order to open up affordable housing options as an alternative to larger, more expensive rental units. Montclair, NJ is a specific example of a

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Joes Miguel Flores, "Globalization and Urban Opportunities in the Immigrant Cityscape." *Florida Journal of International Law* 2005; 17:735.

⁵⁷ Ibid.

township having adopted a pilot program allowing 10 ADUs in all four wards to create rental rooms⁵⁸. The ordinance was proposed to potentially combat the illegal renting of rooms, which typically leads to overcrowded situations that may cause safety and health problems. By requiring potential landlords to obtain a certificate of occupancy for each individual tenant, the ordinance legalizes the practice of renting extra rooms in a house, thus making sure the house meets all safety requirements through the inspection process⁵⁹.

Provide assistance for immigrants to obtain loans and establish credit history, thus increasing their opportunity for rental and purchases of homes.

Best Practices

The Canadian province of Ontario has established the Immigration Loans Program (ILP), which is an assistance program for new immigrants to provide loans for housing rental, while building credit history at the same time⁶⁰. The program is funded through a \$110 million advance from the federal government's Consolidated Revenue Fund with the repayments on the loans replenishing the fund⁶¹. ILP was established initially for refugees, but has been extended to disadvantaged newcomers, even allowing for certain approved classes to receive a period where interest will be deferred until the ability to pay has been determined (typically 1-3 years)⁶². From an initial federal government funding initiative, the program is sustainable and used to assist and provide for immigrants housing needs.

⁵⁸ Philip Read, "'Granny Flats' top Montclair agenda – Accessory dwelling units would help provide more housing options," The Star-Ledger (Newark, NJ), September 25, 2008.

⁵⁹ Ibid.

⁶⁰ www.settlement.org: Ontario Council of Agencies Serving Immigrants, Retrieved from web site http://www.settlement.org/sys/faqs_detail.asp?faq_id=4000348 on November 13, 2008.

⁶¹ Ibid.

⁶² Ibid.

Other programs that specifically target immigrants and refugees in Canada are the Manitoba Interfaith Immigration Council, the Transitional Housing project, and the International Centre. The Manitoba Interfaith Immigration Council provides settlement services, including housing to newly arrived refugees and refugee claimants, while the International Centre focuses on settlement services to independent immigrants and family class categories of immigrants⁶³. The Transitional Housing project receives funds from several sources, including the National Homelessness Initiative, the Affordable Housing Initiative, and the city of Winnipeg to support the purchase of a building for renovation⁶⁴. This project provides transitional housing for refugees and new immigrants who are at risk of homelessness.

⁶³Social Planning Council of Winnipeg (Researchers: Sid Frankel and Tara Rudy), Manitoba: Affordable Housing (Prepared for the Social Development Partnerships Program of Social Development Canada), Campaign 2000 Newsletter, 2005.

⁶⁴ Ibid.

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Colloquium US Immigration Policy
Dr. Christine Thurlow Brenner

Disaster and Emergency Preparedness and the Immigrant Community

Michael Dansbury, UMDNJ

The Problem:

During the past four decades, the United States experienced major transformations in population size, development patterns, economic conditions, and social characteristics. These social, economic, and built-environment changes altered the American hazardscape in profound ways, with more people living in high-hazard areas than ever before.¹ The devastation and displacement caused by Hurricane Katrina in the Gulf Coast region of the United States posed a host of environmental, human resource, and other public policy challenges. Caught in this web of this tragedy and its sweeping dilemmas are the unique subset of immigration-related issues that may occur whenever any state suffers from natural or man-made disaster.² Approximately 20 percent of New Jersey's residents were foreign immigrants as of 2000.³ To help the victims of disasters, including immigrants disaster preparedness planners must understand who they are, and what they

¹ Susan L. Cutter et al., "Temporal and spatial changes in social vulnerability to natural hazards," *Proceedings of the National Academy of Sciences PNAS* vol. 105 no. 7 (2008)2301-2306, www.pnas.org/cgi/doi/10.1073/pnas.0710375105

² Ruth Ellen Wasem, "Hurricane Katrina-Related Immigration Issues and Legislation", Congressional Research Service –The Library of Congress (2005)

³ www.quickfacts.census.gov/qfd/states

need from their perspective. To do so, it is essential to understand and respect their culture.⁴

Background:

Disaster evacuation, relief, and recovery reveal that racial minorities and immigrants are relatively more vulnerable in comparison to white Americans. In particular, socioeconomic differences, language barriers, minority preferences for particular information sources (i.e. family or kin), and distrust of governmental authorities are associated as significant factors why racial minorities and immigrants are more vulnerable to disasters.⁵ In disasters, the poor, racial minorities and immigrants suffer disproportionate magnitudes of destruction, injury, disease and death. For example, in New Orleans, areas most damaged by Hurricane Katrina were largely populated by low-income African-Americans, many living in substandard housing and lacking access to transportation for evacuation.⁶

Many of the victims of Hurricane Katrina lacked personal information documents as a result of being evacuated from their homes. They suffered loss or damage to personal items and records and ongoing displacement in shelters and temporary housing. As a result of the widespread damage and destruction to government facilities in the area affected by the hurricane; moreover, many victims who were immigrants, had specific

⁴Anthony J. Marsella, "Ethnocultural considerations in disasters: an overview of research, issues, and directions" *Psychiatric Clinics of North America* 27 (2004): 521.

⁵ Anthony A. Peguero, "Latino Disaster Vulnerability: The Dissemination of Hurricane Mitigation Information Among Florida's Homeowners" *Hispanic Journal of Behavioral Sciences* 28 (2006) 5.

⁶ Dennis P. Andrulis, "Preparing Racially and Ethnically Diverse Communities For Public Health Emergencies"

consequences under immigration law, especially when it came to employment and eligibility for programs and assistance.⁷

Attaining accurate and reliable mitigation information and having an effective disaster plan, is the key to people surviving a disaster. When a disaster hits, however, research shows that not all citizens are equally prepared or protected.⁸ Research findings⁹ indicate that there are challenges in disseminating disaster and emergency information to diverse populations throughout the United States. Even though government agencies and emergency managers continuously publish and release protection and preparation information, that mitigation information does not reach everyone. Emergency managers often assume that all people are able to receive and understand their disaster warning, plans, and information. This may not always be the case, especially in the immigrant community.

Approximately half (49%) of the Hurricane Katrina evacuees in Houston shelters reported that, in the days before the hurricane hit, they heard the order to evacuate the city and that the order included clear instructions about how to leave. Thirty-eight percent reported that they had evacuated ahead of the storm, whereas 61 percent said they had not. Of those who stayed in New Orleans, approximately one third reported that they had not heard an evacuation order, and about 3 in 10 stated that they had heard an evacuation order but that it had not provided clear information about how to evacuate. Just over one

⁷ Wasem, Summary

⁸ Peguero, 6

⁹ Ibid, 6

third said that they had received clear information about how to evacuate but had to stay behind.¹⁰

Research Findings:

When a natural or manmade disaster strikes, there is often, and sometimes absolutely, no time for citizens to prepare and protect themselves, their loved ones, and their homes. In September 2003, the U.S. Department of Homeland Defense implemented a National Response plan dealing with many forms of disaster. Tom Ridge, then Secretary of Homeland Defense indicated,

With the National Response Plan our nation and its federal, state, local and tribal response communities now have a comprehensive, all-hazards tool for domestic incident management across the spectrum of prevention, preparedness, response and recovery.....It is essential to maintain a synchronized and coordinated plan in order to adequately protect our nation and its citizens.¹¹

Emergency managers in the United States may be assuming that all of citizens they protect believe that the government's role is to protect its citizens; however, research suggests that trust in government agencies varies for racial and minority groups and may be heightened issue for immigrants depending on their country or origin and immigration status. In the early recovery stages of the 1989 Loma Prieta earthquakes, in California, racial minorities were skeptical about government assistance. Studies found that

¹⁰ Mollyann Brodie, "Experiences of Hurricane Katrina Evacuees in Houston Shelters: Implications for Future Planning", *American Journal of Public Health* 96 (2006) 1404.

¹¹Department of Homeland Security Tom Ridge Announces Completion of the National Response Plan. January 6, 2005 www.dhs.gov/xnews/releases/press_release

immigrants, from authoritarian countries, were especially likely to be skeptical of any government help¹². FEMA and the National Guard officially opened outside tent facilities to assist and accommodate disaster victims in Ramsey Park and assembled tents inside fenced-off areas in the park. Central American immigrants found the setting incredibly unsettling. Findings noted that “immigrants who had fled military and government backed death squads in their native countries now faced similar imagery after the disaster....appropriate shelter now became transformed into symbolic concentration camps”. As a result, 300 disaster victims refused to inhabit the disaster relief tents¹³.

Racial minorities denoted that they have relatively more problems with “red tape” when dealing with government agencies. There is evidence that disaster experiences lead to racial and minority victim’s skepticism and distrust of government disaster agencies.¹⁴ The variations of the distribution of disaster relief assistance and supplies were linked to race and ethnicity. Historically, affluent communities received assistance in the form of the reconstruction of their infrastructure before poorer, segregated racial and immigrant communities. Some researchers¹⁵ also indicated that disaster supplies and media coverage were first delivered to the relatively more affluent communities. Language, preference for certain channels of disaster information, socioeconomics, and skepticism of the government are just some of the racial differences linked to the dissemination of disaster information.

¹² Peguero, 8

¹³ Ibid, 9

¹⁴ Ibid, 9

¹⁵ Ibid, 9

Ineffectiveness of disseminating disaster information is often attributed to language barriers, particularly in multicultural communities. In the wake of Hurricane Andrew, researchers have found that many migrant workers and immigrants could not fill out Federal Emergency Management Authority (FEMA) assistance forms, because the forms provided were only in English. In addition, few federal agents sent to assist South Florida victims with their recovery spoke Spanish and no agents spoke Haitian Creole. FEMA's inability to provide forms and assistance in different languages to non-English-speaking applicants in South Florida resulted in serious complications in FEMA disaster relief services to immigrants, racial and minority victims.¹⁶

Immigrants, racial and ethnic minorities place a greater importance on information provided by interpersonal and familial networks in comparison to whites. Peguero found that Mexican Americans placed higher credence on evacuation information relayed by family members, friends, and fellow community members than on information provided by government and mass media. Furthermore, minorities who live closer to other family members, in comparison to whites, are more likely to rely on each other following disaster impact during the recover process¹⁷.

Carter-Porkras¹⁸ describes the level of public emergency knowledge and perception of risks among Latin American immigrants, and their preferred sources of emergency preparedness information, including warning signals, based on focus groups conducted in

¹⁶ Ibid, 6

¹⁷ Ibid, 8

¹⁸ Olivia Carter-Pokras, "Emergency Preparedness: Knowledge and Perceptions of Latin American Immigrants," *Journal of Health Care for the Poor and Underserved* 18 (2007) 469

Washington D.C. He found that participants had difficulty defining *emergency* and reported a wide range of perceived personal emergency risks which included: immigration problems; crime, personal insecurity, gangs; home/traffic accidents; home fires; environmental problems; and snipers. One participant described an emergency as: “anything that is happening that you don’t have control over and puts you in danger”. Participants, without exception, mentioned current immigration issues and the uncertain environment in this respect as representing an emergency situation and creating a sense of personal risk.

Carter-Pokras found that few participants had received information on emergency preparedness, and most did not have an emergency plan. Some felt that there was no way to prepare for an emergency and used the popular saying.....” during an emergency there is no Saint Lucia that is worth anything”. There was some confusion regarding the questions: “What steps would you take if you heard an emergency warning? What would be the first thing that you would do? Why?” and “How would you prepare to respond to an emergency situation? How would you prepare your family?” When specific examples of emergencies (snowstorm or terrorist attack) were provided by the facilitators, participants mentioned basic subsistence items, such as food, water, and blankets, as well as working channels of communication (“The first thing that I would do is make sure my cell phone and TV cable are working”), being calm and trusting in God (“In a disaster everyone runs...they are not prepared because they haven’t lived it before...you have to be calm and trust in God”), and getting and disseminating information (“Investigate what

type of an emergency it is and let the neighbors know”).¹⁹ Additionally, Shiu-Thornton²⁰ found disaster is a taboo topic in some language groups, and for other groups, the cultural belief is that disasters cannot be foretold and are in the hands of God or fate. He reported that many members in their respective language communities who have survived wars and civil conflicts believe that America is a safe place; therefore, there is not need to prepare.

These findings regarding key messages and motivating factors can be used to develop clear, prioritized messages for communication regarding emergencies and emergency preparedness for Latin American immigrant communities²¹. Shiu-Thornton’s findings²² also suggest that immigrants’ community of faith may provide an important venue for sharing emergency preparedness information.

Communication:

Emergency risk communication involves scientific or public health professionals providing information that allows an individual, stakeholders, or an entire community to make the best possible decisions about their well-being. Effective emergency risk communication requires the appropriate selection of messages, messengers, and methods of delivery to disseminate information to audiences from before an event to after it occurs.²³ To strengthen emergency preparedness across communities, public health

¹⁹ Ibid, 473

²⁰ Sharyne Shiu-Thorton, “Disaster Preparedness for Limited English Proficient Communities: Medical Interpreters as Cultural Brokers and Gatekeepers.” *Public Health Reports* 122(2007) 469

²¹ Carter-Pokras, 473

²² Shiu-Thorton, 470

²³ Andrulis, 1271

officials and healthcare providers must continue to improve perceived fairness among African-American, Asian Pacific Islander and Latino communities. How minority communities discern treatment as being fair is an important factor for emergency response, and level of trust in the system could affect their willingness to participate in emergency response efforts. In the event of catastrophic emergencies, successful provision of care would often require trust and confidence on the part of culturally diverse communities, yet challenges abound for rural communities with diverse populations.²⁴

Meeting the needs of public health emergency and response presents a unique challenge for health practitioners with primary responsibilities for rural communities that are often very diverse. Hsu assessed the language capabilities, confidence and training needs of Texas rural physicians in responding to public health emergencies. Doctors reported seeing patients with diverse cultural backgrounds, indicating that they communicated in 16 different languages other than English in clinical practice or at home, with 40 percent speaking Spanish at work. Most were not confident in the diagnosis or treatment of public health emergency cases.²⁵ The results suggest that rural clinicians are serving a very culturally and linguistically diverse community.²⁶

²⁴ Chiehwen E. Hsu, "Public Health Preparedness of Health Providers: Meeting the Needs of Diverse, Rural Communities" *Journal of The National Medical Association* 98 (2006)1785

²⁵ Ibid, 1784

²⁶ Ibid 1785

Physicians play a unique role in the public health preparedness, as they are among the most trusted first-responders in health-related emergencies.²⁶ In the event of a natural disaster, first-receiving physicians are often the frontline response for community members, as they can activate the appropriate emergency response systems. However, studies suggest that many physicians are not prepared to handle public health emergency cases. A recent national survey revealed that, while 80 percent of physician respondents were willing to participate in the diagnosis and treatment of bioterrorism-related cases, only 21 percent felt prepared to handles the cases.²⁷ The perception of unpreparedness seems pervasive among healthcare workers in general. Other national and state-level studies similarly indicated that allied healthcare providers lack confidence in treating bioterrorism-related cases and indicated the need for strengthening their professional training for emergency response.²⁸

Implications:

The increasing complexity of natural disasters is embedded in the interplay of geospatial, social, cultural, and economic factors in a community's environment. This interplay exacerbates the vulnerability of people and their community environments, intensifying disaster impacts when they do occur.²⁹ Now, more than ever natural disasters such as Hurricane Katrina bring with them an enormous potential to uproot large numbers of

²⁶ Ibid, 1785

²⁷ Ibid, 1790

²⁸ Ibid, 1785

²⁹ Jason David Rivera, "Continually Neglected: Situating Natural Disasters in the African American Experience", *Journal of Black Studies* 37 (2007) 503

people, forcing the involuntary internal displacement of communities and giving people a status similar to that of a refugee in one's own land.³⁰

In addition, many African American did not flee ahead of the storm primary because of communication barriers, including limited or no evacuation orders, inconsistent orders, or orders they did not understand and follow. In the aftermath, cultural differences and lack of financial resources largely hindered effective recovery for those communities. Latinos and Asian Americans faced similar barriers during Hurricane Katrina, compounded by issues of language, culture, and their status as undocumented or uninsured residents.³¹

Beyond Katrina, studies on racial minorities and public health emergencies consistently illustrate that minority communities are more vulnerable than others across the range of events before and after a disaster. Reasons are varied and complex as they are important; they include socioeconomic differences, culture and language barriers, lower perceived personal risk from emergencies, distrust of warning messengers, lack of preparation and protective action, and reliance on informal sources of information³².

New Jersey:

The 2000 U.S. Census data reported New Jersey's foreign-born at 1.2 million. The total number of foreign-born persons increased 25 percent in New Jersey from 967, 000 in 1990 to 1,208,000 in 2000. Only four other states; California, New York, Florida and Texas had more foreign-born persons than New Jersey. Together with Illinois, these six states with the largest immigrant population accounted for approximately 70 percent of

³⁰ Ibid, 503

³¹ Andrulis, 1269

³² Ibid, 1270

the nation's total foreign-born population. Thirty-one nationalities represent more than three-quarters (78.7%) of all immigrant settlement in New Jersey. Immigrants from India accounted for more than one-ninth (11.7%) of all new immigrants. When immigrants from the Dominican Republic, Philippines and China are added to those from India, those countries accounted for more than three-tenths (31.5%) of total admissions³³.

The distribution of foreign born persons living in New Jersey by counties is presented in the Table 1. Hudson County has the largest percentage of foreign born residents with 40.5 percent. The immigrant population in Middlesex, Passaic and Bergen Counties is 28.2, 27.9, and 27.8 percent respectively. As in the rest of the United States, in New Jersey the risk factors for certain diseases are geographically concentrated in urban areas and disproportionately affects racial minorities and recent immigrants..³⁴

Twenty eight percent of New Jerseyans reported that another language other than English is spoken at home.³⁵ Of those, approximately 58 percent reported speaking English less than very well as shown in Table 2. Of those who speak another language than English at home, almost half of Spanish or Spanish Creole speakers do not speak English very well. Regardless of language group, seniors over the age of 65 have the least fluency in English of all age groups, which may present a particular challenge to first-responders in disaster planning.

³³ www.state.nj.us/labor

³⁴ Dolores Acevedo-Garcia, "Zip-Code Risk Factors for Tuberculosis: Neighborhood Environment and Residential Segregation in New Jersey," *American Journal of Public Health* 91 (2001) 734

³⁵ 2006 American Community Survey

Current disaster and emergency response planning does not adequately address the needs of limited English proficient (LEP) communities.³⁶ Disaster scenarios challenge the multiple systems of care and emergency responses to effectively reach all citizens, including vulnerable, diverse populations. Of increasing concern in public health is the exclusion of LEP populations in public health preparedness planning, notably in critical areas such as disaster/emergency situations.³⁷ The lesson of natural disasters and the unfolding of 9/11 events is that it is not if a disaster will occur, but when.³⁸ Disaster service personnel and government officials have a key role in improving dissemination of disaster preparedness education and addressing the service response needs of LEP immigrants.³⁹

Best Practices:

There are a number of current initiatives on preparedness for racial and ethnic communities. There are national resource guides, which include: ⁴⁰ *Public Health Workbook to Define, Locate and Reach Special, Vulnerable and At-Risk Populations*⁴¹; and *Developing Cultural Competence in Disaster Mental Health Programs Substance Abuse and Mental Health Services Administration*.⁴² In addition, national training and educational initiatives⁴³ encompass programs delivered by the FEMA and the Red Cross, as well as translated materials to prepare individuals/families. The Emergency

³⁶ Shiu-Thornton, 467

³⁷ Ibid, 467

³⁸ Tomás Rivera, “Disaster Preparedness in Urban Immigrant Communities: Lessons Learned from Recent Catastrophic Events and Their Relevance to Latino and Asian Communities in Southern California” 8

³⁹ Ibid, 7

⁴⁰ Dennis Andrulis, “Emergency Preparedness for Racially and Ethnically Diverse Communities”, National Emergency Management Summit New Orleans, LA, March 5, 2007

⁴¹ CDC 2006

⁴² SAMSHA 2003

⁴³ Ibid

Management Institute at FEMA also offers a course on preparedness for populations with “special needs.”

National policies and programs⁴⁴ involve federal agencies that initiated funding for projects focused on integrating racial and diverse communities into preparedness. Among the departments and agencies involved in this effort are the Office of Minority Health (OMH), the Centers for Disease Control and Prevention (CDC), the Health Resources and Services Administration (HRSA), the National Institutes of Health (NIH) and Federal Emergency Management Agency (FEMA).

A number of State and local resource guides⁴⁵ were developed. Some resource guides with explicit focus on integrating racial and diverse communities into preparedness, such as *Bridging the Cultural Divide: Cultural Competence in Public Safety* from the Massachusetts Executive Office of Public Safety.⁴⁶ Idaho’s Department of Health discusses strategies on communicating with racial and ethnic communities in times of emergencies in their *Template for District Health Departments: Health Preparedness Coordination with Populations with Special Needs in Idaho*.⁴⁷ The importance of collecting data on preparedness needs of racial and ethnic diverse communities is an underlying theme in many of these publications.

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ *Bridging the Cultural Divide: Cultural Competence in Public Safety*.

<http://www.mass.gov/Eeops/docs/setb/Network>

⁴⁷ Idaho DOH 2004

Training and education initiatives⁴⁸ for first-responders and public health personnel are critical elements of a comprehensive strategy for incorporating immigrants into state and local disaster preparedness efforts. Seminars, training and workshops on integrating racial and ethnic minorities into preparedness plans are emerging. The CDC-funded Academic Centers for Public Health Preparedness (CPHP) have training/education programs for public health professionals, hospital clinicians, students and community representatives, and there are community volunteer programs, such as Citizens Corps. Another effective community-based program is the Collaborating Agencies on Response to Disasters (CARD) in California.

It is important to have state and local policies and programs in place.⁴⁹ State/local emergency management agencies, as well as community organizations have made progress through programs specifically addressing the issue of involving immigrant communities. The Texas Department of Health's *Barriers to and Facilitators of effective Risk Communication among Hard-to-Reach Populations in the Event of a Bioterrorist Attack or Outbreak Study* provides helpful guidance. The Multnomah County, Oregon publication addresses *Culturally-specific Populations Emergency Communications Project*.

There is a lack of standardized, evidence-based measurement of disaster preparedness indicators at the state and local level.⁵⁰ However, some tools exist to assess capacity to respond to needs of racial and diverse communities. The Association of State and

⁴⁸ Ibid

⁴⁹ Ibid

⁵⁰ Ibid

Territorial Health Officials (ASTHO) website offers several tools. The CDC State/Local Public Health Preparedness and Response Capacity Inventory is designed for bioterrorism programs. The also offer a model State/Local Public Health System Performance Assessment Instrument as well as including promising practices in public health preparedness.

Conclusion:

Unlike the past, when disasters in distant lands appeared to have little consequence or implication for those not immediately affected, the forces of globalization now link societies and nations throughout the globe in a complex economic, political, social, environmental, and moral web of consequences that cannot be ignored. Disasters represent an intricate cultural encounter of victims, external responders, and the emergent and temporary disaster culture. As in the case whenever cultures encounter one another, especially if they represent contrasting worldviews and lifestyles, the situation has the potential for stressful and counterproductive consequences. It is the crucible in which the dynamics of cultural differences are confronted. The emergent disaster culture can become a resource for cultural preservation and support, or it can become a source of stress that undermines the very humanitarian efforts that are being exerted by the service providers. The disaster, whether it is natural or human-made, confronts victims and responders with a new ecology of forces that must be negotiated under conditions of duress. Awareness of cultural variations can help reduce this duress, but it cannot

eliminate them. The very dynamics of complexity can transform a well-planned assistance plan into a disaster⁵¹, if immigrant communities are not taken into account.

Lessons drawn from research and case studies illustrate the importance of addressing cultural, linguistic, and trust issues in terms of preparedness. In general and at all levels, government and private agencies need to better coordinate, enlist translations of vital documents, mobilize interpreters in communities that need them, and consider cultural and linguistic needs when creating emergency preparedness plans in order to respond effectively to the next disaster or public health threat.⁵² Specific lessons learned include: improve language assistance; develop relationships with key organizations; hire community liaisons; and involve ethnic and community organizations in disaster planning.⁵³

Recommendations:

1. Increase cultural competency: Culture is more than ethnicity and ancestry. It is the manner and context in which human beings construct their realities, meanings, and identities. It is the template that is placed over reality to give order and define what is morality, health, illness, and an acceptable way -of-life. It is essential that cultural competency become part of disaster policy, training, evaluation, and clinical activities.⁵⁴

⁵¹ Marsella, 524

⁵² Tomas Rivera, 11

⁵³ Ibid, 12

⁵⁴ Marsella, 533

Clinical needs:

- *Integrate services.* There is a need to blend and integrate social services and mental health services in disasters. Disaster victims from minority groups and developing countries often find themselves confused about services because of competing service agencies and providers.
- *Cultural certification of disaster workers.* Certify disaster workers for their level of cultural competence. This can occur through systematic training programs using well-defined performance indices.
- *Use languages and communication patterns of victims.* A local corps of communication resources personnel for immigrant cultural subgroups be developed and can be called on when disasters occur.

Training needs:

- *Use culture brokers and local resources.* Well-informed members of local cultures are invaluable educational resources for training disaster workers. Their insights and personal experiences can provide a rich understanding of cultural behavior.

Research needs:

- *Cultural disaster research.* There is need for systematic cultural studies of disasters to identify sources of stress and resilience and coping among different cultural groups exposed to disasters⁵⁵. Evidence indicates that high levels of pre-disaster stress (eg, marginalized groups, stress from racism, poverty,

⁵⁵ Marsella, 533

unemployment, language and communication problems, or poor health status) result in greater mental health issues.⁵⁶

- *Use of focus groups.* Focus group results indicate the prevalence of issues associated with lack of communication and trust, distrust, and disparities in treatment on basis of race or social class. Focus groups also reveal the importance of consistent trusted advocates.⁵⁷
- *Engaging community representatives to design, implement, and evaluate emergency risk communication strategies, ensuring that they are culturally and linguistically appropriate.*⁵⁸ Community representatives can play important roles in developing and vetting educational materials, language services, and emergency messages, and dissemination channels and strategies. Furthermore, utilizing trusted community voices and channels of communication, such as ethnic media, community-based and faith-based organizations, is also critical to reaching immigrant communities.

Disaster service personnel in both government agencies and non-profit organizations have a key role in improving disaster preparedness among LEP communities through dissemination of educational materials and encouraging community participation in training and workshops. First responders and immediate relief groups shoulder the responsibility of addressing the disaster response needs of immigrants and LEP

⁵⁶ Ibid, 533

⁵⁷ Janice C. Blanchard, "In Their Own Words: Lessons Learned From Those Exposed to Anthrax", *American Journal of Public Health* 95 (2005) 489

⁵⁸ Drexel University Center for Health Equality, (2008)

populations in their service areas. The following recommendations are offered to better service these populations:⁵⁹

- **Disaster service personnel, both in government agencies and in non-profit organizations, should evaluate the language needs of the population in their service areas.** Disaster preparedness educators and response personnel need to be aware of the demographics of the population being served, identifying special needs such as LEP rates and numbers in the population by language spoken. Rivera indicates that cultural differences between native and immigrant populations can also become barriers between service providers, and the community to be served can help increase effectiveness in education and response.⁶⁰
- **Local providers should ensure simulation exercises cover topics such as language resources available and their anticipated utilization during the course of a disaster.** First responders and relief organizations need to be appraised of the language capacities of their staff and volunteers. Additionally, since many service providers do not have sufficient language capacities among personnel, plans for providing translation support in the field need to be evaluated for effectiveness during critical response activities. Including bilingual immigrants in exercises may provide additional opportunities for insight into LEP immigrants' potential concerns.
- **Working groups should be established to connect government agencies with in the ethnic communities they serve.** State and local governments should

⁵⁹Tomas Rivera, 29

⁶⁰ Ibid. 29

establish working groups with service personnel, non-profit organizations serving ethnic communities, and ethnic media on how to better promote preparedness education and improve response among immigrant and LEP populations. These networks can also help share best practices for working with immigrant communities.

- **The State should create a baseline of minimal secondary language resources for diverse jurisdictions.** To ensure that large concentrations of LEP populations are not being left out of disaster preparedness education and disaster response planning, language requirements should be established for areas that meet population thresholds.
- **Federal, state and local agencies administering public benefits and other assistance programs should develop plans for relaxing ordinary documentation requirements in areas where a disaster has caused widespread destruction of documents.** U.S. Citizenship and Immigration Services (USCIS) should expedite issuance of temporary documents to replace lost immigration papers, such as work authorization cards.⁶¹
- **It should be made clear to first responders, the immigrant community, and to the public in general that disaster relief is *not conditional on immigration status*.** While all first responders interviewed report that immigration status is not a consideration when rendering disaster services, many among the immigrant community are still fearful that their status will come into question.⁶²

⁶¹ Jonathan Blazer, "Addressing the Needs of Immigrants and Limited English Communities in Disaster Planning and Relief," *Immigrants' Rights Update* 22 (2008) 5

⁶²Ibid, 29

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Table 1
Percent of New Jersey Population who are
Foreign Born by County

Geographic Area	Percent
State of New Jersey	20.1
COUNTY	
Hudson County	40.5
Middlesex County	28.2
Passaic County	27.9
Bergen County	27.8
Essex County	23.8
Mercer County	19.4
Morris County	18.7
Atlantic County	15
Monmouth County	12.7
Camden County	9.8
Cumberland County	9.6
Burlington County	8.9
Hunterdon County	8.9
Ocean County	7.6
Gloucester County	4.7
Salem County	3.6
Cape May County	3.3

Source: 2006 American Community Survey

Table 2
Languages Spoken at Home by Nativity and Age in New Jersey

	Total	Speak English less than "very well"
Total population 5 years and over	8,164,688	11.8%
Speak only English	72.40%	
Speak a language other than English	27.60%	42.7%
Spanish or Spanish Creole (13.9% of total other language)	1,134,033	48.9%
5-17 years	221,433	20.1%
18-64 years	832,382	53.8%
65 years and over	80,218	77.8%
Other Indo-European languages (8.2% of total other language)	670,145	35.6%
5-17 years	87,626	13.1%
18-64 years	468,423	35.9%
65 years and over	114,096	51.8%
Asian and Pacific Island languages (4.2% of total other languages)	342,155	40.3%
5-17 years	50,141	20.7%
18-64 years	262,775	40.6%
65 years and over	29,239	70.5%
Other languages (1.4% of total other languages)	111,178	28.4%
5-17 years	21,679	16.7%
18-64 years	81,454	29.6%
65 years and over	8,045	47.8%

Source: 2006 American Community Survey

Implications of the Attorney General's Directive on the manner in which local and State law enforcement shall interact with federal immigration authorities

I. EXECUTIVE SUMMARY

The New Jersey Attorney General issued Law Enforcement Directive No. 2007-03 (the "Directive"), which "established the manner in which local, county and State law enforcement agencies and officers shall interact with federal immigration authorities."¹ Based upon experiences in the seventeen months following issuance of the Directive, we believe that it needs to be modified to advance legitimate law enforcement objectives and ensure civil rights protections. In advancing the recommendations contained in this report, we emphasize at the outset that we firmly believe in the principles that informed the original Directive: that local law enforcement and the immigrant community have common aims and objectives, namely to prevent criminal activity and to ensure a productive and collaborative relationship in building safe, healthy communities. To fulfill these aspirations, we recommend that the Attorney General modify certain portions of the Directive, increase publicly available information to further accountability and public confidence, and expand training and outreach to both local law enforcement and the immigrant community.

The Panel believes that certain aspects of the Directive do not provide sufficiently clear standards for law enforcement officers. In particular, Section I of the Directive requires that when a law enforcement officer arrests an individual for an indictable offense or DWI and has a "reason to believe" that such person is not lawfully present in the United States, he or she must notify U.S. Immigration and Customs Enforcement ("ICE").² The "reason to believe" standard is too vague and subjective, as it has not been used in any other criminal law enforcement contexts. Nor does the Directive amplify the types of factual circumstances where such a "reason to believe" would exist. Given this vagueness and the backdrop of the State's history with racial profiling, the Panel recommends that the Attorney General amend this portion of the Directive to include a more objective standard that is less subject to potential abuse and require that before officers notify ICE, they first obtain approval from an assistant county prosecutor with jurisdiction or a designated representative of the Attorney General's office.

Perhaps most important to immigrant communities and community policing principles is the role of law enforcement in inquiring about immigration status and making notifications to ICE in the context of common interactions with the public (e.g., traffic stops). The Directive does not currently speak to these subjects. The Panel recommends that the Attorney General supplement the Directive to include a broad statement that other than circumstances involving the arrest of an individual for an indictable offense or DWI, law enforcement inquiries into immigration status and notifications to ICE should be the exception rather than the norm.³ Thus, in the case of common interactions that law enforcement has with the public, such as in traffic stops, inquiries into immigration status should be prohibited unless (i) there is a preexisting law enforcement investigation relating to a violation of state criminal law; (ii) the immigration status

inquiry is necessary to further the investigation; and (iii) the officer making the inquiry has obtained the approval of his supervisor.

The Panel also recommends that the Attorney General supplement the Directive to require uniform reporting by officers of immigration-related matters. Doing so will provide both accountability and a body of data to measure the impact of the Directive. The Panel also recommends that the Governor convene an advisory committee to analyze the data. Only through proper data collection and analysis can the public debate over the Directive transform from perceptions and misperceptions into an informed dialogue that is consistent with the goals of community policing.

Last, the Panel believes significant confusion exists about the Directive in both the law enforcement and immigrant communities. The Panel applauds the Attorney General's public recognition that more needs to be done to train law enforcement officers about the meaning of the Directive and how it should be applied.⁴ Therefore, we recommend that the Attorney General implement a comprehensive training program covering every law enforcement officer in the State. Likewise, it is important to both educate the immigrant community about the scope of the Directive, and give its members confidence in the protections that it affords to victims and witnesses. More specifically, the immigrant community is largely unaware that the Directive *prohibits* law enforcement inquiries into the immigration status of any witness, victim, or individual who requests police assistance. Therefore, the Panel recommends that Attorney General undertake a community outreach program that we hope will serve a building block to further community policing.

The Directive has been in effect for more than seventeen months now and the Panel believes that while it serves an important purpose in protecting the public from criminal conduct, there is a compelling need for the Attorney General to quickly amend or supplement it to further protect against over-reaching. Should the Attorney General not amend or supplement the Directive in approximately 30 days, the Panel recommends that the Governor request that the Attorney General issue a moratorium of Section 1 of the Directive.

II. BACKGROUND

A. Purpose and History of the Directive

The Attorney General issued the Directive in the wake of the August 4, 2007 shooting of three college students in a Newark schoolyard by a group that included two undocumented immigrants -- one of whom had been arrested for raping a minor and assault in a bar fight.⁵ The Directive was the product of a reexamination by the State of its law enforcement policy and procedures relating to undocumented immigrants. In doing so, the State identified multiple policy concerns, including ensuring that fugitives arrested for serious crimes are reported to immigration officials; the need for local law enforcement to develop and maintain close ties with local communities (including immigrant communities); and eliminating the potential for

inquiries about immigration status to be made on the basis of race and ethnicity, especially given the State's legacy of racial profiling.⁶

In light of these issues, the Attorney General issued a Directive that sought to balance inquiry and notification provisions with significant protections for individuals. The basic components of the Directive include: (i) a mandate that law enforcement inquire about the immigration status of those arrested for serious offenses, as well as referrals to ICE; (ii) a prohibition against law enforcement inquiring about the immigration status of victims, witnesses and others requesting police assistance; (iii) limitations upon entities seeking to participate in ICE's Section 287(g) program; and (iv) documentation and reporting requirements.

B. The Directive's Mandates and Prohibitions

The Directive requires that after an individual is arrested for an indictable offense or driving while intoxicated ("DWI"), law enforcement officer(s) must ask the arrestee about his or her immigration status. If after making such an inquiry (during the booking process) an officer has reason to believe that the arrestee may not be in the United States lawfully, the officer must notify ICE, the prosecuting authority and any court officer setting bail or conditions for pretrial release.⁷

The Directive requires that all officers notifying ICE pursuant to the Directive record the means of notification to ICE and the factual basis for believing that the person may be an undocumented immigrant. County prosecutors must also report the total number of notifications made pursuant to the Directive on an annual basis. The Director of the Division of Criminal Justice must make aggregate data available to the public on an annual basis.⁸

The Directive explicitly prohibits law enforcement officers from inquiring about the immigration status of victims, witnesses or other persons requesting police assistance.⁹ It also reiterates the State's prohibition on racial profiling. Thus, law enforcement officers are not permitted to consider a person's race or ethnicity in drawing an inference of unlawful presence.¹⁰

The Directive also strictly limits New Jersey law enforcement's participation in ICE's "287(g) program." The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 authorizes the federal government to "deputize" local, county and state officers to undertake immigration enforcement responsibilities.¹¹ Participation in the program requires that a political subdivision submit an application to ICE and then enter into a memorandum of agreement concerning the terms of participation. Officers must participate in an immigration training program under the supervision of ICE before they can assume the responsibilities of federal immigration officers (also known as "287(g) officers").¹²

The Directive sets conditions for New Jersey law enforcement's participation in the 287(g) program. Specifically, it provides: "A Section 287(g) officer may not exercise federal law enforcement authority under Section 287(g) unless and until the officer has arrested an

individual(s) for violation of an indictable offense, or for driving while intoxicated, under State law.”¹³ Additionally, the Directive requires that before any law enforcement agency exercises its 287(g) authority, it must enter into an agreement with a detention facility to hold detainees.¹⁴

C. Limitations Concerning the Directive’s Reach & the Power of Law Enforcement In the Absence of the Directive

Because the Directive’s inquiry and notification provisions pertain to the booking process for those individuals who are arrested for indictable offenses or DWI, much law enforcement activity is not covered by the Directive. Indeed, the vast majority of interactions that law enforcement officers have with members of the community occur during traffic stops and neighborhood patrols.¹⁵ The Directive does not address inquiries into immigration status under these circumstances, and thus neither mandates nor prohibits such conduct. Additionally, the Directive does not govern law enforcement conduct during the booking process for individuals arrested for non-indictable offenses.

Some local law enforcement agencies are unsure about the scope of their authority to inquire about immigration status during routine law enforcement activities (most typically during traffic stops).¹⁶ This is reinforced by conflicting authority concerning local law enforcement’s ability to lawfully detain individuals for violations of federal immigration laws.¹⁷

In response to inquiries by two towns, the Attorney General stated that law enforcement’s authority to inquire about immigration status when interacting with the public or during the booking process for those who have committed minor crimes is “. . . the same now as it was before [the Directive] . . . There is some discretion among law enforcement in those situations.”¹⁸ She further stated that the State’s prohibitions against racial profiling “extremely limited” such discretion.¹⁹

Many New Jersey law enforcement officers report that they have not had training regarding the scope of their authority concerning immigration matters. In some instances, officers are simply asked to read the Directive and initial a book indicating that they have read it. The Attorney General has publicly acknowledged that law enforcement needs better training.²⁰

ICE has begun conducting training sessions that provide information about how to comply with the Directive, including a general presentation concerning the role of ICE detention and removal operations, document identification and the immigration process.²¹ Through the end of 2008, ICE has provided training sessions to 6 police academies, 3 detective associations, 4 prosecutor offices, and 5 other law enforcement agencies.

D. Impact of the Directive

The Directive does not require sufficient data reporting to permit a comprehensive analysis of its impact. Nor has the Attorney General released to the public any of the limited

data that it has collected. Notwithstanding these limitations, there is qualitative information and some statistical information available in public sources. Such information provides an important gloss on the Directive's impact, while at the same time it must be acknowledged that there are certain limitations in drawing far-reaching conclusions.

1. Increase in Notifications to ICE

There are two principal categories of interactions between local law enforcement and federal immigration officials. The first involves inquiries made by local law enforcement officers to ICE for its assistance in determining the immigration status of individuals (which typically prompts a search in the ICE database).²² The Directive does not require data collection concerning such inquiries. The second involves notifications made by local law enforcement officers to ICE when they believe that individuals are not lawfully present in the United States. The Directive only requires data collection concerning such notifications when they involve individuals who have been arrested for indictable offenses or DWI.²³ Additionally, no data collection mechanism presently exists for the various other circumstances that could prompt an officer to notify ICE of suspected unlawful presence.

Some information is available in the public domain concerning the various facets of local law enforcement's interactions with federal immigration officials, although such reports do not distinguish between notifications made to ICE pursuant to the Directive and those made at the discretion of local law enforcement. Nor do they distinguish between inquiries made to ICE (typically a database search) that result in notice to it as that term is used in the Directive. Notwithstanding those limitations, public sources report that during the four month period of October 2007 to January 2008, New Jersey law enforcement officers contacted ICE's Law Enforcement Support Center in Vermont (the primary ICE office for immigration background checks) 6,023 times. During the same period in the prior year -- before implementation of the Directive -- law enforcement made only 3,135 checks.²⁴ Additionally, New Jersey law enforcement officers made 1,501 referrals to ICE's Newark office from September 2007 through February 2008.²⁵ While the prior year's numbers are not available for Newark, immigration officials noted that there was a significant increase.²⁶

Of the approximately 10,000 referrals made to ICE by New Jersey law enforcement officers from September 2007 through January 2008,²⁷ ICE charged 1,417 people with immigration violations and filed 1,468 detainers. The number of individuals deported as a result of referrals by New Jersey law enforcement is unknown, although the number of deportations handled by ICE officials in New Jersey increased by 25 percent in the last fiscal year.²⁸ According to the field office director of ICE's Newark office, one third of the "referrals" made by New Jersey law enforcement officers result in ICE filing a detainer or immigration charges, another third results in individuals who can be deported after adjudication of their cases, and the remaining third are either United States citizens or legal residents.²⁹

2. The State Lacks Sufficient Data to Measure Compliance with the Directive.

The Directive only requires that officers document their notifications made to ICE pursuant to the Directive, the means of notification and the basis for believing that the person is undocumented. Officers are then required to provide notice to county prosecutors who are in turn required to report the total number of notifications made pursuant to the Directive to the Director of the Division of Criminal Justice.³⁰ In order to assess the level of compliance with the Directive by New Jersey's numerous law enforcement agencies, additional data is required.³¹

There is limited qualitative information, however, which suggests varying levels of compliance among local law enforcement agencies with the Directive's inquiry and notification requirements. For example, in Bridgeton, New Jersey, a town of 22,000 residents, its law enforcement officers referred 36 cases to ICE from August 2007 through March 2008. For that same time period, Newark, one of the State's most populous cities, made no referrals.³²

Likewise, there is insufficient data to measure the level of compliance with the Directive's prohibitions against inquiring into the immigration status of victims and witnesses. Indeed, most victims and witnesses would not report any improper inquiry into their immigration status.³³ The limited data available indicates that only three official complaints have been filed alleging such violations.³⁴ In one prominent instance, a newspaper editor and photographer were asked about their immigration status after reporting to the Newark police that they had uncovered a body.³⁵

E. Public Concern Regarding the Directive

The Directive has not been well received in immigrant communities. Shortly after the Directive was announced, advocates warned that the Directive would have a chilling effect on the willingness of the immigrant community to report crimes and otherwise cooperate with the police.³⁶ Likewise, critics warned that the Directive would lead to racial profiling.³⁷

The Directive's unfavorable reception among immigrant communities must be understood in the broader context of their concerns and perceptions concerning law enforcement. First, immigrant perceptions of law enforcement are informed by the State's history with racial profiling, as well as some anti-immigrant sentiment in the State.³⁸ Second, immigrants often have imported perceptions of law enforcement, crime and judicial systems, particularly among those who come from countries with corrupt, violent and repressive police forces. These perceptions are transferred onto U.S. law enforcement, thus forming a general feeling of fear in interacting with the police.³⁹ Third, immigrants are often reluctant to interact with local law enforcement because they fear that their immigration status or the immigration status of family

members and friends may lead to deportation. Fourth, language barriers lead to misunderstandings and a reluctance to seek help or interact with the police.⁴⁰

Because of immigrant perceptions of law enforcement,⁴¹ it is critical that the complex and nuanced terms of the Directive be explained in linguistically and culturally appropriate ways through outreach programs.⁴² Indeed, it appears that much needs to be done in this regard as there is significant confusion in these communities about the scope and terms of the Directive. For example, the Directive's explicit prohibition against law enforcement inquiries concerning the immigration status of victims and witnesses is not widely understood.

Additionally, the legacy of racial profiling magnifies the importance of outreach. Indeed, the Directive is interpreted against the back-drop of the State's history with racial profiling, as well as some interactions that community members have had with law enforcement during traffic stops and neighborhood patrols (even though such circumstances are outside of the scope of the Directive).⁴³ While insufficient data exists to measure whether local law enforcement is engaging in racial profiling or is engaging in conduct that could chill reporting of crime in immigrant communities, the importance of community support for local law enforcement suggests this is an area worthy of attention.

F. The Directive and the 287(g) Program

The Directive prohibits 287(g) officers from enforcing federal immigration laws until *after* someone has been arrested and only for those persons who have committed indictable offenses or DWI. In other words, 287(g) officers are directed to make inquiries and exercise federal law enforcement authority only in those situations where local law enforcement is already required to inquire about immigrant status under the Directive.⁴⁴

III. RECOMMENDATIONS

The Attorney General implemented the Directive approximately seventeen months ago and questions have been raised concerning its impact. For example, concerns have been raised about the subjectivity of the "reason to believe" standard for notifying ICE of suspected unlawful presence. Concerns have also been raised about the limited reach of the Directive, as it does not provide any standard for officers to employ in most law enforcement contexts such as traffic stops. While there is insufficient data to either validate or refute whether there has been a deleterious impact, there are several practical steps that the Attorney General can implement now in issuing a supplemental Directive that can prevent criminal activity, safeguard the rights of individuals and foster community policing.

In particular, the Panel recommends that the Attorney General amend and/or supplement the Directive to: (i) eliminate the "reason to believe" standard for notifying ICE pursuant to the Direct; (ii) require officers to obtain approval from an assistant country prosecutor with jurisdiction or a designated representative from the Attorney General's Office prior to notifying

ICE of suspected unlawful presence; (iii) include standards that limit law enforcement's questioning of immigration status when conducting routine police functions in the community; (iv) require uniform reporting standards and data analysis; (v) require mandatory training; and (vi) implement a community outreach program. The importance of making these changes to the Directive now is paramount to protecting the liberty interests of those in immigrant communities and fostering community policing. Therefore, if the Attorney General is unable to quickly promulgate a supplemental directive (e.g., approximately 30 days) that incorporates these essential recommendations, we believe the Governor should ask the Attorney General for a moratorium of Section I of the Directive.

A. Revision of the Standard for Notifications to ICE

Section 1 of the Directive requires that for individuals who are arrested for indictable offenses or DWI, officers must notify ICE when they have a "reason to believe" such persons are not lawfully present in the United States.⁴⁵ The "reason to believe" standard has not previously been used by legislatures or courts in criminal law enforcement contexts. Nor does the Directive provide a nonexclusive list of circumstances that would appropriately satisfy that standard.

The Panel believes that this provision must be amended because it invites officers to make entirely subjective determinations of the factual predicate that rises to level of a "reason to believe" that an individual may be unlawfully present. Such a subjective standard can lead to disparate enforcement and could allow race or ethnicity to be used as a factor in assessing whether to notify ICE.⁴⁶ Additionally, such subjectivity can result in inaccurate identification of undocumented immigrants.⁴⁷ Thus, the Panel recommends that the Attorney General develop an objective standard for notifying ICE of suspected unlawful presence for those individuals arrested for indictable offenses or DWI.⁴⁸ Additionally, it recommends that whatever standard is adopted, the Attorney General should include an additional level of compliance monitoring by requiring that before officers notify ICE of suspected unlawful presence, they first obtain approval from an assistant county prosecutor with jurisdiction or a designated representative of the Attorney General's office.⁴⁹

B. Amendment of the Directive to Include Standards for More Frequent Interactions that Law Enforcement has with the Public

For most circumstances where police interact with the public -- traffic stops, Terry searches, executing warrants and bookings for misdemeanors -- the State does not have any policy concerning whether state and local law enforcement officers should inquire about immigration status, detain individuals based upon unlawful presence and notify ICE of same. Consequently, there are far too many occurrences where law enforcement officers question individuals about their immigration status during routine interactions they have with the public.⁵⁰ This creates fear and mistrust in immigrant communities and has a deleterious affect on community policing.⁵¹

Therefore, the Panel recommends that the Attorney General supplement the Directive to include a policy for regulating police interactions with persons not arrested for indictable offense or DWIs. The Panel believes that questioning such individuals about their immigration status during typical interactions that law enforcement has with the public should occur only in exceptional circumstances. Therefore, any supplement to the Directive should prohibit inquiries into immigration status for this category of persons unless (i) there is a preexisting law enforcement investigation relating to a violations of state criminal law; (ii) the immigration status inquiry is necessary to further the investigation; and (iii) the officer making the inquiry has obtained the approval of his supervisor. Additionally, given the conflicting authority concerning law enforcement's authority to detain someone based upon federal immigration violations,⁵² the Panel recommends that the Attorney General amend the Directive to preclude such conduct. Finally, the Panel recommends the Attorney General amend the Directive to provide an objective standard that sets forth when law enforcement officers should notify ICE of suspected unlawful presence.

The Panel believes that this recommendation is necessary to build trust between law enforcement and the immigrant community. In doing so, the perceptions and misperceptions will begin to change in a manner that supports the community policing paradigm encouraged by the State.

C. Uniform Reporting and Data Analysis

The importance of data reporting, collection, and analysis in law enforcement contexts cannot be overstated. Reporting by law enforcement officers creates both an informal check and means of monitoring of police conduct. This is particularly important here given that the Directive is the State's first policy regulating law enforcement's interactions with federal immigration officials. Data collection and analysis can also educate policy-makers about whether the Directive has had intended or unintended results.⁵³ Additionally, as has been emphasized by the Department of Justice in explaining the importance of data collection concerning racial profiling:

. . . [T]he systematic collection of statistics and information regarding law enforcement activities support community policing by building trust and respect for the police in the community. The only way to move the discussion of racial profiling from rhetoric and accusation to a more rational dialogue about appropriate enforcement strategies is to collect the information that will with allay community concerns about the activities of the police or help communities ascertain the scope and magnitude of the problem . . . Once data are collected, they become catalysts for an informed community-police discussion about the appropriate allocation of police resources. Such a process promises to promote neighborhood policing.⁵⁴

Thus, additional data collection and analysis could serve a useful function by providing an empirical basis for validating concerns about the Directive's impact or dispelling misapprehensions. Therefore, an important recommendation of the Panel is for the State to expand the data that it collects and create an advisory committee to conduct an analysis and report its findings.

1. Uniform Reporting of Data and Analysis Concerning the Scope of Interactions Between Local Law Enforcement and Federal Immigration Officials

The Panel recommends that the Attorney General supplement the Directive to include uniform reporting requirements that would be applicable in all contexts in which law enforcement is involved in immigration-related matters. The Panel believes that uniform reporting fosters a system of accountability and compliance among law enforcement throughout the State, and provides a large and reliable source of data that can be used to more fully understand the scope and impact of local law enforcement's interactions with federal immigration officials -- whether pursuant to the Directive or otherwise.⁵⁵ County Prosecutors, with the assistance of the Attorney General's Office, can be tasked with collecting the data and ensuring full compliance.

Specifically, such a supplement to the Directive would require that all officers complete a standardized reporting form to be developed by the Attorney General which would need to be completed in circumstances where: (i) an officer questions a member of public about his or her immigration status during an investigatory stop; (ii) an officer questions an arrestee about his or her immigration status during the booking process (including for both indictable and non-indictable offenses); (iii) an officer places an inquiry or similar informal call to ICE about the immigration status of an individual; and (iv) an officer notifies ICE of suspected unlawful presence whether pursuant to the Directive or otherwise. The standardized form would include the following data fields:

- The race, ethnicity and place of birth of the person subject to questioning about immigration status, as well as the date and location where the questioning occurred;
- A factual description of the law enforcement officer's encounter with the person subject to questioning (e.g., traffic stop, booking, etc.), the offense investigated, and the reason for initiating questions about immigration status;
- Whether the officer contacted ICE, the nature of the contact, including whether the officer requested that ICE search the federal government's database for unlawful presence and/or whether the officer made an official notification to ICE of suspected

unlawful presence (i) pursuant to the Directive; or (ii) pursuant to the officer's discretion for circumstances not covered by the Directive;

- The race, ethnicity and place of birth of the person who is the subject of an inquiry or notification to ICE;
- For notifications to ICE made pursuant to the Directive, a factual description of the circumstances that led the officer to have a "reason to believe" (or any other standard that the Attorney General may implement in the future) that the person is not lawfully present; and for discretionary notifications made outside the scope of the Directive, a factual description of the circumstances that caused officer to notify ICE.

The Panel also believes that *how* the data is aggregated is just as important as defining the scope of the information collected. Indeed, data that is aggregated in particular ways can answer several categories of important policy questions. The first category seeks to discern whether any law enforcement officers or agencies are outliers in the rate in which they question individuals about their immigration status and notify ICE of suspected unlawful presence. The second category seeks to discern whether there is any correlation between: (a) law enforcement questioning persons about their immigration status or notifying ICE and (b) the underlying offenses investigated or the procedural context of the interaction (e.g., booking process, Terry stops, executing warrants, traffic stops, etc.). The third category seeks to discern whether individuals of certain races, ethnicities and national origins are more frequently subject to law enforcement inquiries regarding their immigration status or are more likely to be the subject of ICE notifications. The fourth category seeks to discern how well officers understand the Directive.

Additionally, for a more complete understanding of state and local law enforcement agencies' interaction with federal immigration officials, additional data is needed to better understand the results of notifications emanating from New Jersey law enforcement. Therefore, the Panel recommends that the Attorney General's Office ask ICE to cooperate in providing the total number of detainers, immigration charges, and determinations made of lawful/unlawful presence that result from New Jersey law enforcement officers notifying ICE of suspected unlawful presence for those individuals (i) arrested for indictable offenses and DWIs (i.e., pursuant to the Directive); (ii) arrested for non-indictable offenses; and (iii) who are subject to referral outside of the booking process.

The Panel understands that this additional data collection will require a commitment of resources by the New Jersey law enforcement community. It also recognizes that some of the data collection will require the cooperation of ICE. However, the Panel believes that the understanding that could result from such efforts would be very valuable. Indeed, the Advisory Committee on Police Standards relied on a significant body of data and analysis when formulating recommendations concerning New Jersey's efforts to eliminate racial profiling in the New Jersey State Police.⁵⁶

To oversee the data collection and analysis, the Panel recommends that the Governor create an advisory committee composed of academics and experts on law enforcement practices. Specifically, the committee would be charged with analyzing the data to evaluate: (i) the level of compliance by local law enforcement agencies with the Directive; (ii) the level of law enforcement understanding of the Directive and their scope of authority in immigration matters; (iii) whether any outliers exist (and the reason for same) in local law enforcement's questioning of individuals regarding their immigration status; (iv) the categories of persons subject to ICE database searches based upon inquiries by New Jersey law enforcement officers; (v) whether any outliers exist (and the reason for same) regarding inquiries or notification made to ICE by local law enforcement about the immigration status of arrestees; and (vi) the level of accuracy of notifications to ICE of suspected unlawful presence made by local law enforcement officers and ICE's responsiveness to such notifications.

2. Data Collection and Analysis Concerning Compliance with the Directive

As set forth more fully in Section II above, the Directive requires that New Jersey law enforcement officers inquire about the immigration status of all individuals who are arrested for indictable offenses or DWI. It also requires that if they have a "reason to believe" that individuals arrested for indictable offenses or DWI are not lawfully present in the United States, they must notify ICE.⁵⁷ Certain press accounts report that there has been disparate compliance by law enforcement agencies with this part of the Directive.⁵⁸ Additional data collection can substantiate or dispel this concern. Mechanisms to assess appropriate implementation should be developed.⁵⁹

3. Issues Concerning Racial Profiling

Given the State's history of racial profiling in traffic stops, it is essential to determine whether New Jersey law enforcement officers are using race or ethnicity as a factor when inquiring about the immigration status of individuals during routine police conduct.⁶⁰

The Panel recognizes that the data collection and analysis required to assess whether there is any racial or ethnic profiling in the context of immigration status inquiries would be nearly identical to what would be required to analyze whether local law enforcement is generally engaging in racial profiling. The New Jersey Advisory Committee on Police Standards already evaluated the varying standards employed by local law enforcement agencies in collecting data and explained the need for more advanced data analysis systems.⁶¹ This Panel endorses bringing uniformity to the data collection process and the developing more advanced data systems.

4. Publication of Data

The Directive currently requires that the Director of the Division of Criminal Justice make "aggregate" data available on an annual basis concerning the total number of notifications

made pursuant to the Directive.⁶² The Panel recommends that the Directive be revised to require the Director to make *all* data available to the public, including disaggregated data (with personal identifying information redacted) that is organized by each police department. Academics, policy organizations, the press and others should be given an opportunity to analyze. In this manner, the electorate will become more informed and will be able to hold their government accountable for the results.

D. Training

Currently New Jersey law enforcement officers do not receive uniform training from the State concerning implementation of the Directive or, more generally, the scope of their authority in immigration-related matters.⁶³ Additionally, the Panel believes that the ultimate responsibility for training New Jersey law enforcement officers about implementation of the Directive rests with the State, rather than ICE. Therefore, to ensure that training concerning the Directive and local law enforcement's role in immigration enforcement is both specialized and consistent in its content and application across the State,⁶⁴ the Panel recommends that the Attorney General develop a mandatory training program that applies to all state and local law enforcement agencies.⁶⁵

With respect to the curriculum, the Panel recommends that law enforcement training include guidance concerning the Directive's "reason to believe" standard (or any other standard that may be subsequently implemented) for mandating notification to ICE.⁶⁶ Second, the Panel recommends that any training program clearly explain what is meant by the phrase "notifying" ICE as required by the Directive and how that differs from making an ordinary inquiry to ICE. For example, ICE has a Law Enforcement Support Center which, among other things, fields inquiries from local law enforcement officials and runs names across its database for persons who are known to be unlawfully present in the United States. Any training program should inform local law enforcement officers that such an inquiry does not constitute "notifying" ICE pursuant to the Directive. Rather, information garnered from ICE's database can serve as a "reason to believe" that an arrestee is unlawfully present in the United States and therefore that ICE needs to be officially notified as required by the Directive.

Third, all New Jersey law enforcement officers must have a full understanding of the scope of the Directive's affirmative requirements and limitations. Any training program developed by the Attorney General must make clear that the Directive's affirmative requirements pertain only to inquiries about immigration status and notice to ICE in the context of individuals who have been arrested for indictable offenses and DWIs. Likewise, the training must clearly explain that the Directive (absent a future supplement) does not mandate nor prohibit inquiries concerning immigration status and notifications to ICE in the context of routine police conduct in communities (*e.g.*, traffic stops). It should also explain that the Directive does not mandate nor prohibit inquiries concerning immigration status and notifications to ICE during booking for non-indictable offenses. Moreover, it is necessary for any training program to explain the scope

of an officer's authority in immigration-related matters in the absence of a directive from the Attorney General.⁶⁷

Fourth, the Panel recommends that any training program include education concerning the Directive's prohibitions against inquiring about the immigration status of victims, witnesses and anyone requesting police assistance. Additionally, the training should educate officers about the Directive's affirmation of the prohibitions against racially influenced policing and how officers exercising their discretion concerning immigration matters can do so without taking account of race, ethnicity and national origin.⁶⁸

E. Community Outreach

As set forth more fully in Section II above, there is a significant disconnect between the Directive's reach and perceptions of it by members of the immigrant community. To address this issue, the Panel recommends that the Attorney General's Office or OIA conduct a community education and outreach program developed in coordination with the immigrant community and those who work with the immigrant community. In particular, such a program would involve multiple speaking engagements and other means of disseminating information to explain: the limited reach of Section 1 of the Directive; that police inquiries regarding immigration status and notifications to ICE derive from the inherent authority of law enforcement, rather than the Directive; the significant limitations placed on any New Jersey law enforcement agency that participates in the Section 287(g) program; the prohibitions against racial profiling; and the prohibition preventing officers from inquiring about the immigration status of victims, witnesses and anyone seeking police assistance.

In developing and implementing such a program, key elements include: outreach with a diverse group of representatives from immigrant communities to ensure widespread dissemination of information; building sustained relationships through regularly scheduled sessions; providing a mechanism for feedback from immigrant participants; and ensuring linguistically appropriate presentations.⁶⁹ In addition, the Panel recommends that for these speaking engagements, the State should use bilingual staff to further facilitate interactions with the immigrant community. Indeed, language barriers are sometimes a significant obstacle to building a relationship of trust and understanding between the immigrant communities and the police.⁷⁰

APPENDIX B:

DATA COLLECTION NEEDS

The Panel believes that data collection and analysis can answer a number of important public policy questions concerning the impact of immigration status inquiries and notifications to

ICE made pursuant to the Directive, as well as in furtherance of the discretion possessed by law enforcement officers. Some of the important policy questions and the data fields required to provide answers to those questions include as follows:

- The data needed to discern whether any law enforcement officers or agencies are outliers in the rate in which they question individuals about their immigration status and notify ICE of suspected unlawful presence includes: (i) the total number of immigration status inquiries made to (a) arrestees of indictable offenses and DWIs (i.e., pursuant to the Directive); and (b) arrestees of non-indictable offenses; (ii) the total number of immigration status inquiries made to for persons not subject to arrest; (iii) the total number of ICE database inquiries requested; and (iv) the total number of notifications made to ICE for (a) arrestees of indictable offenses and DWIs (i.e., pursuant to the Directive); (b) arrestees of non-indictable offenses; and (c) individuals who have not been arrested.
- The data needed to discern whether there is any correlation between law enforcement questioning persons regarding their immigration status or notifying ICE and the underlying offenses investigated, as well as with the procedural context of the interaction (e.g., booking process, Terry stops, executing warrants, traffic stops, etc.), includes: (i) the total number of inquiries for investigations of various underlying offenses; and (ii) the total number of inquiries for investigations resulting from various procedural contexts (e.g., booking process, Terry stops, executing warrants, traffic stops, etc.).
- The data needed to discern whether people of certain races, ethnicities and national origins are more frequently subject to law enforcement inquiries regarding their immigration status or are more likely to be the subject of ICE notifications includes: (i) the number of immigration status inquiries made to persons broken-down by various racial and ethnic backgrounds in each of the following contexts: (a) inquiries made to arrestees of indictable offenses and DWIs (i.e., pursuant to the Directive); and (b) inquiries made to arrestees of non-indictable offenses; and (c) inquiries made to persons who are not subject to arrest; (ii) the number of notifications made to ICE broken down by persons of various racial and ethnic backgrounds in each of the following contexts: (a) inquiries made to arrestees of indictable offenses and DWIs (i.e., pursuant to the Directive); and (b) inquiries made to arrestees of non-indictable offenses; and (b) inquiries made to persons who are not subject to arrest.
- The data required to discern how well New Jersey law enforcement officers understand the Directive includes survey data from a statistically significant sample of officers concerning their responses to key questions about the Directive.

ENDNOTES

¹ See Directive at p. 1.

² See Directive § I(1) and (3).

³ Indeed, Col. Dean Esserman Chief of Police in Providence, Rhode Island and an advisor to the International Association of Police Chiefs recently stated: “Police try to build trust within our communities including the immigrant community. I think it’s a violation of our oath, to protect and to serve, to become involved as immigration police in our communities.” Esserman, D., Harry Frank Guggenheim Symposium on Crime in America. Symposium conducted at the John Jay College of Criminal Justice (February 2, 2009).

⁴ Kareem Fahim, “Immigration Referrals by Police Draw Scrutiny”, New York Times 23 March 2008: A21 (hereinafter, the “New York Times Report”).

⁵ See Adam Karczewski, “Coming to America: How States and Municipalities Deal With Undocumented Immigrants.” New Jersey Lawyer 26 November 2007: 8.

⁶ In 1996 the United States Department of Justice initiated an inquiry into the conduct of the New Jersey State Police. See New Jersey Attorney General, Final Report of the State Police Review Team, July 2, 1999, at 4. The Justice Department concluded that the State Police had “engaged in a pattern or practice of discriminatory law enforcement.” *Id.* at 31. After the Civil Rights Division of the Department of Justice filed suit against the State, the State entered into Consent Decree to modify and reform the practices of the State Police. Consent Decree in *United States v. New Jersey*, No. 99-5970 (D.N.J. filed December 22, 1999), entered December 30, 1999.

⁷ See Directive § I(1) and (3).

⁸ *Id.* § I(2)-(4).

⁹ *Id.* § II(5).

¹⁰ *Id.* § IV(13). See also Attorney General Law Enforcement Directive No. 2005-1.

¹¹ 8 U.S.C. § 1357(g)

¹² See http://www.ice.give/oartners/287g/Section287_g.htm.

¹³ Directive § III(B)(7).

¹⁴ *Id.* § III(B)(10). The Directive also requires that Section 287(g) officers document all inquiries or investigations of immigration status. Among other things, the report must include the basis for the arrest, the outcome of the inquiry or investigation of immigration status, and whether the person was taken into custody or otherwise detained based upon immigration status. Law enforcement agencies with duly authorized Section 287(g) officers are required to submit all such reports to the Division on a monthly basis. The Division is required to make aggregate data available on an annual basis. *Id.* § III(B)(8)-(10). Section 287(g) officers must also report inquiries to their supervisors during the booking process. *Id.* § III(B).

¹⁵ The Mansfield Township Director of public safety stated that “[n]inety percent of the contacts that police have with individuals aren’t covered by the order [the Directive].” See Brian Donohue, “AG Tries to Clarify When Police Can Check Immigration Status.” The Star Ledger March 26, 2008: 11 (hereinafter “The Star Ledger Report”).

¹⁶ See The Star Ledger Report, at 11. The scope of law enforcement’s discretion to inquire about immigration status during traffic stops and other routine police activities was clearly articulated by the Supreme Court and lower federal courts. Those courts have held that the Constitution does not prohibit the police from inquiring about immigration status during traffic stops, warranted searches and other routine police stops so long as the initial stop is itself lawful and the length of the stop is not extended beyond *de minimis* amounts for such questioning. See e.g., *Muehler v. Mena*, 544 I.S. 93 (2005); *U.S. v. Torres-Monje*, 433 F. Supp. 2d 1028 (D. N.D. 2006).

¹⁷ For example, there is conflicting judicial authority concerning state and local law enforcement’s authority to arrest or detain an individual suspected of being unlawfully present in the United States (typically, a civil violation) in the absence of criminal conduct. Compare *Gonzales v. Peoria*, 722 F.2d 468 (9th Cir. 1983), overrules in part on other grounds, *Hodges-During v. De La Vina*, 199 F. 3d 1037 (9th Cir. 1999) with *U.S. v. Santana-Garcia*, 264 F.3d 1188 (10th Cir. 2001). Additionally, the Office of Legal Counsel in the U.S. Department of Justice has issued two conflicting legal memorandum on the subject in 1996 and 2002.

¹⁸ The Star Ledger Report, at 11.

¹⁹ *Id.*

²⁰ The New York Times Report at A21.

²¹ Information provided by ICE's Newark field office.

²² Inquiries made to the Law Enforcement Support Center in Vermont are of interest to ICE primarily for the purpose of identifying criminal records of alien immigrants or persons of interest. ICE can issue a detainer in such circumstances. When a database search returns no criminal record or person of interest identifier, ICE will notify the local law enforcement that a follow-up, if necessary, will be made at a later time.

²³ The Directive requires that county prosecutors report the total number of ICE notifications to the Director of the Division of Criminal Justice. The Director is supposed to make such aggregated data available to the public (this has not yet occurred).

²⁴ See Brian Donohue, "Jersey Cracking Down on Immigration Violations; Other States Watch Partnership with Feds After Newark Killings." The Star Ledger February 25, 2008: 1. See also the New York Times Report, at A21 (stating that from September 2007 through February 2008, New Jersey law enforcement officers referred 8,874 cases to ICE's Vermont office, which is a significant increase from the 4,589 referrals from the prior year).

²⁵ See New York Times Report, at A21.

²⁶ *Id.*

²⁷ Approximately 18,000 referrals have been made from September 2007 through September 2008..

²⁸ See New York Times Report, at A21. While the number of individuals deported as a result of notifications or referrals from New Jersey state or local law enforcement officers is not known, the number of deportations (which could result from a state or local referrals/notifications or independent investigations by ICE) handled by ICE officials in New Jersey has increased significantly. In the most recent fiscal year, New Jersey ICE officials deported 3,339 immigrants – 1,263 of which had criminal records. This was a 25 percent increase in deportation over the prior year. See "N.J. deportations up 25 percent in year" NorthJersey.com, 7 November 2008 <<http://www.northjersey.com/news/34072304.html>>.

²⁹ See New York Times Report, at A21.

³⁰ See Directive § I.

³¹ Furthermore, the Directive only requires that the Director of the Division of Criminal Justice disclose "aggregate data" concerning notifications made pursuant to the Directive. This requirement, however, does not provide for sufficient evaluation and accountability at the local level.

³² *Id.*

³³ See International Association of Police Chiefs, Police Chiefs Guide to Immigration Issues, July 2007, at 21 (Immigrant victims typically do not report abuse "due to language barriers, cultural differences, varying perceptions of law enforcement response, and a fear of deportation if they are not legally documented to live within the United States").

³⁴ See The Star Ledger Report, at 11.

³⁵ See Brian Donohue, "Are You Legal?" Is Bringing Fear to Immigrants." The Star Ledger September 18, 2008: 1. As a result of that incident, the Attorney General recommended that the officer be disciplined and that Newark police officers receive training. See Elizabeth Llorente, "Local Cops Now Call Often; State Prompts them to Check with Feds." Herald News 27 October 2007: A1 (hereinafter, "Herald News Report"). Other instances of violations of the Directive have likely gone unreported. During the first public hearing held by the Panel, an individual testified that he went to the police station with a friend to report a theft and the officer responded with questions about the victim's immigration status. N.J.Gov. Blue Ribbon Advisory Panel on Immigrant Policy, *Public Hearing* Tr. 68:3-23 (Dec. 10, 2007).

³⁶ See Lavinia DeCastro, "Police Officials Try to Calm Immigrants Concerns." Courier-Post 20 December 2007 (hereinafter, "Courier-Post Report"). See also Ivette R. Alvarez, "New Immigrant Policy Lacks Proper Safeguards." Herald News 2 September 2007: C12. Likewise, an individual who appeared before the Panel testified that "many people will probably not go out and report crimes that they otherwise would need to." N.J.Gov. Blue Ribbon Advisory Panel on Immigrant Policy, *Public Hearing* Tr. 83:14-20 (Dec. 10, 2007).

³⁷ See Herald News Report, at A1.

³⁸ See e.g., N.J.Gov. Blue Ribbon Advisory Panel on Immigrant Policy, *Public Hearing* Tr. 83:7-10 (Dec. 10, 2007) ("There's general fear of the police as it is within the communities because of all sorts of anti-immigrant sentiment that we see within the state . . .").

³⁹ See International Association of Police Chiefs, Police Chiefs Guide to Immigration Issues, July 2007, at 21. Cf. N.J.Gov. Blue Ribbon Advisory Panel on Immigrant Policy, Public Hearing Tr. 20:6-10 (Dec. 10, 2007) ("Fears of deportation even on the part of the individuals here legally has led many to take cover, foregoing medical care and other services necessary to maintain the public good.").

⁴⁰ See Anita Khashu, Robin Busch, Zainab Latif and Francesca Levy. Building Strong Police-Immigrant Community Relations: Lessons from a New York City Project, Vera Institute of Justice, August 2005, at 8 (hereinafter, "Vera Institute Report I").

⁴¹ The Vera Institute of Justice's 2005 report found fear of deportation, imported perceptions of police, crime and justice and language barriers to be the primary conditions which combine to form barriers to developing the trust of immigrant communities. See Vera Institute Report I, at 3. Also See International Association of Police Chiefs, Police Chiefs Guide to Immigration Issues, July 2007, at 22.

⁴² See International Association of Police Chiefs, Police Chiefs Guide to Immigration Issues, July 2007, at 21. See also Ivette R. Alvarez, "New Immigrant Policy Lacks Proper Safeguards." Herald News 2 September 2007: C12.

⁴³ See International Association of Police Chiefs, Police Chiefs Guide to Immigration Issues, July 2007, at 21 ("Ethnic minorities are often afraid of the perceived potential for racial profiling and prejudice towards them by the police and the communities they reside in."); New Jersey Advisory Committee on Police Standards, Report and Recommendations to Governor Jon S. Corzine Pursuant to Executive Order No. 29 ("Executive Order No. 29 Report"), December 7, 2007, at 111-112 ("While the Committee did not uncover evidence of widespread racial profiling on the local level, the Committee heard evidence that clearly established the risk, and in some cases the fact, of racially-biased law enforcement.")

⁴⁴ The Section 287(g) program became a significant issue in the State when the mayor of Morristown submitted an application to ICE for the Morristown Police Department to participate in the program. See Minhaj Hassan, "Cresitello: Immigration Plan Not Dead Yet." Daily Record 23 February 2008: 32. Several months after submitting the application, ICE instituted a requirement that program participants demonstrate a capacity to jail detainees, as well as have such facilities meet certain detention requirements. See Statement Regarding County of Morris 287(g) Impact Review. Unable to meet such requirements itself, Morristown requested that the County of Morris also participate in the program by utilizing the Morris County Correctional Facility. See Sherriff Edward V. Rochford, An Impact Review of the United States Bureau of Immigration and Customs Enforcement 287(g) Program Upon the County of Morris (preface).

Before deciding whether to join Morristown's request to participate in the 287(g) program, Morris County Administrator John Bonanni requested that the Morris County Sheriff's Office provide a written assessment of how Morris County would be impacted by allowing the County Correctional Facility to be used for 287(g) purposes. The Sherriff's Office provided a comprehensive analysis, which concluded that staffing, structural and ancillary costs for the Correctional Facility would total \$1,331,876.00. There could also be additional financial and staff burdens from the defense of lawsuits, dealing with protesters and complying with federal corrections requirements. *Id.* at 10-11. The Sherriff's Office concluded that the daily cost to jail detainees would be more than double the amount that the federal government would reimburse. As a result, Morris County declined to join Morristown's 287(g) application to ICE. See Statement Regarding County of Morris 287(g) Impact Review. Given Morristown's inability to meet the detention requirements needed to participate in the program, its application was effectively terminated.

Currently, only the Hudson County Department of Corrections has a memorandum of agreement with ICE to participate in the 287(g) program. See http://www.ice.gov/pi/news/factsheets/section287_g.htm.

⁴⁵ See Directive §I(1).

⁴⁶ At the second public hearing by the Panel, a member of the public stated that Directive ". . . fails to define their reason to believe the standards. This lack of clarity has increased its potential for racial profiling and discrimination by the police." N.J.Gov. Blue Ribbon Advisory Panel on Immigrant Policy, Second Public Hearing Tr. 24:10-16 (Mar. 11, 2008).

⁴⁷ See New York Times Report, at A21.

⁴⁸ The Panel notes that while the complaint form used by New Jersey law enforcement officers now includes categorical designations of circumstances where a "reason to believe" that unlawful presence exists, it is still essential for officers to understand how such information can be properly elicited. Additionally, the complaint form

also includes “other” as a category for an officer to have a “reason to believe” that there a person is unlawfully present. Officers should have training as to the types of circumstances that might be appropriate for this category.

⁴⁹ Additionally, because approval by a prosecuting authority decreases the possibility of a single officer using subjective criteria when notifying ICE of suspected unlawful presence, it warrants requiring such approval in all circumstances where an officer provides such notice to ICE, whether pursuant to the Directive or in other circumstances not covered by the Directive.

⁵⁰ While quantitative data is not available concerning the frequency with which law enforcement officers question individuals about their immigration status, testimony at public hearings held by the Panel provides anecdotal evidence that such conduct occurs far too frequently. *See e.g.*, N.J.Gov. Blue Ribbon Advisory Panel on Immigrant Policy, *Public Hearing In Re: Immigrant Policy* Tr. 30:21-31:6 (Jun. 11, 2008) (“A Bangladeshi limousine driver, while waiting for a passenger at Newark International Airport, was asked to produce immigration documents and also ended up in detention at the Elizabeth Detention Center. Since January 2008, over 30 young men of Polish descent were taken directly to the deportation center after several traffic stops in which they were passengers in the vehicle; often, the stop did not even produce a traffic offense in itself.”); *id.* Tr. 60:24-61:1 (“We have seen numerous people that have ended up getting stopped in regular traffic stops and then are going to the county jail . . .”); *id.* Tr. 96:12-17 (“For example, a Filipino nurse who was stopped for a traffic violation by local police ended up in an immigration detention center in Elizabeth, New Jersey”); N.J.Gov. Blue Ribbon Advisory Panel on Immigrant Policy, *Second Public Hearing* Tr. 42:18-2 (Mar. 11, 2008) (“Many times they stop people without any reason, and instead of being able to be peaceful and tranquil, they are bothering us”); *id.* Tr. 52:14-55:2 (testifying about instances of immigrants being stopped by the police while driving or detained based upon immigration status). Written Testimony of Camille Huk Submitted to the Panel (“We find that Eastern Europeans, among them Ukrainians, are often targeted during routine traffic stops, even if they are only passengers in the vehicle. In many instances, if they are found without papers, despite any protests, despite the fact that there may already be a legal process started for their legitimate stay in the US, they are taken to deportation centers . . .”).

⁵¹ As set forth more fully in Section II(C) above, some law enforcement officials are also confused about the scope of their authority. This confusion is understandable given the conflicting judicial authority on detentions, the nuanced requirements of the Supreme Court in questioning individuals about their immigration status, and the lack of training for local law enforcement officers to advise them about the limited reach of the Directive.

⁵² *See supra* note 17.

⁵³ For example, one individual testified at a public hearing held by the Panel that she thought that the Directive had “unintended negative consequences” including racial profiling. Such testimony highlights the need for data to either validate or disabuse such concerns. N.J.Gov. Blue Ribbon Advisory Panel on Immigrant Policy, *Public Hearing* Tr. 82:5-7 (Dec. 10, 2007).

⁵⁴ *See* Department of Justice, A Resource Guide on Racial Profiling Data Collection Systems, November 2000, at 13.

⁵⁵ Currently, the Directive only requires that county prosecutors annually report the total number of notifications made pursuant to the Directive.

⁵⁶ *See* New Jersey Advisory Committee on Police Standards, Report and Recommendations to Governor Jon S. Corzine Pursuant to Executive Order No. 29, December 7, 2007, at § IV.

⁵⁷ *See* Directive §I(1).

⁵⁸ *See* New York Times Report, at A21.

⁵⁹ For example, one approach could require that arresting officers be required to document on the complaint form that they have inquired about the immigration status of arrestees covered by Section 1 of the Directive. When this data is collected and aggregated it can be used to assess whether there is a 1 to 1 ratio between arrests for indictable offenses/DWIs and immigration status inquiries for each law enforcement agency. If such a ratio exists, then it suggests compliance with Directive.

⁶⁰ Executive Order No. 29 Report at 111-117.

⁶¹ *Id.* at §III and IV.

⁶² *See* Directive §I(4).

⁶³ New York Times Report at A21.

⁶⁴ As acknowledged by the International Association of Chiefs of Police: “Specialized training is required to equip state and local officers with the basic ability to determine whether persons they have encountered are legal or illegal immigrants.” See International Association of Police Chiefs, Police Chiefs Guide to Immigration Issues, July 2007, at 44.

⁶⁵ Similarly, in the context of racial profiling, disparate training provided to local law enforcement has resulted in community requests for standardization:

These [training] programs vary from a discussion of racial profiling during each officer's review to biannual racial profiling courses. Some of these agencies offer training at hire, some offer it annually, and still others hold training sessions only as needed or when new information becomes available to all sworn personnel and dispatchers

. . . Members of the community have called for a standardization of training. Law enforcement agents agree that this would be an important aid in preventing racial profiling.

New Jersey Advisory Committee on Police Standards, Report and Recommendations to Governor Jon S. Corzine Pursuant to Executive Order No. 29, December 7, 2007, at 116-17.

⁶⁶ This should be done in addition to changing the “reason to believe” standard.

⁶⁷ In the absence of a state statute or a directive from the Attorney General prohibiting inquiries into immigration status, New Jersey law enforcement officers are not prohibited by the Constitution from inquiring about the immigration status of individuals during traffic or other lawful stops, so long as (i) the initial stop is itself lawful; and (ii) the length of the stop is not extended for such questioning. See *e.g.*, *Muehler v. Mena*, 544 U.S. 93 (2005); *U.S. v. Torres-Monje*, 433 F. Supp. 2d 1028 (D. N.D. 2006).

⁶⁸ The Panel notes that the Advisory Committee on Police Standards reported significant variation among the types and degree of training that local law enforcement officers receive in New Jersey. See New Jersey Advisory Committee on Police Standards, Report and Recommendations to Governor Jon S. Corzine Pursuant to Executive Order No. 29, December 7, 2007, at 116-117. Any improvement in the uniformity and quality of local law enforcement training on racial profiling would significantly reinforce and assist training on racial profiling in the immigration context.

⁶⁹ Vera Institute of Justice found that sustained contact between the immigrant community and local law enforcement nurtured positive relationships between individual members of the police department and immigrant community leaders. Community leaders noted that the interactions were very helpful and informative and that they felt more comfortable approaching the police officers. See Vera Institute Report I, at 8.

For example, the New Jersey Advisory Committee on Police Standards recommended the establishment of a regular Attorney General's forum, conducted at least twice a year, at which the Attorney General and the Superintendent of Police meet with the members of the public to discuss the agenda set forth by a Steering Committee appointed by the Governor. The Advisory Committee noted the need to continuously nurture the relationship between law enforcement and minority communities. It cites as an example the successful community policing efforts achieved in Irvington and Camden, which were achieved, in part, through interpersonal contacts that dispelled suspicion. See New Jersey Advisory Committee on Police Standards, Report and Recommendations to Governor Jon S. Corzine Pursuant to Executive Order No. 29, December 7, 2007, at §VI.

⁷⁰ See International Association of Police Chiefs, Police Chiefs Guide to Immigration Issues, July 2007, at 22.

January 19, 2009

Dear Governor Corzine,

We are writing to follow up on the discussion we had with you at Drumthwacket on December 17th, 2008. It has been an honor to serve the state of New Jersey as members of your Blue Ribbon Panel on Immigrant Integration. That morning we shared with you that our Panel had unanimously adopted a resolution specifically asking that you recommend and work with President Obama and the Department of Homeland Security for a moratorium on home and workplace raids until such time as there is comprehensive immigration reform. We are very pleased that you agreed to do so.

We strongly believe that raids and the fear of raids produce damaging effects to communities, families and children and do not appropriately deal with the state's immigrant integration issues. Immigrant integration cannot be accomplished in a climate of fear. When immigrant families go underground for fear of deportation there are significant implications for their children's education and healthcare as well as for public safety.

Large numbers of children in New Jersey live in mixed-status families. There are approximately 40,000 undocumented children living in the state of New Jersey and approximately 75,000 U.S.-born children of undocumented parents living in New Jersey in about 70-80,000 families.¹ The fear of ICE Raids has a direct impact on these children.

Even though children born in the U.S have all the same rights and privileges of any children born in the U.S. — their undocumented parents do not. Undocumented parents are more likely than immigrants overall to be working in low-wage jobs and jobs that don't carry health benefits. These jobs may not be stable; they may be seasonal. Undocumented parents often fear interacting with government agencies. They are less likely to apply for food stamp benefits, even though their children may be eligible and may be afraid to go into a government agency to apply for their children's health care benefits. As a consequence, even though the children in these families experience greater need, they are less likely to use public benefits.

Immigrant families will not come forward to seek help with education-related needs or to apply for medical benefits or food stamps for their children if they fear home raids. Immigrant workers will not come forward to report serious health and safety violations

¹ These estimates, averaged across 2000-2006, were provided by Jeff Passel, senior demographer Pew Hispanic Center, December 11, 2008. Passel cautioned that the NJ sample sizes were small.

and other labor violations if they fear employer retaliation. Unreported violations of labor law have implications for every worker in a plant, not just the undocumented. When health and safety and labor violations are reported and investigated the health and safety and labor rights of all workers are safeguarded.

During enforcement operations, workers are routinely picked up and sent to detention facilities. According to a report by the American Civil Liberties Union (ACLU) of New Jersey, detainees continually have difficulty accessing telephones and other means to contact outside sources for legal support from relatives, friends, or attorneys.² Oftentimes, they are denied their constitutional rights during the procedure, are unable to communicate with their families, and cannot make arrangements for their dependent children, many of whom are infants, toddlers, and preschoolers. Sometimes these children and dependents, having watched their loved ones led away often in the middle of the night, are left abandoned and do not seek support for the ensuing distress related to their relative's detainment. Such trauma, including economic difficulties and psychological suffering, creates harmful and long-lasting consequences for families. Many workers have been detained under poor conditions and have been denied access to medication as well as medical attention.³ Finally, we have seen little evidence that home and workplace raids have deterred illegal immigration.

Over the course of the past eighteen months, we have become convinced that states have a vital role to play in immigrant integration and we are enormously proud and excited about the recommendations we are placing before you in this regard. But we know that successful immigrant integration must be a partnership between the states and the federal government.

We believe that the state of New Jersey, as one of the most diverse states in the union and one that has long prided itself on being a commonwealth of immigrants old and new, is uniquely qualified to play a national leadership role in moving the nation toward a more constructive approach to immigration policy. We will do this by having our governor take the lead in initiating the call, in the earliest days of the new administration, to abandon raids until the passage and adoption of comprehensive immigration reform.

Thank you very much,

The members of the New Jersey Blue Ribbon Panel on Immigrant Integration

² "Behind Bars: The Failure of the Department of Homeland Security to Ensure Adequate Treatment of Immigration Detainees in New Jersey," American Civil Liberties Union, May 2007. <http://www.aclu-nj.org/downloads/051507DetentionReport.pdf>

³ "Paying the Price: The Impact of Immigration Raids on America's Children," National Council of La Raza, 2007. http://www.urban.org/UploadedPDF/411566_immigration_raids.pdf