



A Message from the Chairman

October 3, 2010

The National Association of Former Border Patrol Officers (NAFBPO) is a national, non-profit, public interest organization of concerned citizens. Our ranks include officers who spent their careers on the Canadian and Mexican borders, in Florida, on the Gulf Coast, in Puerto Rico, and in foreign lands enduring discomfort and danger as they worked to protect and serve our nation. Many of us went on to high positions in the Border Patrol or its parent organization, the Immigration and Naturalization Service.

Now, though we are retired we recall our oath of office and we share a common bond and heritage with our brothers and sisters who still serve our country as members of the Department of Homeland Security. With that oath and bond in mind, we submit to you *A Proposal for Comprehensive Immigration Enforcement and Reform*.

We ask that you take the time to read it and as you do, please remember that our credo is and always will be: *"If we didn't live it, if we don't know it, if we can't prove it, we won't say it"*.

Thank you for your attention.

Sincerely,

Thomas J. Cronin

Thomas J. Cronin

Chairman

National Association of Former Border Patrol Officers

A Message from the Chairman	1
Introduction.....	1
Executive Summary	1
A Proposal for Comprehensive Immigration Enforcement and Reform.....	1
Step 1 – Secure our borders	2
Step 2 – Interior enforcement	3
Step 3 – Enforce existing laws and use other existing tools.....	4
Step 4 – Identification fraud	5
Step 5 – Temporary worker programs	6
Step 6 – Amnesty	7
Step 7 – What to do with those here now?	9
Step 8 – Immigration Legislation	10
Step 9 – Other Matters	11
Step 10 – Summary and Closing	16

Introduction

Illegal immigration and how to deal with it is a grave problem confronting this nation. It generates highly-charged, emotional responses that often destroy any attempts to create rational solutions. For decades, through the tenure of many administrations both Republican and Democrat, the United States has neglected to properly address immigration issues. It has only made token efforts to control illegal immigration. We are now paying the price for that neglect.

People from around the world want to come to this country to reside but we cannot uncritically open our borders to the masses of the world. What we must do, then, is create immigration policies that address, first, national needs and well-being, and second, honor our history as a nation of immigrants.

We are surrounded by a world in chaos and it is impacting the everyday lives of our citizens. A war on terrorism, rampant drug and alien smuggling, sexual slave trading, criminal gangs, fraud of many sorts: all have roots in illegal immigration and all are tearing at the fabric of our society and eroding our sovereignty.

Americans are worried about our national security, about our jobs, about crime in our communities, about overcrowding in our schools, about emergency room chaos in our hospitals, about increases in our taxes, all of which can be attributed in some degree to illegal immigration. We should first address the concerns of our own people before expending time and treasure on resolving other nations' problems with our immigration policies.

Recognizing that past arbitrary, fragmented efforts to end illegal immigration have not succeeded, NAFBPO has drawn upon its body of collective experience to compose an outline of an overall, coherent solution.

Executive Summary

Step 1 – Secure our borders

- Border security between the ports of entry.
 - ❖ Officer strength is nearly adequate at the projected 20,000 officer level.
 - ❖ Current and anticipated technology is useful as an adjunct to manpower but is no substitute for it.
 - ❖ Assure adequate space to process to detain all those arrested.
 - ❖ Prosecute for immigration violations wherever possible, particularly for alien smuggling violations.
- Border security at ports of entry
 - ❖ As many as three-quarters of illegal aliens enter through ports of entry, either surreptitiously or by fraud.
 - ❖ The balance between expediting traffic and conducting meaningful inspections tilts now toward expediting traffic. The balance must be recast in favor of thorough inspections.
 - ❖ Ports of entry (land, air, and sea) have not received adequate attention in recent years. They are undersized and understaffed. Criminals know that and act on it. The inspections staff must be increased significantly.
 - ❖ The effectiveness of inspectors can be enhanced by technologies not yet widely used: it should be brought on-line as quickly as possible.

Step 2 – Interior enforcement

- Increase the force of Immigration and Customs Enforcement (ICE) agents devoted to immigration enforcement. Only a small portion of the total number of ICE agents enforce immigration laws.
- Vigorously enforce employer sanctions. This is a fundamental, but not sole, precept for interior control.
- Seek out and remove any aliens found illegally in the U.S, not just criminals. No illegal alien should feel safe from detection and removal.
- Investigate and prosecute those who commit immigration fraud.
- Respond to calls from other law enforcement officers who have encountered people they believe are illegal aliens.
- Ancillary units upon which ICE enforcement depends, from detention and removal to intelligence to trial attorneys and immigration judges must be increased in size commensurate with the increase in enforcement personnel.

Step 3 – Enforce existing laws and use other existing tools

- Employer sanctions – aggressively prosecute those who knowingly hire illegal aliens. At present, there are not enough prosecutions to provide a deterrent lesson to those who knowingly hire illegal aliens.
- Section 287(g) – return to widespread granting of authority to state and municipal law enforcement agencies authorizing their officers to make immigration arrests.
- E-Verify program – encourage the now use of this voluntary program that verifies the eligibility for employment of job applicants. Its diligent use should be an affirmative defense against fines when illegal aliens are found on a job.
- No-Match letters – make a matter of law the practice of having the Social Security Administration issue letters to employers when withholdings submitted under an SSAN do not match the name in SSA records.
- Non-Citizen entry-exit matching system – this process will record both the arrival and departure of aliens as they pass through ports of entry. At this time, there is no record kept of departures; thus we have no idea of who has remained longer than he should have.
- Sanctuary cities – cities that impede or fail to cooperate with ICE in detecting illegal aliens should be penalized by loss of federal funds for justice programs. In egregious cases, city authorities should be prosecuted for willful concealment of aliens.

Step 4 – Identification fraud

- Issue a secure, tamper-resistant Social Security card as the sole evidence of eligibility for employment in the U.S.
- Implement the Real ID Act, HR 98 – this law, if passed, would be an important tool in dealing with fraudulent documents and their use.

Step 5 – Temporary worker program

- A TWP may only be implemented after demonstration of a secure border and proof of a meaningful employer sanctions program.
- A TWP must be a plan for *temporary* workers.
- Aliens may apply for jobs only from their home country.
- All aliens seeking consideration for TWP must appear in person at a consulate or dedicated office overseas to allow criminal and background checks.
- The “H” and “L” nonimmigrant classifications allow aliens to perform temporary services when legal U.S. workers are unavailable. They are fraudulently used in many cases. The programs and participants should be subjected to intense reconsideration

Step 6 – Amnesty

- Widespread problems with the 1986 amnesty should have taught us something. Fraud was endemic to the entire process.
- Current proposals for a legalization program are a corrupt bargain. They allow the illegal alien to buy his way out of the offense. He pays, not a fine, but a bribe because the money changing hands gives him what he wants. The fact that he is bribing the government as a whole does not sanctify the deal.
- Registering the estimated 10-12 million applicants would be a monumental task, impossible to accomplish in any rational time frame or fashion.
- Judicial involvement in any legalization program would certainly expand it beyond recognition, just as happened with the 1986 law.
- Chain migration, that is, families following to join those getting amnesty, would number around five times as many more over 20 years as gained the benefit initially.
- An accurate cost of an amnesty is incalculable, but an estimate by the Heritage Foundation supposes that it could be around 2.6 Trillion dollars over 20 years.
- Another amnesty will again send a signal to the world that the U.S. is not serious about enforcing its immigration laws

Step 7 – What to do with those here now?

- NAFBPO does not contemplate nor encourage massive waves of arrests and deportations. A proper application of social pressures will cause millions to depart on their own.
- To create those pressures, illegal aliens must be denied access to jobs, public benefits, sources of identification (particularly driver's licenses,) vehicle registrations, mortgages and loans from federally-insured institutions, and tuition assistance at public educational facilities.

Step 8 – Immigration legislation

- The fundamental balance of priorities for immigrants established by our immigration laws must be changed from family reunification to prefer those who bring skills and job-creating investment to this country.
- Citizenship by virtue of birth in the United States is an idea past due for change. Citizenship should be granted at birth only to children born to U.S. citizens or to aliens lawfully admitted for permanent residence.
- Congress should issue a “sense of the Congress” statement immigration laws matters and they deserve careful enforcement, not deliberate neglect as a policy.

Step 9 – Other matters

Border security – Violence in Mexico by drug cartels is spilling onto and over the border. The Border Patrol's training should be expanded to deal with armed threats by small units and their armament should be upgraded commensurate with that mission.

- Use of the military on the border – The National Guard is an appropriate entity to provide logistical support, training, and armed backup for the Border Patrol.
- Environmental legislation – Creation of wilderness areas along the border is sought by environmental groups and supported by apologists for illegal immigration who would prefer an open border. It must be opposed vigorously.
- Visa issuance process – This is the first line of defense against illegal and fraudulent entry through ports of entry. It is often not used effectively as the tool it should be to detect and deter those who would come here for nefarious purposes.
- Blanket visa waivers – on a basis of reciprocity, we do not demand visas from nationals of many countries regarded as low-risk for fraud, and friendly. The existence of terrorists in every nation, now, makes this process suspect in that people from that country arrive on our shores without previous screening.
- Departure verification – we have no system in place to verify that an alien who has come here has departed as he stated he would or was required to do. Thus, we do not know who is here.
- Improving the tamper-resistance of immigration documents is always a worthwhile goal. Steps in that direction were recently taken; they should continue.
- The *Matricula* card – this is a Mexican identification card issued to Mexican citizens by Mexican consular offices in the U.S. It is not secure identification in any way, shape, or form, yet it is accepted by many government entities and private institutions, such as banks. It must be declared invalid as a matter of law.
- State and local police cooperation – in short, this should be encourage, not discouraged. Section 287(g) of the INA (discussed above) should be promoted as a tool for law enforcement.
- The annual alien address report – this report, discontinued in the early 1970s, should be reinstated. Modern technology makes it easy and national security calls for its use.

Step 10 – Summary and Closing

Immigration laws exist for four primary reasons. They are:

- Protect national security and sovereignty
- Protect American jobs and social programs

- Protect public safety
- Protect public health

For decades we have neglected immigration laws, forgetting that they exist for demonstrable reasons. Good laws and diligent enforcement benefit the nation, both in what they encourage and what they forbid.

We are paying the price now for that neglect, and it is time for it to cease. The nation should reexamine its immigration laws in light of national interests and the interests of individual Americans, then adopt laws and practices that benefit us all.

NAFBPO believes that the existing statute, although 58 years old, is an adequate framework for the purpose, needing only modification along lines we have set forth to be effective for further generations.

A Proposal for Comprehensive Immigration Enforcement and Reform
by

The National Association of Former Border Patrol Officers (NAFBPO)

Members of NAFBPO have served at all levels and in all areas of operation in the nation's immigration system. NAFBPO has collective millennia of experience in dealing with immigration matters and an institutional memory that dates back over half a century.

Our experience qualifies us discuss the flaws we see in present laws, policies, and practices, to set out steps that we see as necessary to improve our control of illegal immigration, and to suggest improvements to the system for legal immigration.

Bringing about a rational immigration system, one that serves national interests above all, will require a number of steps taken together—let us say that again: *steps taken together*. There is no one, silver bullet that will solve the problem. To say “secure the border” without also saying “secure the interior” or to say “employer sanctions” without also saying “strengthen the border” is in each case addressing but half the solution.

It all must begin with enforcement. Otherwise, nothing else put in place, such as guest worker programs or increased legal immigration, will matter, for there will always be those who would circumvent any law.

Let us begin.

Step 1 – Secure our borders

We cannot have national security or sovereignty without a secure border. Recent initiatives have enhanced border security but the task is far from complete.

The nation must keep in mind that border violations are of two types: surreptitious entry across the border (by land, water or air) and entry through ports of entry. Each is as important an aspect of border security as the other.

- Border security between the ports of entry.

The Border Patrol must have sufficient manpower, equipment, technology, physical infrastructure, and detention space to provide both deterrence through visible force and to detect and prevent successful illegal entries. NAFBPO believes that current staffing levels are nearing optimum, *but* the best results will only come about once the thousands of officers hired recently become seasoned in the job. Furthermore, new technologies have been put in place to support the officer on the ground. They are undergoing a period of settling in and are not yet fully reliable. Finally, the penalties provided by law for illegal entry and smuggling must be enforced or there is no deterrent to repeated attempts.

- Border security at the ports of entry.

U.S. border enforcement strategy suffers from a severe imbalance of resources. While much-needed strengthening has gone to the Border Patrol over the last five years, the Inspections operation at ports of entry have not received commensurate attention. In fact, resources at the ports of entry, from personnel to facilities to equipment and technology, have increased by only a tiny fraction of that given to the more high-visibility operations of the Border Patrol.

Criminals notice such things and adjust their *modus operandi* to take their operations to where risks are lower. A 2009 study by the Texas Border Coalition indicates that much smuggling of people, drugs, and weapons has shifted from the open lands of the border between the ports to the ports themselves, concealed in the vast volume of traffic that is international trade. As many as three out of four aliens entering the U.S. illegally may be coming through those neglected ports of entry.

The process of inspection of aliens arriving at a port of entry must maintain a balance between determining who the applicant is and what he intends, and keeping the line moving. At this time the balance is *always* struck in favor of moving traffic along and the unavoidable result is an incomplete inspection process. That balance must be recast; the inspection process must be thorough. The obvious answer is more personnel and expanded facilities. That solution, however, quickly reaches a point of unsustainability. We must thus turn to technology as a force multiplier.

- ❖ Expand the current use of electronic readers and machine-readable documents, primarily passports and visas. This serves two purposes: such documents are more likely to be secure from fraud and they speed up the

validation process for the inspector. Although the technology is in place at many locations on our borders it is far from universal.

- ❖ Quick-scan fingerprint identification at the time of inspection. (For a further note on this, see the discussion of departure verification below.)
- ❖ Facial recognition software supporting all documents.

The reader must understand this: NAFBPO has tremendous respect for the integrity and skill of trained inspectors given enough time to do their job. However, the situation at major ports of entry now is such that detection of fraud, mala-fide applicants, criminals, and terrorists is as much a matter of luck as it is skill. Furthermore, as the stakes in the game (people, drugs, money, bombs, etc) escalate the factor of corruption must be acknowledged. Appropriate technology can go a long way towards dealing with both those factors.

Step 2 – Interior enforcement

A framework of laws, regulations, and enforcement practices must be created to make it difficult for illegal aliens to avoid being found or to gain what they now seek in coming here. Consequently, a balanced enforcement effort, providing a strong border backed by stringent interior enforcement, is absolutely necessary. Otherwise, the border will continue to be overrun.

Alan Bersin, Commissioner of Customs and Border Protection, said recently, “This is not about sealing the border. Until we have a *legitimate* labor market between Mexico and the United States, people will attempt to come here to work.” Leaving aside his unfortunate views on what constitutes a “legitimate” labor market, it is clear that he understands what is the primary driving force behind illegal immigration: jobs. But he totally ignores the role that interior enforcement must play in gaining control of the border. The border *can be* controlled, but not until the powers in Washington, D.C. are willing to undertake the necessary steps to make it inconvenient to impossible for an illegal alien to stay here. That starts with eliminating their access to jobs and goes on to keeping out of their reach all things that enable them to stay.

Immigration and Customs Enforcement (ICE) must be given funding, manpower, and resources sufficient to:

- ❖ Vigorously enforce the employer sanctions passed by Congress in 1986. Carry out the removal of *any* aliens illegally in the U.S. As this is being written, ICE resources are largely used to pursue and remove only dangerous alien criminals. While that is a laudable goal it should not be their sole focus; no illegal alien should feel secure from arrest in the United States just because the country does not devote enough resources to finding him. (*This goal should be considered in light of Step 7 below. A strategy of attrition will diminish the need for much enforcement action against individual aliens.*)
- ❖ Investigate and prosecute those who commit immigration fraud.

- ❖ Respond to calls from other law enforcement officers who have encountered people they believe are illegal aliens. Not every police officer in the country needs to be an immigration officer, but every police officer should have quick access to an immigration officer as long as this crisis of control exists.
- Trial Attorneys, Immigration Judges and U.S. Attorneys in numbers sufficient to the workload must be assigned to handle immigration cases developed by enforcement personnel.
- Sufficient detention facilities and personnel must be available to hold as many detainees as necessary. Space available should not be a factor limiting operations.
- The Intelligence Branch and Forensic Document Laboratory must be adequately staffed to provide meaningful support to enforcement efforts. There must be better communication between those entities and field personnel than exists now.

Step 3 – Enforce existing laws and use other existing tools

Laws now on the books are sufficient tools to gain control of the problem of illegal immigration. Over the years, though, they have been subverted through political and legal pressure initiated by those who benefit from the presence of illegal aliens. This subversion must cease if this country is to address its immigration problems.

- Employer sanctions: Immigration & Nationality Act (INA) Sec. 274a (8 U.S.C 1324a). This is the primary, most effective tool available in the fight to gain control of illegal immigration. It is imperative that this law be enforced stringently to eliminate the magnet that draws the majority of aliens to this country illegally. It is also one of the laws most undermined by political pressure. Employers contribute money to politicians and politicians respond by making overt protests and subtle “suggestions” to ICE that its funding might better be spent elsewhere. The results are often inhibitions on further aggressive enforcement of the law. This must stop.
- Section 287(g) authority. INA Sec. 287(g) of the Immigration and Nationality Act 8 U.S.C. 1357) provides that state and local law enforcement officers may be trained in immigration law and practices and thereafter function as immigration officers in a limited capacity. It has been a very effective program where in place but the current administration has revoked many of the agreements and limited others. Limitations placed on the program should be removed and its use encouraged.
- E-Verify program: This is a free and simple, voluntary, web-based system that electronically determines the employment eligibility of newly hired employees. For more information visit www.dhs.gov/E-Verify. Use of this program can be encouraged by making proof of its use an affirmative defense in an employer sanctions case. However, for this program to be effective, it must be improved to access all information available in the DHS and SSC databases. For example, it must not only verify the personal data entered, it must also identify when multiple individuals are using the same SSN and notify employers accordingly.

- No-Match letters: In August, 2007 DHS issued a regulation which outlined specific steps an employer should take if they receive notice from the SSA informing them they have an employee whose name and Social Security Number do not match the government records. In most cases this is because the worker is using a number not legitimately issued to him, as an illegal alien must do. DHS has withdrawn its proposed regulation in response to lawsuits filed by the ACLU and U.S. Chamber of Commerce. Several House and Senate members are pursuing statutory changes which would implement the same provisions and we support this legislation.
- Non-Citizen entry-exit matching system: The entry-exit system – called the U.S. Visitor and Immigrant Status Indication Technology (U.S. VISIT) – must be fully utilized. This system matches departures with arrivals and generates a report when someone has not departed by the time specified. Nearly half of all illegal aliens enter legally and then remain for a longer period than authorized or violate their status in some other fashion; the 9/11 hijackers fell within that category. Without entry-exit controls, the U.S. has no way of detecting or finding aliens who overstay or violate their visas.
- Sanctuary cities: Subsection (a) of The Illegal Immigration Reform and Immigrant Responsibility Act, (IIRIRA codified as Title 8 USC, Section 1373) provides the following:

(a) In general

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

Despite this law many cities and towns have adopted so-called “sanctuary policies.” Generally, those policies forbid employees to inquire into the immigration status of those they come in contact with and go on to forbid employees to contact immigration authorities about suspected illegal aliens. The concept of sanctuary has no legal basis in the United States; no court has ever validated “sanctuary” as a defense in an immigration case. By their defiance, the sanctuary cities demonstrate contempt for federal laws and there should be penalties for this practice. The federal government should begin penalizing sanctuary cities with withholding of federal funding for justice programs. In egregious cases, prosecution of individuals responsible for the programs should be considered under Title 8 of the U.S. Code, Section 1324, Section(a)(1)(A)(iii), which forbids harboring and concealing aliens illegally in the United States.

Step 4 – Identification fraud

Fraudulent documents have never been more common. They may be genuine documents being used after being stolen or borrowed and perhaps altered or they may be entirely counterfeit. They may be U.S. passports or immigration documents, Social Security cards, other government ID such as driver’s licenses, and birth and baptismal certificates. The range is seemingly endless, but all are used extensively by illegal aliens to conceal

their true identities, escape detection, and in many cases, obtain benefits to which they are not entitled. Immigration benefit fraud is pervasive and significant; this was a longstanding problem for INS, and for ICE it has become more intense with each passing year. Criminal aliens and terrorists have been granted immigration benefits based on fraudulent documentation.

To counter this widespread identification fraud the U.S. government must issue a secure identification card. The Social Security card is the most obvious choice in that it is already issued to everyone who is entitled to participate in the Social Security program, thus avoiding the necessity to establish a new identification system.

The Real ID Act, HR 98 [Illegal Enforcement of S.S. Protection Act introduced 1/6/09] acknowledged the seriousness of the fraud problems and its impact on our national security. HR 98 offers solutions that must be implemented. However, this bill was referred to the Subcommittee on Workforce Protection on March 16, 2009 and has not yet been enacted. Every effort should be made to get this bill out of committee and enacted. It would be a major force in stemming the use of fraudulent identification to circumvent our immigration laws.

Step 5 – Temporary worker programs

Ethical employers need an economic safety valve when they find themselves in genuine, demonstrable need for workers. Thus, there is a call for a guest worker program. The problem is permitting low-skilled foreign nationals to compete for work in the same labor market as U.S. citizens and permanent resident aliens—such a program must not become a source of cheap labor for the employer and should never be allowed to depress domestic wages. It must remain a stopgap measure to fill an employer's critical need when workers are otherwise unavailable at a reasonable, living wage. This becomes a delicate balancing act.

Recognizing this dilemma, NAFBPO supports a Temporary Worker Program (TWP) in principle, contingent upon the following:

- A TWP can only be implemented after demonstration of a secure border and a meaningful sanctions program against employers who hire illegal aliens willfully or with reckless disregard of their immigration status.
- A TWP must be a plan for *temporary* workers. The worker is admitted to work for a particular employer for a specified time with the understanding that he must depart upon completion of the contract. His wages should be paid to a foreign bank account.
- Aliens may apply for jobs only from their home country. Those here illegally would be required to go abroad to apply for a work permit and be matched with a specific job where need has been established.
- All aliens seeking consideration for temporary worker status must appear in person at the designated U.S. Consular posts so necessary criminal and background checks can be made.

Other programs allowing aliens to come to perform temporary services are the “H” and “L” classifications. These programs have been criticized for harming the labor market for Americans by bringing in temporary (but in fact, long-term,) high-tech foreign workers. They are typically paid wages below those acceptable to domestic workers in the same field. These temporary, work-based programs are highly adaptive and responsive to employer needs but they lack overall coherence in the way they are administered. Furthermore, they are generally beyond public scrutiny and comment. Consequently, strict oversight of these programs must exist to ensure that foreign temporary workers are only admitted if qualified legal workers cannot be found. They must not be used to cut costs and get around existing protections for legal workers.

At this time, employers wanting to import foreign workers must first advertise for American workers and agree to pay them “prevailing wages.” If no American workers respond then the employer may seek foreign workers. Wage structures in some jobs in the U.S. have been so distorted downward by the presence of foreign workers that the concept of prevailing wage is no longer a fair yardstick. Thus, we believe that the employer should be required to advertise the pay of his jobs at some percentage above the prevailing wage to make them more attractive to domestic workers. This wage level should be established by the U.S. Dept. of Labor on a localized basis.

There are other programs that bring aliens to this country outside the normal visa process or that allow them to stay here temporarily. Primary among these are the Refugee program, which brings them here from abroad, and Temporary Protected Status (TPS,) which lets those legally here already, stay. We need not discuss those programs here except to say that they are a source of foreign workers that is not presently being tapped for the benefit of employers who claim to need labor. Many alien beneficiaries of those programs complain that they cannot find jobs. Aliens gaining status under either category should be placed on a register from which employers must draw before they are allowed to recruit from abroad.

Step 6 – Amnesty

Immigration policy encompasses a multitude of issues and none is more controversial than amnesty, sometimes called “Comprehensive Immigration Reform” or “A Pathway to Citizenship.”

What has been proposed in recent years, though, is in no way “reform;” it is in fact a *corrupt bargain*. Proponents of so-called Comprehensive Immigration Reform would have us believe that it is not amnesty because the beneficiaries will pay a fine. In truth, it is not a fine, it is a bribe. If they had to pay and then go home it could be construed as a fine, but as proposed, it is a bribe. It is indiscernible from the common practice in many countries of slipping a \$20 bill to a cop to overlook a traffic offense or thousands of dollars to a government official to select one contract over another. It is corruption of a high order and it should not even be considered, much less tolerated, by a country ostensibly devoted to the rule of law.

That aside, the pathway it establishes will not serve the nation well. There is another way to handle the millions of illegal aliens in the U.S. but we will address that in Section 7. First, let's say why amnesty (by whatever name it is called) is not a good solution.

It's been done before on a large scale, and it failed in its aim. In 1986 amnesty proposals were on the Congressional table but had stalled just as they have more recently. A last minute, midnight deal was struck, though, and Congress gave us the Immigration Reform and Control Act (IRCA.)

The political tradeoffs for an amnesty bill were tighter control of the border and employer sanctions. For the first time, it would be against the law to hire an illegal alien and employers could be fined for it. We were told that employer sanctions and border control would solve the problem.

That's not how it worked out.

- What was to have been amnesty for 1.5 million people turned out to grant the benefit to nearly three million. The program was expanded several times by the courts in response to pressure from special interest groups. The final cases were adjudicated in 2005, 19 years later.
- The application process was riddled with fraud; officers involved say that up to 30% of applications were fraudulent. Field offices were instructed to approve applications despite clear evidence of fraud in the documentation unless the applicant admitted it outright. And even in the most egregious cases, U.S. Attorneys did not prosecute unless it involved an organization providing large numbers of fraudulent documents as a commercial enterprise. That invited even more widespread fraud.
- Employer sanctions cases are very seldom pursued aggressively, and even when a case is made the fines are so low that they are an acceptable cost of doing business.
- Employers are not required to check the validity of documents given to them in support of applications for employment. Thus, fraud continues to undermine the sanctions program and immigration enforcement.
- The Border Patrol was not adequately reinforced until 2008 and even now, the border is not under control—hundreds of thousands or millions of aliens continue to cross it every year.
- Last, and what should be most important to our considerations now, is that the 1986 amnesty was the catalyst for the flood of illegal aliens we have seen since. Having seen that we would forgive violations of our law, aliens immediately began coming to benefit from the next one. There is no reason to expect a different outcome if we do it again.

Furthermore, there is an effect of amnesty that is not much discussed: population growth flowing from it. "Chain migration" is the phrase used to describe the process of immigrants coming to this country based on their relationship to someone already here.

Reuniting families with illegal aliens granted amnesty would increase the total admitted dramatically. The U.S. Department of State, which issues visas to enable that “following to join” process, estimated (unofficially) that the rate is six to one over the twenty-year period following someone’s immigration. Thus, amnesty for ten million people would bring us a total of seventy million over time just through immigration.

In summary, NAFBPO believes that amnesty is a bad choice because....

- Current proposals are a corrupt bargain.
- Widespread fraud will take place, just as it did under the 1986 IRCA legislation, only on a scale three or four times larger. It is entirely predictable that we will deal with it no more effectively than we did in 1986.
- Registering the estimated 10-12 million applicants would be a monumental task that would take years to accomplish. The nation does not have the investigative resources to perform the necessary background checks of applicants in the U.S. and reliable background checks abroad are an impossibility. Thus, we would have no idea to whom we are giving the gift of permanent residence.
- Judicial considerations – the 1986 amnesty was expanded by about half a million more applicants than the statute anticipated as the courts expanded it beyond what Congress intended. No doubt, it would happen again and would take another twenty years to finalize.
- Chain migration – depending on the population legalized, we can expect population growth of up to 70 million by 2030. *Note that that is in addition to normal immigration levels of a million a year.*

The cost of an amnesty of this magnitude would be astronomical. Here, we quote from a study done by the Heritage Foundation in 2007: *Giving amnesty to illegal immigrants will greatly increase long-term costs to the taxpayer. Granting amnesty to illegal immigrants would, over time, increase their use of means-tested welfare, Social Security, and Medicare. Fiscal costs would rise in the intermediate term and increase dramatically when amnesty recipients reach retirement. Although it is difficult to provide a precise estimate, it seems likely that if 10 million adult illegal immigrants currently in the U.S. were granted amnesty, the **net retirement cost to government (benefits minus taxes) could be over \$2.6 Trillion.*** http://www.heritage.org/Research/Reports/2007/06/Amnesty-Will-Cost-US-Taxpayers-at-Least-26-Trillion#_ftn23

- Finally, another amnesty will again send a signal to the world that the U.S. is not serious about enforcing its immigration laws and that it is just a matter of time until the next amnesty.

Step 7 – Dealing with those here now?

A large number of those here illegally, depending on their individual circumstances, will qualify for administrative relief that will allow them to stay under existing law. As to the

others, they do not belong here – they came without invitation or permission and we owe them nothing but humane treatment and a speedy departure.

We need not undertake massive waves of arrest and deportations, nor should we. Instead, we must apply firm and relentless pressure to make it inconvenient to impossible for them to stay. We know they will leave when confronted with that because the national experience with the current recession has driven many illegal aliens back to their homes abroad when they couldn't find jobs. That is further manifested by the experience of Oklahoma and Arizona, where laws were passed making things difficult for the aliens and they departed by the thousands for other states more hospitable to them.

This approach has benefits for the nation, American employers, and the alien himself. We, the nation, would avoid the uproar and disruptions that roundups would cause. The employer, as his source of cheap, ready labor dries up, could make his accommodations to the new situation over time. And the alien, since he would plan his own departure, can take care of all his business before he leaves.

Here are some of the things that we should remove from the reach of illegal aliens:

- Jobs, certainly.
- Public benefits of any sort.
- Sources of identification, particularly driver's licenses.
- Vehicle registration and licenses of any other sort.
- Mortgages or loans of any sort if underwritten or guaranteed by a government entity.
- Tuition assistance or write-downs at any public educational facility.

Step 8 – Immigration Legislation

The United States largely has the immigration laws it needs. Most of the current noise about immigration reform comes from groups whose sympathies lie with their ethnic brethren from abroad and from employers who continue to want cheap, tractable labor, just as they have since the Chinese were brought over to build the railroads. While both of these desires may be understandable they do not always parallel the interests of America or Americans (and as always, we include our legal alien guests in that category.)

Congress must first ensure that a complete structure of immigration control and enforcement is in place *and working properly*. Such a structure will require close coordination between border control forces and interior enforcement agencies. That does not exist now. The current political inclination is to spend money on hiring and equipment and call the problem on the border solved. Not so, and we, the public, should not fall for it. We must demand proof of control.

Second, Congress should decide what immigration policies will benefit America and Americans, not the interests of other countries before our own. Then it should

reformulate existing laws to bring about those policies. NABPO makes the following suggestions:

- The fundamental balance of priorities for immigrants established by our immigration laws needs to be changed. Since 1965 our laws have favored family reunification at the expense of bringing skilled technical and professional workers here, and those with money to invest in enterprises that will create jobs. That must change – there is little to be found in family reunification that serves our national interests. To the contrary, most immigrants to this country now are unskilled and, since they tend to occupy the lower rungs of the economic ladder, they and their families draw heavily on social programs. It is one thing to allow an unskilled worker and his wife and children to immigrate. It is yet another to encourage the parents and siblings to follow. In this day of easy, rapid travel around the world coming to the U.S. from abroad does not cut one off from all future family contact as it did in years past.

Reformulated laws do not necessarily have to limit overall immigration numbers, in fact, they probably should not. But they *should* change the nature of most of our immigrants to a category that benefits the present and future needs of the country as a whole—that is, skilled workers or those with money to invest to create jobs. NAFBPO believes that Congress should strike a new balance in the preference system under which immigrant visas are issued.

- Granting citizenship automatically to those born on U.S. soil is not properly an immigration issue itself, but it affects immigration by drawing people here to have their babies. It is an idea that has outlived its time and its purpose; the U.S. is nearly alone among developed nations in such a generous grant of citizenship. NAFBPO supports the idea of changing the law in that respect. Children born on U.S. soil should not be citizens unless their parents are U.S. citizens or lawful permanent residents. Congress must then issue a “sense of the Congress” statement to this and future administrations that immigration laws matter and they deserve careful enforcement, not deliberate neglect as a policy.

Step 9 – Other Matters

Border security isn't what it used to be. Over the last three decades our concerns have escalated from what was once as much a humanitarian issue as a security issue, to concerns over paramilitary violence, organized crime, and international terrorism. The requirements to meet these concerns have likewise increased to the point that anything less than well-formulated interagency response will inevitably leave the nation's citizenry vulnerable to a new and expanding set of threats. The U.S. needs to consider every asset available to maintain the integrity of our borders.

- The border is an increasingly violent place for officers to work. There is a threat of encounters with heavily-armed smugglers or even paramilitary units using military-style tactics as they smuggle drugs and people from Mexico. The Border Patrol has not been confronted with a threat of this nature since the days of prohibition and

NAFBPO notes that it was during that period that more Border Patrol officers were killed than at any other time since.

NAFBPO believes that the Border Patrol is, and should remain, the primary line of defense along our borders. With nearly 20,000 officers now, the Border Patrol arguably has manpower enough to secure the border. The Border Patrol's tactical response unit (BORTAC) is well able to carry out most special operations, assuming they have time to assemble and prepare a team. However, most officers are not currently trained and equipped to deal with threats they now face. They should be trained and equipped to meet these new threats and made a credible deterrent at the border.

Currently, it appears that the highest levels of the Department of Homeland Security and Customs and Border Protection lack the inclination to meet the threats directly, with whatever force is necessary. Instead, they are willing to surrender U.S. territory to criminal gangs. Signs along the border cautioning people against entering large areas of the U.S. including some national monuments, offer sad proof of that statement. That must change; the U.S. must never concede one foot of our territory.

- Military on the border. There is a role for the military on the border, and the National Guard is the best solution. Guard units should work within their own overall command structure under the direction of the Sector Chief they assist. Those units should support the Border Patrol tactically, technically, and in a training role. It is from the Guard's tactical field experience that the Border Patrol can most benefit in learning new operational techniques. And finally, armed units of the National Guard should be in place as quick response teams to back up Border Patrol officers in any encounter in which it finds itself outgunned. In such cases, Border Patrol officers should disengage and allow the National Guard to act by its own rules of engagement.

There are those who complain about "militarization of the border." NAFBPO notes this argument and says that a military presence on the border is a good thing under existing circumstances. Mexico uses its military on the border without complaint from the U.S. For the United States to do the same would send a powerful message to Mexico and Mexicans about just what the border means.

- Environmental legislation. There is, among environmentalists and in Congress, a move to create huge swaths of formally-designated wilderness along the borders with Mexico and Canada. In places, they will extend deep into the United States.

The controlling legislation, the Wilderness Act of 1964, prohibits any motorized conveyance or man-made structure with wilderness areas. That includes landing of aircraft. What this means is that, as a practical matter, the Border Patrol is prohibited from patrolling wilderness areas except on foot or horseback. Smugglers and illegal aliens observe no such prohibitions.

The effect on border security is predictable – wilderness areas become a highway and haven for them. Furthermore, environmental sensitivity not having seeped into the consciousness of smugglers and illegal aliens, the lands protected from the Border Patrol become dumps as passers-through deposit all manner of trash and garbage by the ton.

The Department of Homeland Security periodically announces that it has reached an accommodation with the other agencies involved, usually the Department of the Interior's Forest Service or the National Park Service. DHS typically goes on to say that the ability to control the border will not be impacted by the creation of wilderness areas.

At NAFBPO we have, cumulatively, hundreds of years of border enforcement experience. We declare those announcements by DHS to be, at best, willfully blind to reality and at worst, an attempt to undermine the meaning of our borders. There are some things that technology cannot compensate for, and an officer on the ground at the right place and time is one of those things. The ability to be wherever needed, whenever, is fundamental to Border Patrol operations and legislation such as that being considered is utterly foolish if a secure border is to be created.

- Visa issuance process. The visa process is a useful tool if executed correctly. Briefly, a visa is a license to apply for admission to the U.S. at a port of entry. Visas are issued by the U.S. Department of State. Someone wanting to come to the U.S. takes his passport to the U.S. Consul abroad and completes a visa application. In a perfect world the consul conducts necessary record checks and either issues or denies a visa. In fact, the background checks of visa applicants tend to be cursory to nonexistent. Visas are the first line of defense in determining the identity, intentions, and bona fides of an applicant and the Department of State must do it thoroughly, for everything in the downstream process depends on it.
- Visa Waivers. The visa process can reduce or slow down the number of people wanting to come here which can affect our economy. Therefore, in the case of a number of “friendly” nationalities, it is waived entirely. This is a two edged sword. Unfortunately, in this day and age there very well may be factions in these nations that would do harm to the U.S. Germany, for example, may be the source of a very small number of status violators and thus appear to be a low-risk country for visa waivers. However, there is a strong presence of radical Islam in Germany and they, too, qualify for visa waivers. Consequently, the visa waiver program should be scrutinized and applied sparingly, if at all.

Local Cards. The U.S. has for decades issued what is called a “local card”, a document used in lieu of a passport and visa. It allows the holder to enter for a limited period of time and to go only to the border states. Historically, this card is one of the most fraudulently-used documents; many holders violate their status after entering and/or the document is borrowed, altered or counterfeited.

In July 2008, the Department of State began issuing passport cards as a lower-cost alternative to the U.S. passport book. In October 2008, they began issuing the second generation border crossing card (local card) based on the architecture of the passport card. Both of these initiatives are to mitigate the risk of fraudulent use and they are continuing to be evaluated. This is certainly welcomed; however, this is just part of the problem. The inspectors at our ports of entry use a variety of methods to identify fraudulent documents but are unable to take full advantage of the machine-readable technology due to lack of equipment.

Department of State must tighten up its anti-fraud procedures. In a recent test auditors from the Government Accounting Office submitted seven applications for U.S. passports with blatant fraud indicators in the applications. Five were approved without comment.

- Departure verification. At this time, there is no method in use to verify that an alien who entered for a temporary period and for a specific purpose has left the United States at all, much less on schedule. An automated fingerprint scan at departure can clear the record of arrival.
- Recently, the U.S. Citizenship and Immigration Services (USCIS) announced it had redesigned the Permanent Resident Card – commonly known as the “Green Card,” to incorporate several major new security features to deter immigration fraud. State-of-the-art technology such as this inhibits counterfeiting, obstructs tampering and facilitates quick and accurate authentication.
- The *Matricula* card. This is an identification card issued by the Mexican government to its citizens abroad. Mexico has been pushing state and local governments in the U.S. to accept the card as a valid identity document, arguing that it allows Mexican citizens to establish their true identities to police and authorities. It does not. The cards are increasingly used to open bank accounts, transfer money, and board airplanes, but they should not be accepted. First of all, there is no security surrounding their issuance. The bearer may be who the document says he is, but often, he is not. Second, it is another document that can facilitate illegal aliens in making their way around the U.S. and becoming established within our communities.
- State and Local Police Cooperation. American law enforcement must work together toward national security. State and local authorities must be encouraged to work with the federal government to detect and detain foreigners who are in our country illegally. Only by detecting and identifying them can we establish who among them is dangerous to Americans.

At present, local police can hold an illegal alien for being illegal only if local law gives them that authority. In the 1996 Illegal Immigration Reform and Immigration Responsibility Act, Congress included a provision (8 USC 287(g)) that empowered the Immigration & Naturalization Service to provide training to local law enforcement agencies, who would then gain authority to detain suspected illegal

aliens. This has been applied in a few instances and has worked well. It must be expanded to agencies throughout the U.S. The thousands of police officers nationwide are potentially powerful allies in the fight against illegal aliens, foreign terrorism, and criminal activity on our soil. This tool will greatly assist in interior control and thus, border security.

- The annual alien address report. Reinstating the annual alien address report. Discontinued in the 1970s, this report required all aliens residing in the U.S. to report their current address in January of each year. This would provide an extremely valuable source of information about the location of aliens residing here and possible leads to the location of criminal permanent residents.

Step 10 – Summary and Closing

We have immigration laws to regulate which and how many foreigners we are going to allow to enter this country; that is the sovereign right and duty of every country. Properly formulated and enforced, immigration laws will:

- Protect national security and sovereignty
- Protect American jobs and social programs
- Enhance public safety
- Guard public health

The United States is at a critical point in its fight with (and over) illegal aliens. We are besieged by the aliens themselves and their governments who try to make the case that the U.S. owes their citizens the right to come, unimpeded, to this country. And those who violate our laws are supported, comforted, and encouraged by their co-ethnics, their sympathizers, and our very own government.

In September of last year NAFBPO presented a series of editorials on the need for vigorous control of illegal immigration and how various U.S. administrations have failed to meet that need. The arguments may be found on our website (<http://www.nafbpo.org>) so we will not go over them again here except to say that the situation is critical, the national well-being and security are imperiled, and our leaders are betraying us by failing to address this problem. Instead, they call for Comprehensive Immigration Reform, a code phrase for amnesty for illegal aliens. Their version of “comprehensive” reform is, at its heart, a corrupt bargain, an acceptance and blessing of illegal behavior in return for money. As currently proposed, so-called “Comprehensive Immigration Reform” will not “reform” anything; it will simply institutionalize the problem by starting it all over again.

In this document NAFBPO has set out nine steps that we believe are required to achieve *real* immigration reform. Necessarily, our presentation is heavily weighted toward enforcement. That is so because without enforcement nothing else matters. Those charged with resolving this sad situation must realize, *must* realize, that simply reinforcing the border will solve nothing. If there is not multifaceted, aggressive interior enforcement the border will never be secure.

In Steps 8 and 9 (Legislation, and Other Matters) we have made significant suggestions for change to legal immigration and citizenship laws and to current practices and policies. We recognize that they will certainly ignite controversy if considered by the people, Congress, and regulators. However, we do not restrict our suggestions to what is easy, but what is necessary. In that, we recall our statement of purpose:

“Our paramount mission is to contribute to the security and stability of the United States. To that end, we shall propose and be advocates for immigration policies and laws that we believe serve those national interests, and we will oppose those that do not contribute to the national well-being.”