

## Cato Institute Policy Analysis No. 237: A National ID System: Big Brother's Solution to Illegal Immigration

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### Executive Summary

Republicans in the House and Senate are moving quickly forward with Orwellian legislation that would create a national computerized registration system for all American workers. The new federal computer worker registry, which is intended to reduce illegal immigration, is the crucial first step toward the implementation of a national identification card system for all 120 million American workers. For the first time ever, employers would have to receive the government's permission to hire a new worker. Sen. Dianne Feinstein (D-Calif.) has even urged that the ID cards contain individuals' photographs, fingerprints, and even retina scans.

The computer registry and national ID card, which would confer on the federal government vast new police-state powers, is highly incompatible with the Republican theme of expanding freedom and reducing government. There are other problems with the concept: 1) the identification system could be easily expanded to include other purposes beyond deterring illegal immigration, such as implementation of a Clinton-style health security card, conducting background checks on individuals, and enforcing affirmative action laws and other government regulations; 2) the system would cost the federal government between \$3 billion and \$6 billion per year to administer; and 3) error rates that are commonplace for government databases would lead to hundreds of thousands of Americans being denied legal access to the workforce.

A computer registry would impose large costs on American citizens in terms of both dollars and lost liberties. Yet, as this study shows, the impact on illegal immigration would be minimal.

### Introduction

Illegal immigration has become one of the key political issues of the 1990s, especially in border states such as California. Because an estimated 4 million illegal aliens are living in the United States today, a growing number of Americans are demanding tough measures from the federal government to deter illegal entry. In response, federal policymakers are now considering the creation of a national identification system--an ill-conceived idea that would grant the government vast new police-state powers, require citizens to surrender basic freedoms and privacy rights, and fail to halt illegal immigration.

Almost all of the major immigration "reform" measures now being debated would establish some sort of federal worker registry. A computerized database would contain information on every citizen and permanent legal resident of the United States. Before a business could enter a private contractual arrangement to hire a worker, it essentially would

have to ask for the federal government's permission. The employer would try to verify a prospective employee's Social Security number against the newly established national database. If the computer registry failed to recognize the Social Security number as valid, the government would forbid the employer to hire the worker. The plan would cover all workers, including native-born citizens, and probably require national identification cards with biometric indicators such as photographs, finger prints, and possibly even retina scans for all 130 million Americans in the labor force.

The leaders of virtually every libertarian, conservative, and civil liberties organization in America have denounced the computer registry as "misguided and dangerous" (see appendix). Nonetheless, the Clinton administration has endorsed the proposal, as have two key Republicans in Congress. Sen. Alan Simpson (R-Wyo.) and Rep. Lamar Smith (R-Tex.), who chair the immigration subcommittees of their respective chambers, are working on legislation to create a registry. Earlier this year Senator Simpson introduced S. 269, which would mandate the creation of a national verification system within eight years. Representative Smith introduced H.R. 1915, which would have a national identification system running in 1999.

In the absence of substantial public opposition to those dangerous proposals, Congress could approve and President Clinton could sign into law a national identification system as early as this fall. Policymakers, however, should prevent that from happening for several reasons:

1. Lack of constitutional authority. Congress lacks any authority to establish a national computer registry, to compel citizens to obtain a national ID card, or to involve itself so intimately in the everyday business decisions of employers.
2. Invasion of privacy. The computer registry is an assault on Americans' basic civil liberties. Once established, the computer registry could be expanded in ways that would increase the size and scope of government. It might, for example, be used to implement a Clinton-style health care plan and security card, ensure employer compliance with affirmative action requirements, track child support payments, verify that parents are getting their children vaccinated, and conduct background checks on people who want to purchase guns. Sen. Dianne Feinstein (D-Calif.) favors a national ID card that would include such information as photograph, finger print, and retina scan.
3. Costs to employers and taxpayers. The Social Security Administration acknowledges that a full-blown national ID system would cost at least \$3 billion to \$6 billion--about 10 to 20 times more than the proponents of a worker registry have estimated. The system might also impose compliance costs of at least several hundred dollars on every employer if it required the purchase of verification equipment. The costs for many employers would shoot into the thousands of dollars. By injecting government into the equation, an ID system would also cause undue delays in hiring.
4. Error rates. Any federal computer registry will be contaminated with large amounts of faulty data that will render the system unreliable. Even the best government databases have error rates of 10, 20, and 30 percent. But if the national computer registry had an error rate of just 1 percent, the federal government would wrongly deny jobs to 650,000 American workers each year because of bureaucratic mistakes in Washington.
5. An unworkable solution. Many employers hire illegal aliens, even though they know that they are breaking the law. There is no reason to believe that they will suddenly start to comply with federal laws regarding national identification. And the vast majority of employers--who do not hire illegal immigrants--will face yet another regulatory obstacle.

In sum, the computer registry will impose large costs on American citizens--in terms of both dollars and lost liberties. American workers will pay a high price for a system that will have at best a negligible effect on deterring unlawful entries into the United States. In the terna over illegal immigration, some policymakers in Washington have forgotten that America is a free and open society. Some level of illegal immigration is the price we pay for our freedoms and liberties. Congress may want to trade off Americans' basic rights in order to combat illegal immigration, but the public should not.

### **The Failed Legacy of Employer Sanctions**

Most illegal immigrants come to the United States in search of employment, not to go on welfare. For many years federal officials have attempted to deter illegal immigration by denying undocumented aliens access to the U.S. job market. In 1986 Congress passed the "employer sanctions" provision of the Immigration Reform and Control Act. Employer sanctions made it a crime for employers to knowingly hire illegal aliens. Under IRCA, job applicants must prove either their citizenship or their legal residence by completing an I-9 Form before they can begin work. Business owners who fail to comply with the law and knowingly hire illegal immigrants can face thousands of dollars in fines and, in the severest cases, prison sentences.

After a decade of experience with employer sanctions, any objective assessment could only conclude that the law has been an unmitigated failure. Employer sanctions have done virtually nothing to halt illegal immigration. The number of illegal immigrants apprehended at the Mexican border rose steadily from 1989 through 1993 (see Figure 1).<sup>[1]</sup> Last year, 10 years after employer sanctions were established, 1 million illegal immigrants were apprehended. That is not altogether surprising. Before passage of IRCA, a General Accounting Office study reported that employer sanctions had been unsuccessful in virtually every developed country that had tried them.<sup>[2]</sup>

Despite the failure of employer sanctions, much of the hysteria over illegal immigration is not confirmed by the official statistics on the size of the illegal alien population. The Bureau of the Census estimates that there are now 4 million illegal aliens living in the United States and

Figure 1

Impact of Employer Sanctions on Apprehensions at the Mexican Border



Source: Immigration and Naturalization Service, Statistical Division.

that about 300,000 more settle permanently each year. Four million illegal immigrants is undeniably a large number of people, but it is far below the "invading army" of 8 million 10 million aliens regularly reported in the media and by anti-immigrant lobbyists. Illegal aliens constitute only about 1.5 percent of the 260 million people living in the United States. Surely that number does not require draconian enforcement measures that would touch every single American worker and employer--especially the majority of Americans who do not live in areas with large numbers of illegal aliens.<sup>[3]</sup>

In addition to not working, employer sanctions have caused significant harm to many Americans. Virtually every independent study on the impact of IRCA has discovered that employer sanctions have caused discrimination against foreign-looking American workers, particularly Asians and Hispanics. In 1990 the General Accounting Office documented a "serious pattern of discrimination" resulting from the employer sanctions law.<sup>[4]</sup> The documents of Hispanic job applicants were three times more likely to be challenged than were those of whites. A report by a New York State task force found similar problems. According to the New York Times, "The report clearly demonstrates that employers in New York State are adopting practices that discriminate against foreign residents, out of fear of penalties under the immigration law."<sup>[5]</sup> Employer sanctions give even well-intentioned employers an incentive to discriminate in order to avoid costly confrontations with the Immigration and Naturalization Service. As the Wall Street Journal

aply put it, employer sanctions are the first set of laws "since Jim Crow where the government is so closely aligned with a process that produces discrimination."<sup>[6]</sup>

When employer sanctions were passed in late 1985, many critics complained that precisely those discriminatory effects would occur. Critics also said that employer sanctions would inevitably lead to a national ID card.<sup>[7]</sup> Supporters of the law promised that neither of those things would happen.

### **The National Computer Registry Proposal**

Instead of rethinking the failed strategy of enforcing immigration law at the workplace by turning employers into INS cops, many policymakers have called for even more draconian measures. The U.S. Commission on Immigration Reform, chaired by former Texas representative Barbara Jordan, conceded that employer sanctions had failed to deter illegal immigration. The commission announced last year that current methods of worker verification were "too susceptible to fraud, particularly through counterfeiting of documents . . . [and contribute to] discrimination against foreign-looking and foreign-sounding workers." But the commission went on to endorse "a simpler, more fraud-resistant system for verifying work authorization."<sup>[8]</sup>

In fact, what the commission has proposed is anything but simple. Hiring decisions are currently private contractual arrangements between employers and job applicants. The employer offers a job, the applicant accepts, and work can begin almost immediately. Under the commission's proposed plan, employers would have to verify the Social Security numbers of employees by matching them against a national worker registry maintained by a new federal bureaucracy. The registry would then verify the Social Security number in question and either permit or forbid every individual decision to hire. In other words, the government would, for the first time in history, require employers to submit all of their hiring decisions for approval to a federal bureaucrat.

Most advocates of a computer registry system acknowledge that it could work only in conjunction with a national ID card. Without a national identifier, neither the government nor the employer would have any way of verifying that the person presenting a Social Security number was the actual holder of that number. Illegal aliens could easily use other people's Social Security cards. Senator Feinstein has even suggested an identification card with "a magnetic strip on which the bearer's unique voice, retina pattern, or fingerprint is digitally encoded."<sup>[9]</sup>

Senator Simpson has consistently argued that for employer sanctions to work effectively, an ID card is necessary. In the 1990 Immigration Act, he sought an experimental card with a biometric component, such as a fingerprint, and a Social Security number.<sup>[10]</sup> More recently, in Senate hearings on May 10, 1995, Simpson reaffirmed the necessity of an ID card. "A [worker] verification system must have two functions. It must verify that a name corresponds to someone who is authorized to work. And then verifying the identity, that the person claiming the name and the number is not an imposter. The use of a biometric identifier, such as a fingerprint, is needed if this function is to perform reliably."<sup>[11]</sup>

This year Senator Simpson's revised bill includes a provision that forces states to issue a standardized birth certificate that includes an individual's Social Security number and, by the age of 16, a biometric indicator. That would allegedly reduce the document fraud that currently plagues the enforcement of employer sanctions, but it would also have the federal government regulating state records to an unprecedented degree. That idea builds on a Jordan commission recommendation, but, like the commission, Simpson offers no cost estimate of what it would take to regulate the 7,000 vital statistics offices across the country that currently issue birth certificates.<sup>[12]</sup>

### **The Computer Registry and Privacy**

The Jordan commission maintains that a national ID system could be implemented without invading Americans' privacy rights. The commission insists that the computer registry and the ID card would never be used for purposes other than employment verification. Those assurances are less than convincing. The history of government programs indicates that privacy rights are violated routinely whenever expediency dictates that government information be used for expanded purposes.

Consider, for instance, the expanding role of the Social Security card in our society. Created in 1935, its sole purpose was to facilitate the Social Security system. Individuals were assigned numbers so that the proper governing authority could easily account for contributions made to the Social Security fund. Nonetheless, the use of the numbers grew steadily over the years. Starting in 1961 the Civil Service Commission began using Social Security numbers to identify all federal employees. In 1962 the Internal Revenue Service started requiring taxpayers' Social Security numbers to appear on all completed tax returns. The SSA disclosed Social Security numbers to the private sector until public outrage halted the practice in 1989. The disclosures affected more than 3 million Americans.<sup>[13]</sup>

The computer revolution made use of Social Security numbers prevalent in myriad everyday private and public transactions. Everything from credit to employment to insurance to many states' drivers licenses requires a Social Security number. Social Security numbers have become de facto national identifiers. All that from a number whose original purpose was to do nothing more than track the amount of money paid into the Social Security system.

Congress has at various times tried to restrict the use of Social Security numbers as identifiers, but to no avail. Throughout the 1970s various congressional committees held hearings on what the SSA characterized as the "potential dangers to society" that the increased use of Social Security numbers presented. Indeed, the Privacy Act of 1974 contains provisions that prohibit additional uses of Social Security numbers absent congressional approval. Despite those efforts, the proliferation of uses of the numbers has hardly been slowed.

Social Security numbers are by no means alone in that regard. Various programs that authorize the government to collect personal information have gone awry over the years. Here are some historical and recent examples of abuse:

- During World War II supposedly confidential Census Bureau information was used to identify Japanese-Americans to be moved to internment camps.<sup>[14]</sup>
- The state of Ohio recently sold its drivers' license and car registration lists to TRW, Inc., for \$375,000.<sup>[15]</sup> In a recent editorial, Business Week asked, "Who gave government agencies the right to cash in on information that people are forced to give them in the first place?"<sup>[16]</sup>
- In early 1995 more than 500 Internal Revenue Service agents were caught illegally snooping into the tax records of thousands of Americans--often friends and celebrities. Only five of those employees were fired for that invasion of privacy.<sup>[17]</sup>

The potential for abuse of a national ID system is greater than it has been of any previous government program. The personal information stored in a national worker registry would have to be widely available to the public--more than 6 million employers, after all, would need access to it. Many private companies would have motives for tapping into the information stored in a national worker registry. Market research firms routinely compile information from public records, such as mortgage rolls, that they use to estimate annual income and other characteristics to create a consumer profile. They also pay top dollar for information kept by the federal government. With increasing frequency, government agencies are becoming eager sellers. According to Business Week, "The government is actively selling huge amounts of personal information to listmakers."<sup>[18]</sup> One "information broker" recently told the Wall Street Journal, "Everything is available for a price."<sup>[19]</sup> According to a 1993 poll, 53 percent of Americans oppose a national identity card system because "it would give the federal government too much control over all Americans."<sup>[20]</sup>

### **An Internal Passport in the Information Age**

Technology has played a vital role in advancing freedom around the world, especially in Eastern Europe and the former Soviet Union. But it has also laid new temptations at the doorstep of government, which is suddenly afforded ways to micromanage people's lives. "Big Brother is here," says a fraud inspector for the U.S. Secret Service.<sup>[21]</sup> Once the technology and database are in place for a national worker registry, new and at times urgent alternative purposes for the registry will doubtless arise. Those who favor big government will find many uses for a centralized computer database every time a new "national crisis" emerges: to help fight the war on drugs, to control the spread of disease, to

combat terrorism, and so forth. Here are a few examples of policy ideas that have already been promoted in Washington for which a computer registry would be advantageous:

1. Nationalized health care. President Clinton's health care plan included a health security card for all Americans.<sup>[22]</sup> If a national health system were linked with a worker registry, employers could have access to information about genetic testing, sexual orientation, drug use, sexually transmitted diseases, and more.<sup>[23]</sup>
2. Welfare payments. The Jordan commission suggested that the worker registry could also serve as a welfare registry to be used to verify eligibility for benefits.<sup>[24]</sup> Senator Simpson's bill includes a benefits provision. Vice President Gore has promoted a "reinventing government" initiative that would send entitlement monies to recipients via an ATM, and Maryland has already experimented with the practice.<sup>[25]</sup>
3. Criminal records. Many people will think that the information in a worker registry could be combined with criminal records to make sure former felons do not get bonded in the banking industry or that convicted rapists do not become school teachers. The system could possibly be used to run background checks on people wishing to purchase guns. The city of Pasadena, California, already requires identification to purchase ammunition.<sup>[26]</sup>
4. Child support. Government registries could be used in the enforcement of child support orders. House Republicans--supposedly opponents of big government--supported the creation of a national database as part of the Contract with America.<sup>[27]</sup>

Ironically, many of the same Republicans who belittled the Clinton administration for proposing a national health security card now want an even more insidious technology to control illegal immigration. Indeed, some advocates of the ID card idea have suggested that the card could and should be used for both purposes.

In the age of the microchip, centralized computers have the capability of holding and processing huge amounts of information about all 260 million American citizens. An optically readable ID card recently patented by Drexler Technology Corporation in California can hold a picture ID and 1,600 pages of text. The government could mass produce those cards at a cost of less than \$5.00 per person.<sup>[28]</sup> Even more sophisticated identification systems might remove the need for carrying a card at all. The Hoover Institution's Martin Anderson has written of one of the most recent technological innovations,

There is an identification system made by the Hughes Aircraft Company that you can't lose. It's the syringe implantable transponder. According to promotional literature, it is an "ingenious, safe, inexpensive, foolproof, and permanent method of identification . . . using radio waves." A tiny microchip, the size of a grain of rice, is simply placed under the skin. It is so designed as to be injected simultaneously with a vaccination or alone.

The chip contains a ten-character "alphanumeric identification code that is never duplicated." When a scanner is passed over the chip, the scanner emits a beep, and your number flashes in the scanner's digital display.<sup>(29)</sup>

The point here is that depending on how far Congress wants to go in suppressing the rights of the individual in order to deter illegal immigration, the technology exists for an effective if Orwellian identification system. As Anderson put it, "Once you denigrate the idea of privacy, all kinds of innovative government controls are possible."<sup>[30]</sup> Therein lies the central objection to a computer registry and worker ID card.

### **An Unfunded Mandate on Employers**

Only 1.5 percent of the U.S. population resides in the United States illegally, according to the best estimates. Yet 100 percent of the hiring decisions made by employers would suddenly receive federal scrutiny under a national ID scheme. Moreover, legal and illegal immigration is a problem almost exclusively concentrated in just a handful of states. Eighty-five percent of illegal immigrants live and work in just six states (see Table 1). Yet the computer registry

plan would require all employers in states such as Iowa, Ohio, and Tennessee--which have very few legal immigrants, let alone illegal immigrants--to comply.

For employers--particularly small businesses--compliance with the computer registry will be costly and burdensome. [\[31\]](#) As yet, no piece of proposed legislation has spelled out the details of operating a national worker registry. Senator Simpson's bill is extremely vague on that point and would leave many of the details up to bureaucrats and regulators. The commission's report--which forms the basis for Simpson's legislation and, indeed, for the concept of a registry--offers little cause for optimism. It lists a

State	Number	Percentage
California	1,441,000	42.6
New York	449,000	13.3
Texas	357,000	10.6
Florida	322,000	9.5
Illinois	176,000	5.2
New Jersey	116,000	3.4
All other states	518,000	15.4

Source: Immigration and Naturalization Service estimates for 1992, in "'Big Brother' Warning Sounds Again," USA Today, July 14, 1994, p. 5A.

few of the features that might be included to help employers to verify job applicants' credentials: "manual secondary verification and appeal," "Personal Identification Number[s]," "Employer Identification Number[s]," "confirmation number[s]," "reverification," and "employment authorization document[s]." [\[32\]](#) The Justice Department's instruction book for filling out the relatively simple I-9 Form is 32 pages long. [\[33\]](#) A national worker registry will only complicate matters further. Whatever the final package includes, it will make I-9 Forms--which already frustrate far too many employers--look like flat-tax postcards in comparison. [\[34\]](#)

An INS pilot project, the Telephone Verification System, suggests that costs to employers will be very high. The TVS program sought to determine the feasibility of asking employers to confirm the citizenship status--and thus the employment eligibility--of new employees. The experiment required each participating business to have a "point of sale" device and a verifone printer to communicate with the INS. Those machines cost \$450 and \$325, respectively. In addition, the nine participating companies racked up over \$31,000 in administrative costs for running the system. [\[35\]](#)

Although the advocates of a computer registry argue that such a system will eliminate paperwork requirements for businesses, and thus will be less of a burden than the current employer sanctions requirements, small business groups strongly disagree. The National Federation of Independent Business (NFIB), the National Association of Manufacturers, the U.S. Hispanic Chamber of Commerce, and the Small Business Survival Committee oppose the computer registry. In a recent poll, a majority of NFIB members who had an opinion opposed the concept. [\[36\]](#)

### **Can Uncle Sam Operate a Computer Registry?**

Last February the Clinton administration held a briefing on immigration policy at the White House to discuss the computer registry proposal. INS commissioner Doris Meissner arrived almost 30 minutes late for the meeting. The White House's computer identification system had held her up--it had failed to recognize Meissner's ID and barred her from entering the building. [\[37\]](#) The whole incident was an ironic reminder of the dangers of putting too much faith in government computer systems. For Meissner, the computer error simply meant a delay in her schedule. For an American worker, such a computer glitch could mean the difference between earning a living and months of unemployment until the government error was corrected.

The Jordan commission concedes that mistakes and omissions could poison its scheme. Its report states, "The Commission is aware of the inadequacies of the current INS data that would be used in the proposed system."<sup>[38]</sup> The INS, for example, recently lost the files of 60,000 legal immigrants, who were subsequently denied the work authorizations to which they were entitled.<sup>[39]</sup>

Once again, the TVS pilot project offers more reasons for skepticism. Over the last two years, TVS has allowed the nine participating companies to contact the INS by telephone to request verification that noncitizens who apply for jobs are indeed eligible to work. In 28 percent of the cases, the INS could not rely on the information in its own database to make a judgment and had to order a manual search of its records. Another program, the Systematic Alien Verification for Entitlements program, has allowed state governments to request verification that noncitizens applying for benefits are in the United States legally. In 1994, 17 percent of the requests were for required information that the computers could not supply.<sup>[40]</sup>

Similar problems can be expected with a national worker registry. The difference, of course, is that the mistakes will affect not only immigrants in a pilot program but every citizen and legal resident of the United States. Americans change jobs or enter the labor market roughly 65 million times each year.<sup>[41]</sup> An error rate of just 1 percent--an improbably small number, given the government's track record on data accuracy--would disrupt the lives of 650,000 people each year. Seemingly small discrepancies in data entry could take weeks or months to fix. Getting the government to correct its mistakes would be even more aggravating than trying to get a faulty credit rating corrected, and one could not work until the government fixed its mistake. Employers would be denied key personnel, perhaps after costly recruitment and lengthy interviews.

The error rates of government agency databases tend to be extremely high. For example, error rates for Internal Revenue Service data and programs are typically in the range of 10 to 20 percent.<sup>[42]</sup> A 1989 General Accounting Office study determined that 20 percent of a sample of INS data on aliens was incomplete and 11 percent of the files contained erroneous information.<sup>[43]</sup> The National Law Journal reported earlier this year that INS files on 50,000 Salvadoran and Guatemalan aliens "routinely contained the first and last names in the wrong order." It also discovered that "a name search was impossible because data was repeatedly entered into the wrong data field, that misspellings were rampant, and that numbers were often used in place of letters."<sup>[44]</sup> Even Social Security files have been found to contain error rates in 5 to 20 percent of cases.<sup>[45]</sup>

The private sector also has a less than inspiring record of maintaining accurate information about employees, customers, and clients. The credit industry provides a telling example of how easily databases become corrupted. Credit bureaus keep files on past and current credit accounts of nearly 90 percent of all Americans. The bureaus sell that information to loan officers, insurance companies, landlords, and employers who then make decisions to accept or reject applications for loans, insurance, apartments, and jobs. According to a 1991 Consumers Union study of the credit reports handled by three major credit bureaus, 48 percent of the reports contained inaccurate information. Nearly one-fifth of all the reports included a "major" error "that could adversely affect a consumer's eligibility for credit." Reporting mistakes arose for reasons as simple as changing an address.<sup>[46]</sup> Given those problems, is there any reason to believe the federal government will fare better?

### **Costs to the Taxpayer**

When it voted to approve the computer registry system, the Jordan commission assumed that it would involve minimal taxpayer costs. The commission estimated that the cost of the registry would be only \$4 million to link the INS and Social Security databases and \$32 million annually to maintain and operate the registry. Cleaning up Social Security records would involve an additional \$122 million in start-up costs and annual costs of \$30 million, according to the commission. It offered no similar pair of estimates for INS records.<sup>[47]</sup>

The commission's cost estimates did not include the expense of issuing a national ID card to every American--one of the steps the federal government would have to take to achieve even minimal success. The problem with using Social Security data as the primary source of information for a national worker registry is much more complicated than the

commission alleged. Since the introduction of Social Security in 1936, over 300 million numbers have been issued on 16 different, valid versions of the Social Security card. Over 60 percent of the 250 million Social Security numbers in use today were issued without the holder's having to prove identity or citizenship.<sup>[48]</sup> In other words, the data are already contaminated.

The SSA estimates that to ensure that illegal immigrants cannot exploit the system, it would have to reissue up to 270 million cards.<sup>[49]</sup> Such a labor-intensive exercise would cost the federal government between \$3 billion and \$6 billion, according to the SSA. Even with those resources, an SSA commissioner said in congressional testimony that the process would require more than 10 years to complete. It would also pose "a tremendous challenge for the Agency and its employees . . . and could not be handled in SSA's 1,300 local offices, because it would interfere with the ability of the offices to properly serve the people needing help with Social Security."<sup>[50]</sup>

In sum, the commission's recommendation was based on low-ball cost estimates that the SSA itself has repudiated. A working computer registry will in fact cost 10 to 20 times more than the commission originally believed. If the federal government starts regulating birth certificates--as both the Jordan commission and Senator Simpson propose--the costs will shoot much higher.

### **Why a Computer Registry Will Not Reduce Illegal Immigration**

Many members of Congress and ordinary American citizens may believe that even \$3 billion to \$6 billion is a small price to pay to reduce illegal immigration. Yet that hugely expensive program will fail to substantially deter illegal immigration.

One factor that will foil the worker registry is the erroneous assumption that employers who hire illegal immigrants do so unwittingly. Many businesses and households that employ an illegal alien know full well that the worker is undocumented. They will continue that behavior, whether or not the federal government chooses to track the entire workforce with a national worker registry.

As the experience with employer sanctions has shown, honest employers who want to play by the rules in running their businesses will face a hefty new burden imposed by Washington. Those who want to skirt the law will pay workers cash or accept forged documents. Says a director of the Amalgamated Clothing and Textile Workers Union in New York, "If a guy running a sewing loft or a laundry or a restaurant needs to cut labor costs, he knows he can hire a few illegal workers, pay them less than the minimum wage, and get away with it."<sup>[51]</sup> For those employers, sanctions have been irrelevant. The first felony indictment under the employer sanctions law did not come down until August 1994--eight years after employer sanctions were first adopted.<sup>[52]</sup> The job magnet that attracts illegal immigrants will maintain its strong pull. The "Zoe Baird problem" is one of demand, not supply.

Moreover, no government ID card is fraud resistant for long--unless we move toward a 1984-style system with computer microchips, fingerprints, retina scans, and the like. Employer sanctions and I-9 Forms have given rise to a cottage industry in fake identification. There is no reason to believe that black-market entrepreneurs will abandon a lucrative business just because the federal government thinks it is getting clever. Phony worker documents are available for as little as \$30 today in cities with large immigrant populations. The best a worker registry can hope to accomplish is to push up those costs temporarily as forgers update their techniques.

### **A Market-Based Strategy for Reducing Illegal Immigration**

If America hopes to compete and win in today's global economy, policymakers need to realize that the importation of human capital is one of America's greatest competitive advantages. U.S. immigration policy should focus on attracting newcomers who will make productive contributions to our economy and society and on keeping out those who would become public charges or engage in criminal activities. U.S. policy should also be formulated within the promising larger framework, begun with the North American Free Trade Agreement, for liberating and integrating the economies of the Western Hemisphere. The following steps would be consistent with that approach:

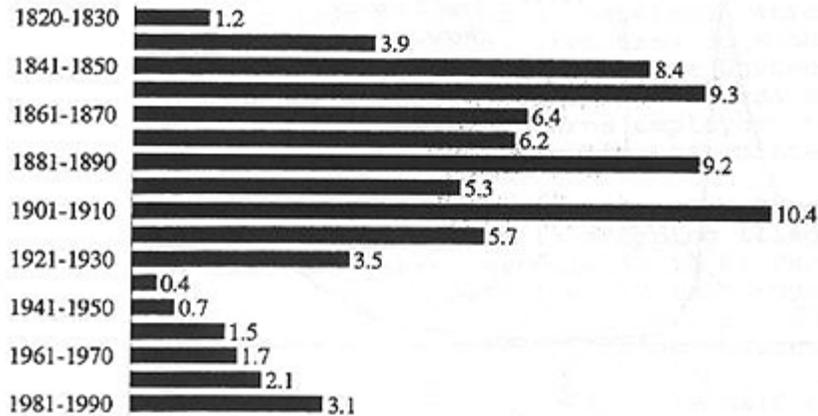
1. Increase legal immigration quotas. One of the most effective ways of deterring illegal immigration is to allow

more people to come through lawful channels. As a share of the population, immigrants today are far below historical levels for the United States (see Figure 2).

The overriding economic impact of immigrants is to raise the standard of living of American citizens. Immigrants are economically advantageous to the United States for several reasons: 1) they are self-selected

Figure 2

Rate of Immigration by Decade, 1820-1990 (immigrants per 1,000 U.S. residents)



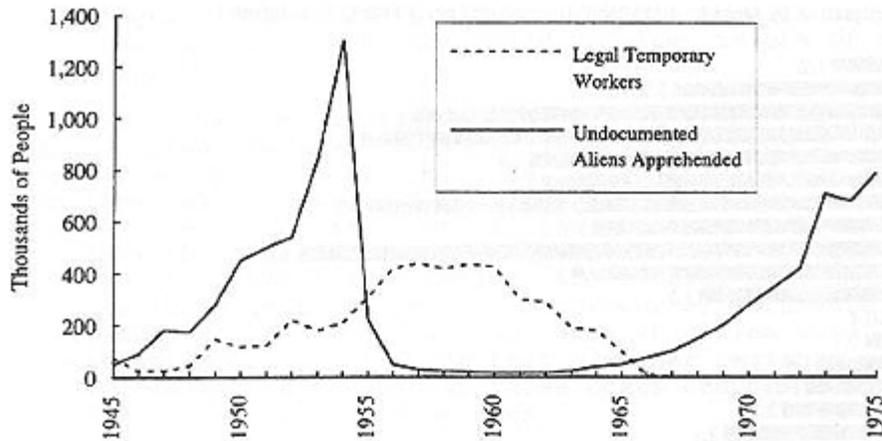
Source: *Strangers at Our Gates: Immigration in the 1990s* (New York: Manhattan Institute, n.d.), p. 103.

on the basis of motivation, risk taking, dedication to the work ethic, and other attributes that are beneficial to a nation; 2) they tend to come to the United States when they are in their prime working years; 3) they start new businesses at a high rate; and 4) because they come to the United States when they are young, they make huge net contributions to old age entitlement programs, primarily Social Security. [\[53\]](#)

2. Experiment with a guest worker program. Many illegal immigrants have no intention of settling permanently in the United States. They are sojourners who want to work hard, earn a good wage, and then return home. America has experimented with guest worker programs in the past (see Figure 3). Economist Julian Simon has shown that when the bracero program was in effect in the 1950s, illegal immigration declined to a trickle. [\[54\]](#)
3. Promote economic growth in the Americas by creating a hemispheric free-trade zone. Expanding free trade in Latin America will create jobs and prosperity for Mexicans and other neighbors, thus reducing the economic and political instability that generates mass migration to the United States. Congress should complete

Figure 3

Impact of Guest Worker Program on Illegal Immigration



Source: Select Committee on Immigration and Refugee Policy, *Staff Report* (Washington: Government Printing Office, 1981), p. 471; and Immigration and Naturalization Service data.

Ronald Reagan's vision of a hemispheric free-trade zone. As nations grow richer through free trade, the natural movement of people across national borders will become less and less of a political problem. The bipartisan Commission for the Study of International Migration and Cooperative Economic Development made that point in its 1990 report to Congress, arguing that "expanded trade between the sending countries and the United States is the single most important long-term remedy to the problem" of illegal immigration. [\[55\]](#)

4. Restrict welfare eligibility of legal and illegal immigrants. Many Americans' current hostility toward immigration is tied to the concern that immigrants abuse America's welfare programs. Although the evidence suggests that that is not true of most new-comers--whether legal or illegal--it may be true of some. [\[56\]](#) Immigrants should be denied all public assistance benefits, except for emergency medical care, for at least their first five years in the United States, as is consistent with the welfare reforms passed by the House. That would be consistent with a policy of immigration yes, welfare no. There would be no shortage of hard-working immigrants willing to come to the United States under those condition.

Facilitate the deportation of criminal aliens. America wants to attract law-abiding immigrants who come to contribute to society. Steps should be taken to deport aliens who commit felonies.

Repeal the employer sanctions law. Since employer sanction laws have had no deterrent effect, they are nothing but a charade. Yet they do substantial harm to legal foreign-born workers in the United States, who have become a suspect class. Congress should never have passed a law that turns employers into immigration cops. Now is the time to fix that mistake.

Improve border enforcement. The Border Patrol has made significant gains in stopping illegal entries over the last two years, especially in El Paso and San Diego. Those successful experiments need to be made permanent. They should also be expanded to other popular points of entry, such as Nogales, Arizona.

Tighten visa control. Roughly half of all illegal immigrants enter the United States with legal visas. They become illegal only when their visas expire. Many will eventually return to their homelands and again petition for entry into the United States. If INS and Customs officials kept track of when visa holders left the country, they could deny entry to people who had violated the terms of their visas in the past.

## Conclusion

It is an iron rule of politics that whenever there is a perceived "crisis" in Washington, Congress responds by passing bad laws. Those laws invariably expand the powers of government. That is a very real danger in the area of immigration reform, especially since a national ID system has implications that range far beyond today's debate over illegal immigration.

The worker registry system recommended by the Commission on Immigration Reform has no redeeming feature: it would be an invasion of basic civil liberties; it would put in place a technology that could be easily expanded for other purposes, such as the Hillary Clinton health security card; it would increase discrimination against Latino and Asian populations; it would carry a price tag in the billions of dollars; it would be fraught with errors and fraud; and, most important, it would not deter illegal immigration. At a time when Americans are loudly demanding more freedom and smaller government, a computer registry is a giant step in the wrong direction.

### **Appendix: Letter to Members of Congress**

June 19, 1995

Dear Member of Congress:

We are writing to express our concern that both Congress and the Administration are moving toward the implementation of a national worker registry. We believe such a plan put forward in the name of immigration control, is both misguided and dangerous for the following reasons:

**It will not work.** Those employers who rely on undocumented labor are already violating the law; they do so intentionally and are unlikely to use a verification system. Instead, they will continue to violate the law by hiring undocumented workers while employers who already comply with the law are subjected to new, costly requirements for the hiring process.

**Faulty data.** The data which a nationwide verification system would use would rely on two highly flawed data bases, one by the Social Security Administration (SSA) and the other the Immigration and Naturalization Service (INS). Both are notorious for containing incorrect or outdated information, with error rates as high as 28 percent. Roughly 65 million Americans either enter the work force or change jobs every year. Even an error rate of no higher than one percent would mean that 650,000 Americans could be denied jobs every year.

**An unfunded mandate on employers.** The creation of a national verification system for every workplace in America would present a huge administrative burden to the nation's employers, especially small business. All employers would be required to ask the federal government's permission every time they want to hire somebody. Americans want fewer burdensome regulations, not new ones.

**A threat to privacy and civil rights.** Worker registry proposals ask Congress to create a database of personal information on all Americans and make it accessible to all employers. The openness of the proposed systems raises barriers to controlling and monitoring the use of information. Such systems are prone to abuse by persons who use it to selectively screen individuals whose appearance, surname or accent suggests they are foreign or to screen such persons outside of the context of employment. In addition, government often lacks the political will to limit access to information once collected. Indeed, other purposes for the data base are already being proposed, including verifying eligibility for public benefits, tracking childhood immunizations, and tracking child support payments. Once a system of information on all Americans is in place, it will inevitably become ubiquitous in American life, presenting an enormous threat to the privacy and liberty of Americans.

We believe it is unwarranted and unwise to create a data system involving 100 percent of Americans in an effort to identify the 1.5 percent who live illegally in the United States. We urge you to oppose the

creation of a nationwide verification system.

Sincerely,

## **NATIONAL ORGANIZATIONS**

American Civil Liberties Union (ACLU)  
American Fathers Association  
American Immigration Lawyers Association  
Center for Democracy and Technology  
Citizens for a Sound Economy  
Immigration and Refugee Services of America  
MALDEF, Los Angeles  
National Asian Pacific American Legal Consortium  
National Association of Korean Americans  
National Association of Manufacturers  
National Council of La Raza  
National Federation of Independent Business  
Organization of Chinese Americans  
Small Business Survival Committee  
Southwest Voter Registration Education Project  
U.S. Hispanic Chamber of Commerce

## **INDIVIDUALS**

Martin Anderson, Hoover Institution  
Stuart Anderson, Alexis de Tocqueville Institution  
Ronald Bailey, Think Tank  
Bernard Baltic, Reason Foundation  
Gary Bauer, American Renewal  
Douglas Besharov, American Enterprise  
Institute  
Morton C. Blackwell, Conservative Leadership  
PAC  
David Boaz, Cato Institute  
Clint Bolick, Institute for Justice  
Matthew Brooks, National Jewish Coalition  
Phillip M. Burgess, Center for the New West  
Merrick Carey, Alexis de Tocqueville  
Institution  
Linda Chavez, Center for Equal Opportunity  
Bryce Christensen, Editor, The Family in  
America  
Jeff Eisenach, Progress & Freedom Foundation  
Michael Farris, National Center for Home  
Education  
Diana Furchtgott-Roth, American Enterprise Institute  
Steve Gibson, Bionomics Institute  
Stina Hans, Vista Hospital Systems  
Robert B. Helms, American Enterprise Institute  
Rick Henderson, Reason  
John Hood, Heritage Foundation  
David Horowitz, Center for the Study of  
Popular Culture

Joseph J. Jacobs, Jacobs Engineering Group  
Paul Jacob, U S Term Limits  
Kent Jeffreys, National Center for Policy Analysis  
Thomas L. Jipping, Free Congress Foundation  
Donna Kelsch, YMCA, NY  
Jack Kemp, Empower America  
Manuel S. Klausner, Kindel & Anderson  
David Koch, Koch Industries  
William Kristol, Project for the Republican  
Future  
Marlo Lewis, Competitive Enterprise Institute  
James P. Lucier, Jr., Citizens Against a  
National Sales Tax/VAT  
John McClaughry, Ethan Allen Institute  
Donald N. McCloskey, University of Iowa  
Michael T. McMenamin, Walter & Haverfield  
William H. Mellor III, Institute for Justice  
Stephen Moore, Cato Institute  
Amy Moritz, National Center for Public Policy Research  
Reverend Craig B. Mousin, United Church of Christ  
Richard S. Newcombe, Creators Syndicate  
Grover Norquist, Americans for Tax Reform  
Walter K. Olson, Manhattan Institute  
Ellen Frankel Paul, Social Philosophy & Policy Center, Bowling Green State University  
Jeffrey Paul, Social Philosophy & Policy Center, Bowling Green State University  
Sally Pipes, Pacific Research Institute  
Joyce Antilla Phipps, Seton Hall University  
Robert W. Poole, Jr., Reason Foundation  
Steven R. Postrel, Graduate School of Management at the University of California at Irvine  
Virginia Postrel, Reason Foundation  
T.J. Rodgers, Cypress Semiconductor  
Michael Rothschild, Bionomics Institute  
Rev. Don Smith  
Fred L. Smith, Jr., Competitive Enterprise Institute  
Phyllis Schlafly, Eagle Forum  
Dr. Christine Sierra, University of New Mexico  
Julie Stewart, Families Against Mandatory Minimums  
Thomas Szasz, SUNY-Syracuse  
Ron K. Unz, Wall Street Analytics  
Paul Weyrich, Free Congress Foundation  
Richard J. Wilson, Professor, American University  
Cathy Young, Women's Freedom Network  
Benjamin Zycher, UCLA

## **LOCAL ORGANIZATIONS:**

Albuquerque Border City Project  
Asian Law Alliance  
Asian Pacific American Legal Center of Southern California  
Asylum and Refugee Rights Law Project  
AYUDA  
California Humane Development  
Californians United for Equality  
Center for Immigrant Rights

Chicago Coalition for Immigrant and Refugee Protection  
Coalition for Humane Immigration Rights of Los Angeles (CHIRLA)  
Coalition for Immigrant and Refugee Rights and Services  
Dominican Sisters of San Rafael, CA  
El Centro Hispanoamericano, NJ  
Immigrant Legal Resource Center, San Francisco  
Immigrant's Rights Project  
Immigration Law Project  
Independent Women's Forum  
International Assistance Program of Alabama, Inc.  
International Institute of Los Angeles  
Korean Youth and Community Center, Los Angeles  
Lawyer's Committee for Civil Rights  
Legal Assistance Foundation, Legal Services Center  
Massachusetts Immigrant and Refugee Advocacy Coalition, Boston  
New York Immigration Coalition, NY  
North Texas Immigration Coalition of Dallas  
Northwest Immigrant's Rights Project  
Pacific Research Institute  
Proyecto Adelante  
Proyecto Libertad, Texas  
Riverside Language Project, New York  
Santa Clara County Network for Immigrant & Refugee Rights & Services  
Sponsors to Assist Refugees, Portland, OR  
Travelers and Immigrants Aid

### Notes

[1] The 1986 spike in apprehensions shown in Figure 1 was the result of IRCA. The five-year average from 1981 to 1985 was 1.1 million, the same as the five-year average after IRCA.

[2] General Accounting Office, "Information on the Enforcement of Laws Regarding Employment of Aliens in Selected Countries," August 1982.

[3] There is some speculation that the rate of growth of illegal immigration may increase in the near future. With the crash of the peso earlier this year, for example, finding a job in "el norte" is perhaps more economically attractive to Mexicans--the largest group of illegal immigrants--than it was during the rapid economic expansion in Mexico. But it is still too early to tell whether that prediction is accurate.

[4] General Accounting Office, "Immigration Reform: Employer Sanctions and the Question of Discrimination," March 1990.

[5] Marvin Howe, "Immigration Law Leads to Job Bias, New York Reports," New York Times, February 26, 1990, p. A1.

[6] "Clocking Immigration Sanctions," editorial, Wall Street Journal, April 16, 1990, p. A12.

[7] See, for example, Cecelia Munoz, "Serious Thoughts on Employer Sanctions: A Brief Analysis," National Council of La Raza, Washington, Issue Brief, March 1984, p. 6; and Stephen Moore, "Halting Illegal Immigration: Employer Sanctions Are Not the Answer," Heritage Foundation, Issue Bulletin 118, 1985.

[8] U.S. Commission on Immigration Reform, "U.S. Immigration Policy: Restoring Credibility," September 1994, p. 54. The commission's recommendations are based on the assumption that immigrants are economic burdens to American citizens. The commission believes that immigrants reduce the wages and working conditions of American workers. However, most of the economic evidence suggests precisely the opposite--that immigrants are economic

assets. See Julian L. Simon, *The Economic Consequences of Immigration* (Cambridge, Mass.: Blackwell and Cato Institute, 1989); Vernon M. Briggs Jr. and Stephen Moore, *Still an Open Door? U.S. Immigration Policy and the American Economy* (Washington: American University Press, 1994), pp. 101-200; and Stephen Moore, "How Economists View the Impact of Immigrants," Alexis de Tocqueville Institute, Arlington, Virginia, 1990.

[9] Dianne Feinstein, "Feinstein: State-of-the-Art ID System Is Necessary to Help Identify Illegal Aliens," Roll Call, May 22, 1995, p. 8.

[10] See *Congressional Quarterly Almanac*, 1990, p. 485. Rep. Lucille Roybal-Allard (D-Calif.) opposed the measure, arguing, "It is ironic that South Africa has just abandoned its notorious pass-card identification system that has been an essential element of apartheid."

[11] Alan Simpson, testimony before the Subcommittee on Immigration and Refugee Affairs of the Senate Committee on the Judiciary, May 10, 1995.

[12] U.S. Commission on Immigration Reform, pp. 75-76.

[13] Lucas Guttentag, American Civil Liberties Union, testimony before the Subcommittee on International Law, Immigration, and Refugees of the House Committee on the Judiciary, June 16, 1993.

[14] On November 26, 1941, Henry Field, an anthropologist working as an aide to President Roosevelt, was called to the office of Grace Tully, Roosevelt's secretary. She told Field that the president was ordering him to produce, in the shortest time possible, the full names and addresses of American-born and foreign-born Japanese listed by locality within each state. Field was completely bewildered and did not know how to begin. Tully explained that it was to be done by using the 1930 and 1940 censuses. Within one week, Field delivered to Tully the names and addresses of all the ethnic Japanese in the United States. Commission on Wartime Relocation and Internment of Civilians, *Personal Justice Denied: Report of the Commission on Wartime Relocation and Internment of Civilians*, Report for the Committee on Interior and Insular Affairs, March 1992; cited in John Toland, *Infamy: Pearl Harbor and Its Aftermath* (New York: Anchor Books, 1992), p. 22.

[15] Jonathan Berry, "Database Marketing: A Potent New Tool for Selling," *Business Week*, September 5, 1994.

[16] "Marketers Know Too Much about Us," *Business Week*, September 5, 1994.

[17] See Daniel J. Pilla, "Why You Can't Trust the IRS," *Cato Institute Policy Analysis* no. 222, April 15, 1995.

[18] "Marketers Know Too Much about Us," p. 98.

[19] Quoted in G. Bruce Knecht, "A New Casualty in Legal Battles: Your Privacy," *Wall Street Journal*, April 11, 1995. See also Jeffrey Rothfeder, "What Happened to Privacy?" *New York Times*, April 13, 1993.

[20] Princeton Survey Research Associates and Newsweek poll, July 1993; cited in National Immigration Forum memorandum of July 17, 1995.

[21] Quoted in Cheryl Phillips, "Agencies, Businesses Enlist High-Tech Fraud-Fighters," *USA Today*, July 13, 1995.

[22] Martin Tolchin, "White House Planning ID Card for Health Care," *New York Times*, August 28, 1993. See also Martin Anderson, "Risks That Come with the Health Card," *Washington Times*, October 4, 1993.

[23] Gary Stix, "Dr. Big Brother," *Scientific American*, February 1994.

[24] U.S. Commission on Immigration Reform, pp. 138-41.

[25] On use of ATMs, see Jeff Leeds, "Electronic Transfer-Plan for Benefits Unveiled," *Los Angeles Times*, June 1, 1994; and Linda Chavez, "Why Make It Easier to Receive Welfare?" *USA Today*, June 8, 1994.

- [26] "California City Requires Ammunition Buyer Checks," New York Times, April 10, 1995.
- [27] Barbara Vobejda, "Senate Bill Could Trigger Start of 'Deadbeat' Parent Registry," Washington Post, July 6, 1995.
- [28] Martin Anderson, "Big Brother's Little Sibling: The Smart Card," San Jose Mercury News, April 7, 1993.
- [29] Martin Anderson, "High-Tech National Tattoo," Washington Times, October 11, 1993.
- [30] Ibid.
- [31] Daniel Sutherland, "Computer Registry to Fight Illegal Immigration: Bad News for Employers and Employees," Alexis de Tocqueville Institution, Arlington, Virginia, 1995.
- [32] U.S. Commission on Immigration Reform, p. 62.
- [33] U.S. Department of Justice, "Handbook for Employers: Instructions for Completing Form I-9," M-274, rev. November 21, 1991.
- [34] Linda Chavez, "Why Spend Billions to Register Workers?" USA Today, January 25, 1995; and Jack Kemp and Joseph I. Lieberman, "Real Americans, Register Here," New York Times, July 21, 1995.
- [35] U.S. Department of Justice, Office of Information Resources Management, "Telephone Verification System (TVS) Pilot, Report on the Demonstration Pilot-Phase I," 1993.
- [36] National Federation of Independent Business, Washington, survey conducted in April 1995.
- [37] Al Kamen, "In the Loop: White House Dotting Glickman's i," Washington Post, February 8, 1995.
- [38] U.S. Commission on Immigration Reform, p. 73.
- [39] See complaint in *Turcios v. Reno*, CV 94-5220 (C.D. Cal. 1994); and Patrick J. McDonnell, "Asylum Seekers Sue over Delays," Los Angeles Times, August 3, 1994.
- [40] U.S. Commission on Immigration Reform, p. 74.
- [41] General Accounting Office, "Immigration Control: A New Role for the Social Security Card," March 16, 1988, p. 2.
- [42] Daniel J. Pilla, *How to Fire the IRS* (St. Paul: Winning Publications, 1994), pp. 68-69.
- [43] General Accounting Office, "Immigration Reform: Alien Verification System Data Base Problems and Corrective Actions," June 1989.
- [44] Anne Davis, "Digital IDs for Workers in the Cards," National Law Journal, April 10, 1995, pp. 1-21.
- [45] Ibid., p. 21
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- [46] Consumers Union, "What Are They Saying about Me?" April 29, 1991.
- [47] U.S. Commission on Immigration Reform, pp. 70-71.
- [48] General Accounting Office, "Immigration Control," p. 11.
- [49] Shirley S. Chater, commissioner of Social Security, "Worksite Enforcement of Employer Sanctions," statement

before the Subcommittee on Immigration and Claims of the House Committee on the Judiciary, March 3, 1995, p. 5.

[50] *Ibid.*, p. 6.

[51] Quoted in Roberto Suro, "INS 'Enforcement Deficit' Tied to Law," *Washington Post*, February 2, 1995.

[52] Robert J. Lopez, "1st Indictment Issued under '86 Immigrant Law," *Los Angeles Times*, August 9, 1994.

[53] Simon, *The Economic Consequences of Immigration*, chaps. 3-5.

[54] Julian L. Simon, "Foreign Workers, American Dream," *New York Times*, June 1, 1995, p. A25.

[55] Commission for the Study of International Migration and Cooperative Economic Development, "Unauthorized Migration: An Economic Development Response," July 1990.

[56] Michael Fix and Jeffrey S. Passel, *Immigration and Immigrants: Setting the Record Straight* (Washington: Urban Institute, 1994), pp. 63-67; and John J. Miller, "Don't Close Our 'Golden Door,'" *Wall Street Journal*, May 25, 1995.