January 2016

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Virginia Martinez
Jazmin Garcia
Jasmine Vasquez

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A COMMUNITY UNDER SIEGE: THE IMPACT OF ANTI-IMMIGRANT HYSTERIA ON LATINOS

VIRGINIA MARTINEZ
JAZMIN GARCIA
JASMINE VASQUEZ*

INTRODUCTION¹

In April 2006, a 16 year-old Mexican-American boy named David Ritcheson was savagely beaten, sodomized with a patio umbrella pole and burned repeatedly with a cigarette.² One of the attackers, a skinhead, attempted to carve a swastika in his chest.³ This occurred at a party in a private home in a small town in Texas as a result of a disagreement over David kissing the sister of one of his attackers.⁴ The story sounds like a modern-day Emmett Till tragedy—and it is. Though David miraculously

* Virginia Martinez has served as Legislative Staff Attorney for the Mexican American Legal Defense and Educational Fund (MALDEF), Chicago Regional Office since 2007. She holds a B.A. from the University of Illinois at Chicago (1972) and a J.D. from DePaul University College of Law (1975). Jazmin Garcia is a J.D. candidate at DePaul University College of Law. Jasmine Vasquez is Economic Policy Advisor, U.S. House of Representatives, Congressman William Pascrell, Jr. J.D., DePaul University College of Law; B.A., Flagler College. Ms. Vasquez is the eldest of 11 children and the daughter of Dominican and Puerto Rican immigrants.

¹ This article was written in the Fall of 2007; much has changed since then. This is a rapidly changing area and we acknowledge that some information may be outdated by the publication date.


³ Id.

⁴ Id.
survived his injuries and bravely testified before Congress in support of the Local Law Enforcement Hate Crimes Prevention Act of 2007, he later took his own life by jumping from a cruise ship. In a more recent case, 25 year-old Luis Eduardo Ramirez, an undocumented immigrant, was beaten to death in Shenandoah, Pennsylvania. Charges have been brought against four teens ranging from ethnic intimidation and aggravated assault to murder. Shenandoah previously tried to pass an ordinance to punish landlords who rent to undocumented immigrants, and, like other communities across the country, has seen an increase in the Latino population over the last decade. David and Luis' stories illustrate the growing anti-Latino environment that is fostered by the current anti-immigrant hysteria. This hysteria is fueled by the increasingly divided, acrimonious and highly charged debate over immigration reform that has occurred in the past ten years, which has been countered by increased activity by immigrant rights advocates.

The current immigrant rights movement began in response to a Congressional proposal that would have both increased penalties for people in the country without authorization and included penalties for anyone assisting, housing or transporting undocumented individuals. These penalties would have applied to social service agencies, advocates and clergy involved in providing services to families regardless of their immigration status. On March 10, 2006, massive marches took place across the country in an effort to organize against this proposal. These
marches created both a new immigration rights movement and a backlash that, along with the reaction to the September 11, 2001 attacks, revitalized older hate groups and attracted new individuals to the anti-immigrant movement. Some long-standing hate groups, such as the KKK, now have a new target: immigrants and Latinos. In addition to these already existing groups, new groups sprung up that claim to be against only illegal immigrants but use racist imagery and vitriolic language that includes all Mexicans, Mexican-Americans, Latinos and people of color. This increased antagonism led to dozens of attempts by local governments to pass ordinances and statutes aimed at denying undocumented immigrants the ability to work, rent homes, travel or drive. While some of these attempts were successfully challenged, similar laws continue to be proffered. The federal government increased its deportation of immigrants in the country without legal status as well as its deportation of lawful permanent residents who have been involved in criminal activity. The increase in deportation rates and the rise of hate groups have led to a climate of hostility that engenders fear throughout the Latino community.

Two familiar refrains of anti-immigrant groups are “illegal is illegal” and the use of the term “illegal aliens.” We prefer, and will use throughout this article, the terms “undocumented worker” or “undocumented immigrants.” We find the term “illegal alien” offensive. It demeans and dehumanizes an entire race. It is reminiscent of the use of “savage” in reference to indige-
Nous people.\textsuperscript{15} Illegality is a status that can be corrected.\textsuperscript{16} Not only are undocumented workers human beings, but they are our friends, our relatives and our neighbors.

We do not want to forget that immigration is about people. It is about the estimated 12 million undocumented immigrants currently in the United States. It is also about people like David and Luis, who are victims of the hatred generated by some anti-immigrant groups and fostered in the immigration debate. We recognize that not all groups who advocate sealing the borders, removing undocumented workers or reducing rates of immigration base their positions on racial hatred. Those groups that are motivated by racial hatred, however, negatively impact the discussion of immigration issues and lead to anti-Latino sentiment, discrimination and even violence. Unfortunately, the charged language surrounding immigration has made its way to the forefront of the political process and legislative houses.

Congress had an opportunity last year to comprehensively address immigration at the federal level.\textsuperscript{17} However, Congress failed to do so by failing to find a common ground and creating in-party squabbles that handed President Bush a major defeat in his efforts to reform the immigration laws.\textsuperscript{18} The result is the continued polarization of the immigration debate, continued misguided efforts at the local level to address immigration, continued suffering in the immigrant community and increased anger on both sides of the issue.

\textsuperscript{18} Id.
This article briefly addresses the history of immigration in the United States, the rise of hate groups and local and state attempts to regulate immigration. It also describes previous anti-Mexican periods that resulted in Mexican nationals being returned to Mexico and the return of their U.S. citizen children and family members who had the right to be in the United States. Additionally, it looks at a few positive efforts to integrate immigrants into local communities and the Mexican American Legal Defense Education Fund's (MALDEF) role in protecting the rights of immigrants.

**HISTORY OF IMMIGRATION LAWS**

Immigration laws were historically based on racial and ethnic exclusion. The early history of the United States was characterized by open immigration because settlers were needed to build the nation.\(^{19}\) Immigration only began to cause concern when large groups of immigrants started to arrive from countries other than the original settlers’ homelands.

The Chinese were the first racial group to be targeted by immigration laws in response to fears of the “Yellow Peril.”\(^{20}\) The 1875 Page Act was the first law to make “illegal immigrants” out of people who had been sentenced for crimes and women imported for prostitution, mostly Chinese women.\(^{21}\) Like the rhetoric surrounding many immigrant groups today, Chinese and other Asian immigrants were accused of a wide range of evils, from unfair job competition to racial inferiority.\(^{22}\) In 1882, Con-

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\(^{19}\) **Roger Daniels**, *Guarding the Golden Door: American Immigration Policy and Immigrants Since 1882* 7 (Hill and Wang 2004).

\(^{20}\) *Id.*


gression passed the Chinese Exclusion Act.\textsuperscript{23} This was the first race-based immigration law, and it was not repealed until 1943.\textsuperscript{24} These efforts to officially exclude the Chinese followed a period of discrimination and violence against Chinese immigrants that eventually extended to other Asian groups.\textsuperscript{25} In 1907, the United States and Japan entered into a "Gentlemen's Agreement" whereby Japan voluntarily agreed to limit passports to laborers, thus limiting Japanese immigration.\textsuperscript{26} Subsequent Supreme Court challenges to limiting naturalization to "free white persons" led to the Court holding that Japanese and Indians were racially ineligible for citizenship and affirming Congress' absolute power over immigration issues.\textsuperscript{27}

The next major wave of immigration occurred at the turn of the 20th century and is sometimes referred to as the "Golden Age." During the Golden Age, the immigrant population grew significantly. In 1920, immigrants comprised 14 million people out of a total population of 105 million.\textsuperscript{28} However, after World War I, Congress enacted a quota system limiting the number of immigrants from outside of the Western Hemisphere to 3% of their nationality already in the country at the time the quota became law.\textsuperscript{29} This was the first cap on immigration and came during another period of nativism that included Jews as


\textsuperscript{26} NGAI, \textit{supra} note 21, at 39.


\textsuperscript{29} DANIELS, \textit{supra} note 19, at 48.
In order to preserve the desired ethnic mix, the quota was amended to 2% a few years later and was based on the 1890 Census rather than the 1920 Census. During this period, immigration from the Western Hemisphere continued to increase.

As early as the 1920s, the “Mexican Problem” emerged as a topic of discussion among nativists in response to the quota system. Economic interests, primarily from the Southwestern part of the country, ensured the Western states’ exemption from the quotas set by Congress. Both labor leaders and nativists argued for the removal of this exemption on the basis that Mexicans were racially inferior, and even supporters of the exemption agreed with that argument. This racial hostility continued into the 1930s, as the Depression increased animosity towards Mexicans in the United States.

As the Great Depression settled upon the nation, local governments carried out repatriation in order to save welfare money and create jobs. Between 500,000 and 600,000 Mexicans and their U.S.-born children were repatriated. While some destitute Mexicans went voluntarily, others were threatened with physical violence unless they abandoned their homes and their jobs. In some communities, Mexicans were “encouraged” to repatriate whether or not they were employed. Railroad
cars full of Mexican repatriates were common sights.\textsuperscript{40} Sometimes local communities arranged these trains as the only relief option available to Mexicans, while other trains were arranged by companies like Inland Steel.\textsuperscript{41} Some Mexican groups fought repatriation and tried in vain to point at the racism involved in removing Mexican immigrants but not other immigrant groups.\textsuperscript{42} Similar to victims of immigration raids today, the repatriated Mexicans in the 1930s considered themselves honest, hard-working individuals who did not deserve to be thrown out of the country.\textsuperscript{43} Later, some communities lamented the loss of the Mexican community to repatriation after they realized the economic impact of losing a large group of consumers.\textsuperscript{44}

In 1942, the U.S. and Mexican governments created the Bracero program to bring Mexican laborers to the fields on temporary contracts.\textsuperscript{45} The program lasted until 1964 and was responsible for the entry of four million Mexican workers into the United States.\textsuperscript{46} A similar program was created for railroad track maintenance and had a quota of 50,000 skilled and unskilled workers.\textsuperscript{47} The rail maintenance program, however, ended in 1945 with the end of World War II.\textsuperscript{48} During the period of the Bracero program, more than 3.8 million Mexicans and U.S. citizens of Mexican ancestry were deported through a campaign

\textsuperscript{40} Id. at 124.
\textsuperscript{41} Id. at 124-125.
\textsuperscript{42} Id. at 147.
\textsuperscript{43} BALDERRAMA & RODRIGUEZ, supra note 36, at 148.
\textsuperscript{44} Id. at 145-146.
\textsuperscript{48} Id.
known as "Operation Wetback."\textsuperscript{49} Immigration and Naturalization Service Commissioner Joseph M. Swing, a "professional and longtime Mexican hater," headed the campaign.\textsuperscript{50} U.S. born citizens of Mexican descent and immigrants alike were subjected to illegal searches, detentions and street roundups. In addition, the federal government employed such questionable practices as paying Native Americans bounties for catching undocumented workers crossing their reservations.\textsuperscript{51} These excessive actions led to the presentation of a petition to the United Nations in 1959, which alleged violation of the Universal Declaration of Human Rights.\textsuperscript{52}

The Immigration Act of 1965 limited immigration from the Eastern Hemisphere to 170,000 people and capped immigration from each country at 20,000 people.\textsuperscript{53} Western Hemisphere immigration was set at 120,000.\textsuperscript{54} The 1965 Act produced a shift in immigrants' countries of origin.\textsuperscript{55} Pre-1965, immigrants came largely from Europe and Canada, whereas post-1965, immigrants have come primarily from Asia or Mexico.\textsuperscript{56}

Recognizing the growing number of undocumented workers in the United States, in 1986 Congress passed the Immigration Reform and Control Act (IRCA), which allowed undocumented workers who resided in the country since 1982 to legalize their

\textsuperscript{50} ACUÑA, supra note 35, at 304.
\textsuperscript{51} Id.
\textsuperscript{52} Id. at 306.
\textsuperscript{53} DANIELS, supra note 19, at 134.
\textsuperscript{54} Id.
status. For the first time, employers were sanctioned for knowingly hiring an immigrant without work authorization or for failing to comply with an employment verification system for all new hires. Congress followed the IRCA with the Immigration Act of 1990, which placed a flexible worldwide cap on family-based, employment-based and diversity immigrant visas.

Rising anti-immigrant sentiments, fueled by such efforts as Proposition 187 in California, led to the enactment of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which focused on the quick removal of undocumented immigrants and increased criminal penalties for immigration-related offenses. IIRIRA also provided for expedited removal processes upon entry, removed some judicial review options, expanded the definition of aggravated felony, limited benefits to immigrants and added time limitations for filing asylum claims. In the same year, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). Some scholars believe that the law increased anti-immigrant sentiment by portraying "an image of the [Latino] immigrant as an illegal alien who would gladly steal

58 § 201.
62 Id.
American jobs [and] devour public benefits."64 These familiar stereotypes, the history of anti-Mexican sentiment, government policies during times of economic difficulties and the tragic events of 9/11 set the stage for the current immigration debate.

**The Impact of 9/11 on Latino Immigrants**

In recent times, the 9/11 terrorist attacks have impacted Mexican immigrants. While the United States was preparing for war, the government quickly reorganized the legislation and structure of national security.65 The nation’s immigration system came under intense public scrutiny.66 Kevin R. Johnson suggests that though the resultant efforts to fight terrorism in the aftermath of 9/11 immediately affected Arab and Muslim non-citizens, Mexican immigrants will suffer the long-term consequences.67

Post-9/11, Congress passed nearly 60 laws and regulatory changes that impacted the American immigration system.68 Ali Noorani suggests that these changes are a direct result of anti-immigrant forces’ efforts to capitalize on Americans’ fears and suspicions of outsiders in the wake of 9/11.69 In essence, 9/11 provided both a reason and the motivation to stereotype immigrants and to act on growing economic and racial fears.70

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65 Kevin R. Johnson, *September 11 and Mexican Immigrants: Collateral Damage Comes Home*, 52 DePaul L. Rev. 849, 853 (2003). Johnson, a MALDEF board member, wrote this article about the impact of the country’s reaction to 9/11 on Mexican immigrants.
66 Noorani, *supra* note 64, at 190.
67 Johnson, *supra* note 65, at 849-850. The damage goes beyond the legal consequences of legislative measures and could actually amount to “thinly veiled attacks on racial minorities, with U.S. citizen sharing the ancestry of certain immigrant groups stereotyped as foreigners.” *Id.*
68 Noorani, *supra* note 64, at 190.
69 *Id.* at 185.
70 *Id.*
gress rapidly enacted the Uniting and Strengthening America by Proving Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which significantly amended the previous immigration laws.\textsuperscript{71} The creation of the Department of Homeland Security in 2003 combined Immigration and Naturalization Service with Customs in the new Immigration and Customs Enforcement (ICE).\textsuperscript{72} This merger symbolized a dramatic philosophical shift in the protection of national security, which Johnson characterizes as an “over-emphasis on immigration enforcement in the name of ‘homeland security.’”\textsuperscript{73} The merger’s intense focus on criminal penalties in immigration created an environment in which undocumented immigrant workers did not have a voice and feared government authorities.\textsuperscript{74} As a result, immigrants became vulnerable to exploitation by employers and politicians alike.\textsuperscript{75}

**RISE IN HATE GROUPS AND IMMIGRANTS AS NEW TARGETS FOR OLD HATE GROUPS**

The word “alien” is commonly used to refer to creatures not of this planet, and the same term is used in the context of immigration to exclude immigrants from American society.\textsuperscript{76} The term “illegal alien” is trendy in the media and the current anti-immigrant movement, but its use dehumanizes immigrants in the United States and perpetuates negative stereotypes.\textsuperscript{77} However, anti-immigrant sentiment is not a new phenomenon to the Latino community. As previously discussed, during the Great

\textsuperscript{71} Johnson, supra note 65, at 849.
\textsuperscript{72} Noorani, supra note 64, at 190.
\textsuperscript{73} Johnson, supra note 65, at 860.
\textsuperscript{74} Noorani, supra note 64, at 185.
\textsuperscript{75} Id.
\textsuperscript{77} Id.
Depression, a strong anti-immigrant sentiment developed. The intense economic pressure caused by the current recession and the lasting impact of 9/11 have created a resurgence in anti-immigrant sentiment, demonstrated by an increase in the number of hate groups. These hate groups create “hateful and dehumanizing stereotypes and outright bigotry to demonize immigrants.” Hate groups, both old and new, are increasingly vocal in their anti-immigrant rhetoric attacking Latinos in the United States, regardless of immigration status.

Since the year 2000, the number of anti-immigrant hate groups has risen 48%. While some of these groups have a history of attacking minority groups, others were created solely to advocate against illegal immigration but now use the same tactics and strategies as hate groups, including perpetuating anti-Latino stereotypes. In the past, anti-immigrant groups’ recruitment efforts were limited, but the internet has proven to be an important recruiting tool, spreading hate to a much wider audience. One new hate group is the Minuteman Project. This group organizes volunteers to watch over the border and keep

78 ACUÑA, supra note 35, at 220.
79 Noorani, supra note 64, at 190-91; see also S. Poverty Law Ctr., Intelligence Report, The Year in Hate: Hate Group Count Reaches 844 in 2006, Spring 2007 [hereinafter SPLC Year in Hate], http://www.splcenter.org/intel/intelreport/article.jsp?aid=762&printable=1 (last visited Feb. 7, 2008).
81 Id.
82 SPLC Year in Hate, supra note 79.
illegal immigrants out of the United States.86 The organization claims it only keeps watch over the border and reports sightings of illegal immigrants to ICE,87 yet the group is now found far from the border and is very active in Illinois.88 You Don’t Speak for Me, a group which claims to have been formed by Hispanic Americans against undocumented immigrants, further demonstrates the extent of negative campaigning against undocumented immigrants.89 Despite this group’s claim that it was founded by Retired Army Colonel Al Rodriguez, it was in fact the creation of Dan Stein, president of the Federation for American Immigration Reform, one of the nation’s largest anti-immigration groups.90 In response to the 2006 rallies and marches across the United States, one member of You Don’t Speak for Me said, “These people have been telling us for a long time they hate to be treated like criminals. What they’re doing today, throughout the country, is behaving like just that.”91

In addition to the rise in anti-immigrant hate groups, the number of hate crimes against Latino immigrants has also significantly increased.92 In 2005, Daniel Schertz of Tennessee was arrested and sentenced for building pipe bombs aimed at killing Latino immigrants.93 Schertz, a former KKK clansman, arranged

86 Id.
90 A Day Without Immigrants, supra note 11.
91 Id.
to sell five pipe bombs intended for an attack on Mexican agricultural workers on a bus to Florida. Unbeknownst to Schertz, the man to whom Schertz sold the bombs was actually an undercover agent with the Bureau of Alcohol, Tobacco and Firearms. Schertz faced a possible sentence of up to 70 years in prison but was only sentenced to 14 years.

The Southern Poverty Law Center (SPLC) reports a 5% increase last year in the number of hate groups in the United States, bringing the total number to 888—an increase of 48% since the year 2000. SPLC attributes this increase “to the exploitation by hate groups of the continuing debate about immigration.” Unfortunately, many of the crimes committed against immigrants go unreported because immigrants fear deportation if they report any incident to the police.

It is critical for the federal government to take formal action and pass comprehensive immigration legislation. An entire segment of the population of the country is suffering vicious discrimination and attacks because of growing anti-immigrant sentiment that will continue to rise unless Congress is willing to pass legislation to protect immigrants. An FBI report documents an increase in hate crimes against Latinos, indicating that the number of victims of anti-Hispanic crimes increased by 25%...
since 2004. MALDEF suggests that the FBI report should serve as a “wake up call to our nation’s leaders to take action on comprehensive immigration reform, reduce tensions and safeguard the basic civil rights and liberties of all Americans.”

Another recent report by the Pew Hispanic Center indicates that nearly two-thirds of Latinos believe that Congress’ failure to reform immigration has caused Latinos hardship.

SENSENBRENNER AND A UNITED LATINO MOVEMENT

The Border Protection, Anti-terrorism, and Illegal Immigration Control Act of 2005, also known as the Sensenbrenner Bill after its sponsor, Wisconsin Republican Jim Sensenbrenner, was proposed in the 109th United States Congress and served as the catalyst for the immigration rights protests of 2006. The Sensenbrenner Bill sought to amend the Immigration and Nationality Act to strengthen enforcement of the immigration laws and enhance border security. The House of Representatives passed this bill on December 16, 2005. The Senate, however, failed to pass the legislation.

In March of 2006, hundreds of thousands of demonstrators marched in cities across the United States to oppose the draconian anti-immigration legislation sponsored by Sensenbren-
Demonstrators represented a broad spectrum of community members: members of Latino and other immigrant communities, documented and undocumented, friends, neighbors and co-workers. These marches signaled the beginning of the Latino community's fight against anti-immigrant legislation and discrimination by the government. Latinos were tired of being the scapegoat in times of economic insecurity. Until this moment, Latinos were viewed as silent and obedient, satisfied to work in the shadows of America. However, with the introduction of the Sensenbrenner Bill, which would have made all undocumented immigrants felons and required all employers to verify the immigration status of its employees, Latinos were outraged and motivated to speak out. Religious, labor and community leaders nation-wide adopted a new mantra: “organize, mobilize, and educate.”

In May of 2006, immigrant communities in Chicago organized to protest the Sensenbrenner Bill. To the country’s surprise, over 200,000 people turned out for the peaceful immigration reform rally. The huge Chicago turnout encouraged similar pro-

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110 Rallies Across U.S., supra note 108.
111 This theme of Latinos being scapegoats was illustrated in Bill Richardson's endorsement of Barack Obama. On March 21, 2008, Richardson publicly stated, “Hate crimes against Hispanics are rising as a direct result that now, in tough economic times, people look for scapegoats. And I fear that people will continue to exploit our racial differences and place them on others not like them.” Gov. Richardson’s Endorsement of Obama, WASH. Post, Mar. 21, 2008, available at http://www.washingtonpost.com/wp-dyn/content/article/2008/03/21/AR2008032101841.html.
112 Noorani, supra note 64, at 185.
113 Id.
114 NNIRR, supra note 99, at 58.
115 Id.
tests across the country. In the same month, Voces de la Frontera organized “A Day Without Latinos,” a march in downtown Milwaukee by Latino community members. Approximately 30,000 protesters attended, encouraged by organizers to take the day off work to march. Dozens of Milwaukee businesses also closed that Thursday to join the protest.

These marches signaled a conscious, communal effort by immigrants and other members of the Latino community to stand up and fight for their rights. Noorani writes:

[f]or the first time since the civil rights movement, people of color are taking to the streets of towns and cities across America en masse. The immigrant community, Mexicans most visibly, is collectively calling for Congress to enact legislation legalizing undocumented immigrants and promoting workers’ rights and fair treatment.

Many individuals were simply fed up. The Latino community was silent until recent years. Their silence made their presence bearable to the majority of America. As long as their concerns and struggles remained silent—as long as they did not demand equal rights—they were tolerated. As soon as the community spoke out and began to demand equal rights and protection, they became adversaries in the eyes of many Americans.

116 Id.
118 U.S. Hispanics March, supra note 104.
119 Noorani, supra note 64, at 193.
120 Id.
121 Id.
These marches, combined with Census projections that by the year 2050 almost a quarter of the U.S. population will be Latino, contributed to a heightened awareness of Latino presence in the United States.\footnote{U.S. Bureau of the Census, \textit{U.S. Interim Projections by Age, Sex, Race, and Hispanic Origin}, tbl.1a, 2004, available at http://www.census.gov/ipc/www/usinterimproj.} Unfortunately, these marches also triggered a backlash of animosity, as demonstrated by the comments made by members of You Don't Speak for Me.\footnote{Poll: Hispanics feel backlash on immigration, MSN, http://www.msnbc.msn.com/id/22247190/ (last visited Apr. 1, 2008).} Despite this backlash, the marches signaled the beginning of a new social movement. They sparked the political organization of the Latino community and demonstrated a united political force that will no longer be silenced.\footnote{Noorani, supra note 64, at 195.}

The mobilization in the spring of 2006 successfully halted the Sensenbrenner Bill.\footnote{Id. at 197.} Despite the failure of the Sensenbrenner legislation, the publicity surrounding the bill profoundly affected access to social services available to immigrants by promoting fear, confusion and increased hostility toward immigrants and the Latino community collectively.\footnote{TONYA BRODER, NAT'L IMMIGRATION LAW CTR., \textit{STATE AND LOCAL POLICIES ON IMMIGRANT ACCESS TO SERVICES: PROMOTING INTEGRATION OR ISOLATION?} 2 (2007), available at http://www.nilc.org/immspbs/sf_benefits/statelocalimmrpolicies06-07_2007-05-24.pdf.}

It is absolutely essential to remember that immigration laws affect not only illegal immigrants but also all Americans. Eighty-five percent of immigrant families with children include at least one U.S. citizen.\footnote{MICHAEL FIX \textit{ET AL.}, THE \textit{URBAN INST.}, \textit{THE INTEGRATION OF IMMIGRANT FAMILIES IN THE U.S.} 15 (2001), available at http://www.urban.org/UploadedPDF/immig_integration.pdf.} Any measure targeting immigrants inevitably will and does affect citizens. Karla Avila of the New Americans Initiative notes that mixed families are in an uneasy position be-
cause they "could be separated and disintegrated." She states, "If nothing happens at the national level, then persecution of those who are here illegally will continue [. . .] we just need to take into account that there are mixed families where some of them are already legal[y] here, and some others are taking the step[s] to becoming U.S. citizens."

THE FAILURE OF FEDERAL GOVERNMENT TO CREATE COMPREHENSIVE IMMIGRATION REFORM

Congress is at a standstill. Last year, it failed to pass comprehensive immigration legislation. The lack of political will on the federal level allowed for the continued polarization of the United States by continuing the debate on immigration. Lack of leadership and courage by Congress created a frustrating situation where progress and change are highly unlikely in the near future.

A bi-partisan group of Senators, including Senators Reid and Kennedy, along with the White House, proposed the Comprehensive Immigration Reform Act of 2007 with the hope of addressing all of the public’s and Congress’ major issues of concern about immigration. The bill contained substantial border enforcement elements that would increase personal, physical and electronic barriers, as well as establish sophisticated surveillance and security systems. It also increased en-

129 Id.
131 Id.
133 S. Res. 1348 §§ 111-117.
forcement within the interior through increased penalties, new rules regarding removal, additional worksite enforcement tools, visa reform and efforts to reduce backlogs. A major component of the bill was the legalization of undocumented individuals already in the country. Anti-immigrant groups, many of whom lobbied strongly against this provision, designated it as amnesty, and it became a rallying point. This designation mischaracterized the measure, which merely created a path to legal status that did not previously exist. Much of the public was unaware of the strict rules for immigration and did not understand that a great majority of undocumented workers cannot apply for lawful entry. A common sound bite was that the undocumented immigrants should just “wait in line.” This distorted reality, as there is no “line” for most economic migrants.

While many representatives in Congress agreed that the immigration system is broken, agreement could not be reached on how to fix the problem. Newspaper editorials across the country argued that the federal government must take action. The following quotation from a New York Times editorial exemplifies the argument:

[t]he country cannot leave an unlawful, chaotic system to fester, with legal immigration channels clogged, families split apart, crops rotting and state and local governments dreaming up ways to punish 12 million people whose identities are un-

134 §§ 111-117.
135 S. Res. 1348 § 245(b).
138 Id.
known to the authorities, and who aren’t leaving, no matter what Congress does. Many argued that failing to make some kind of reform was “simply not an option” – but it did fail.

In the House, Representative Luis Gutierrez of Illinois attempted to reform immigration laws through the Security Through Regularized Immigration and a Vibrant Economy Act of 2007 (STRIVE Act). The legislation included certification requirements for border enforcement prior to implementation of earned legalization. The bill was carefully worded to appeal to enforcement advocates as well as those seeking legalization for undocumented workers. Despite the bill’s attempt to appeal to both sides of the immigration debate, it failed.

A report on the House Immigration Reform Caucus points to very troubling connections between the Caucus and anti-immigrant, nativist groups. The Caucus votes as a bloc, represents a quarter of the House of Representatives and is therefore a significant force in Congress. The Caucus opposed “amnesty” during the discussion of immigration reform and viewed the defeat of the bipartisan McCain/Kennedy bill in the Senate as a

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142 Id.
146 Id. at 1.
victory. It used this “victory” to recruit new members to the Caucus.\footnote{Id. at 5.}

The inability of the federal government to provide appropriate guidance on immigration issues has resulted in many individuals taking matters into their own hands, as evidenced by the significant increase in hate crimes against Hispanics.\footnote{Marisol Bello, \textit{FBI: Hate Crimes escalate 8\% in 2006, USA TODAY, Nov. 20, 2007, available at http://www.usatoday.com/news/nation/2007-11-19-hate-crime_N.htm} (stating that hate crimes against Hispanics were up 10\% to 576 incidents in 2006).} What many of our leaders seem to forget is that immigrants are inextricably linked to this nation’s history and its economic, social and family structures. Emma Lazarus’s famous sonnet, “The New Colossus,” found at the foot of the Statue of Liberty, proclaims that America has an open door to “those yearning to breathe free.”\footnote{Emma Lazarus, The New Colossus, Statue of Liberty Nat’l Monument, \textit{available at http://www.libertystatepark.com/emma.htm} (last visited Aug. 22, 2008).} That door appears to be closing on Latino immigrants. Investment in the Latino community is crucial.\footnote{Broder, supra note 126, at 23.} Legislators must recognize the demographic changes that are occurring and make a commitment to invest in these diverse Latino communities.\footnote{Jeffrey L. Rabin, \textit{Immigrants could be key to boomers’ security, L.A. TIMES, Feb. 27, 2007, at B2, available at http://articles.latimes.com/2007/feb/27/local/me-myers27.} Rabin is among those who have noted that the aging of the baby boomer generation will require the replacement of workers provided by the younger immigrant populations.}

Issues ranging from the rise in hate crimes against Latinos (immigrant and non-immigrant, naturalized or undocumented), the impact of 9/11 and the lack of political unity from our leaders have created a complex situation. Congress’s silence encouraged the Bush Administration to prove that it can and will enforce immigration laws by stepping up enforcement. At the same time, immigrants are unfairly held responsible for every-
thing from the country's economic problems to crime and deteriorating public services. Anti-immigrant groups' efforts not only increased fear in the immigrant community but also put the rights of lawful permanent residents and citizens at risk. Anti-immigrant efforts have created a sense that we Latinos are outsiders and, in some sense, do not rightfully belong in the United States.

Though Latinos are a diverse group, including persons of Mexican, Cuban, Puerto Rican, Central American and other Latin American ancestry, they share the experience of racism. Latinos are often the subjects of discrimination based on physical appearance, such as racial profiling. Nothing distinguishes documented from undocumented immigrants, Mexican immigrants or Mexican-Americans, except a piece of paper. Racial profiling has become routine because more local law enforcement agents have taken on the duties of immigration officers through a special federal program. In one example of the all

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156 8 U.S.C. § 287 (g); see also NNIRR, supra note 99, at 35; see also U.S. Immigration and Customs Enforcement: Partners, Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act, http://www.ice.gov/partners/lenforce.htm (last visited Aug. 26, 2008). The 287(g) program
too common “mix ups,” a Texas woman was threatened with deportation when she was detained for unpaid traffic tickets because she had been mistaken for an undocumented immigrant with the same name and date of birth.\textsuperscript{157} Marisol Perez, an attorney with MALDEF in San Antonio, stated that authorities made at least five similar mistakes across the country last year.\textsuperscript{158} The number of these mix-ups “demonstrates the dangers when people are perceiving immigrant status based on artificial reasons, and sometimes people do not have the training or expertise (to verify identities). We’re talking about everybody’s individual rights.”\textsuperscript{159}

**Local and State Attempts to Regulate Immigration**

In late 2005, MALDEF began to monitor a petition campaign in San Bernadino, California run by the local chapter of Save Our State, an ardent anti-immigration organization.\textsuperscript{160} The group sought signatures to force a vote by the City Council or a special election to make English the city’s official language, to fine employers who violated federal employer sanctions laws and to require landlords to check the immigration status of tenants and file leases at City Hall.\textsuperscript{161} MALDEF briefed community activists, the mayor, city attorneys and members of the City Council on the unconstitutionality of the legislation.\textsuperscript{162} Save Our State’s petition was rejected by the City Council, but the national media attention resulted in the introduction of identical

allows state and local law enforcement to be trained and authorized to identify, process, and detain immigration offenders under a Memorandum of Agreement with federal immigration officials. See id.


\textsuperscript{158} Id.

\textsuperscript{159} Id.


\textsuperscript{161} Id.

\textsuperscript{162} Id.
ordinances in many other parts of the country. As of July 2007, state lawmakers across the country submitted at least 1400 bills targeting undocumented immigrants, more than double the previous year’s total. In the first half of 2008, 1267 bills were being considered in 45 states. It is expected that these numbers will grow until, and unless, a federal solution to the problem is enacted.

Because of lack of leadership at the federal level, local and state legislators have handled immigration policies as they see fit, and the apparent intent of some of the bills is to make life so difficult for undocumented immigrants that they will simply leave. For example, thousands of Latino immigrants have left Oklahoma since a severe statewide statute went into effect. Many of these bills limit undocumented immigrants’ ability to obtain jobs, find housing, get driver’s licenses and receive many basic government services, such as emergency health care.

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163 Id.
166 BRODER, supra note 126, at 1.
168 See, e.g., Howard Witt, Where have all the illegal immigrants gone: Oklahoma law targeting illegal workers had some unforeseen results, CHI. TRIB., Feb. 10, 2008, available at http://www.chicagotribune.com/news/chi-immigrant_bdfeb10,0,6296102.story. The Oklahoma statute denies undocumented immigrants benefits under most government programs and, more importantly, makes transporting or sheltering undocumented immigrants a felony. Id.
169 MALDEF, List of Local Anti-Immigrant Legislation [hereinafter MALDEF Anti-Immigrant Legislation], http://www.maldef.org/publications/
Additionally, some of these bills grant more power to state law enforcement agencies to investigate immigrants’ legal status.  

Many policymakers do not realize the high cost of enforcement of these ordinances. The police enforcement portion of an immigration ordinance in Prince William County, Virginia had an estimated minimum cost of $14 million. After the county supervisors learned the estimated cost of implementing this portion of their immigration ordinance, they chose not to continue with the police enforcement measures.

Hazelton, Pennsylvania was one of the first cities that attempted to pass an anti-immigrant ordinance. In the summer of 2006, the city passed a local ordinance penalizing anyone who rented to or hired an illegal immigrant. The Puerto Rican Legal Defense and Education Fund, the ACLU and Cozen O’Connor challenged the ordinance in court shortly thereafter. On July 26, 2007, Judge James Munley issued an 85-page decision declaring the Hazelton ordinance unconstitutional and permanently enjoining the City from enforcing the ordinances. Judge Munley found the ordinances were preempted.

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170 Id. at 24 (describing Loudon County, Va. ordinance requiring local Sheriff to pursue an agreement with DHS under § 287(g)).
175 Id.
by federal law and violated plaintiffs’ due process rights.178 The city’s faulty ordinance may cost it $2.3 million in attorneys’ fees.179 For a city that complained that its immigrants were draining it of financial resources, this ordinance only worsened the city’s financial problems. In his conclusion, Judge Munley stated:

[t]he genius of our Constitution is that it provides rights even to those who evoke the least sympathy from the general public. In that way, all in this nation can be confident of equal justice under its laws. Hazleton, in its zeal to control the presence of a group deemed undesirable, violated the rights of such people, as well as others within the community. Since the United States Constitution protects even the disfavored, the ordinances cannot be enforced.180

Judge Munley’s words reinforce that the Constitution provides equality of justice to all people in the United States, whether they are legally in this country or not. Cities such as Hazelton must remember these Constitutional guarantees before passing ordinances that restricts these rights. The Hazelton case is pending before the Court of Appeals for the Third Circuit, where MALDEF has filed an amicus curiae brief supporting the plaintiffs on behalf of local and national civil rights organizations. MALDEF has filed similar suits against a number of other cities including Escondido, California; Cherokee County, Georgia;

178 Id.
180 Lozano, 496 F. Supp. 2d at 555.
Farmers Branch, Texas and Valley Park, Missouri.\textsuperscript{181} In many cases, the locality withdrew the ordinance or was enjoined by a court order from enforcing the ordinance.\textsuperscript{182} For example, in Riverside, New Jersey, the city repealed its anti-immigrant ordinances after attorneys filed suit in both federal and state court against the city but not before the city lost a vibrant segment of its community.\textsuperscript{183}

Similarly, in July of 2006, the city of Valley Park, Missouri enacted the Illegal Immigration Relief Act Ordinance.\textsuperscript{184} This law effectively penalized both employers that hired undocumented immigrants and landlords who leased apartments to them.\textsuperscript{185} The law would have also made English the official language of Valley Park.\textsuperscript{186} MALDEF’s Chicago office, joined with a diverse team of co-counsel, represented business owners, landlords and the Metropolitan St. Louis Equal Housing Opportunity Council in a state court challenge to the ordinance in \textit{Reynolds v. Valley Park}.\textsuperscript{187} In \textit{Reynolds}, the court issued a temporary restraining order blocking enforcement of the law because of the big holes in the city ordinance.\textsuperscript{188} The city enacted multiple amendments

\textsuperscript{181} See MALDEF Anti-Immigrant Legislation, \textit{supra} note 169.
\textsuperscript{182} \textit{Id.} But see Riverside Coal. v. Riverside, No. 1:06-cv-03842 (N.J. Super. Ct. Law Div., filed Oct. 18, 2006), \textit{available at} http://www.clearinghouse.wustl.edu/chDocs/public/IM-NJ-0001-0001.pdf. This was the second lawsuit brought against the Township of Riverside, New Jersey, challenging the Town of Riverside Ordinance 2006-16 ("Illegal Immigration Relief Act"), which attempted to ban immigrants from renting, residing, using property, or being employed in Riverside Township. See also Lavinia Decastro, \textit{Riverside Controvery Ends}, \textit{COURIER POST ONLINE}, Sept. 18, 2007.
\textsuperscript{183} \textit{Id.;} Belson & Capuzzo, \textit{supra} note 171.
\textsuperscript{184} Valley Park, Mo., Ordinance No. 1708 (July 17, 2006), \textit{available at} http://www.valleyparkmo.org/docs/Ordinances/Ordinance%201708.pdf.
\textsuperscript{185} \textit{Id.}
\textsuperscript{188} \textit{Id.}
to the ordinance in an effort to create legislation that would pass the court’s approval.\textsuperscript{189} Despite the city’s attempts to reform the law, on March 12, 2007, a state court judge found the ordinances void under Missouri law and permanently enjoined enforcement of the challenged ordinances.\textsuperscript{190}

After learning of the city’s intent to enforce the amended ordinances, one of the original Reynolds plaintiffs and a new co-plaintiff, Windhover, Inc, filed a new suit to challenge the amended housing and employment ordinances.\textsuperscript{191} The case, Gray v. Valley Park, was filed in state court but removed by the city to federal court, where the district court judge who issued a remand in Reynolds now denied the plaintiffs’ motion to remand.\textsuperscript{192} The city subsequently abandoned the employer ordinance, but the plaintiffs pursued their claims arising from the housing ordinance. They claimed that it is preempted under the Supremacy Clause, that it violated their rights to equal protection and due process and that it violates Missouri law.\textsuperscript{193} Despite Judge Munley’s ruling in the Hazelton case, on January 31, 2008 a district court judge ruled against the plaintiffs and refused to strike down the city’s employer ordinance.\textsuperscript{194} In November 2007, MALDEF and co-counsel filed a notice of appeal.\textsuperscript{195}

In Garrett v. City of Escondido, the city attempted to make it more difficult for undocumented immigrants to find housing in California.\textsuperscript{196} The Escondido ordinance was particularly pernicious because it was passed under the guise of helping eradicate

\textsuperscript{189} \textit{See}, e.g., Valley Park, Ordinance No. 1715 (Sept. 26, 2006).
\textsuperscript{190} Reynolds v. City of Valley Park, No. 06CC-3802 (Cir. Ct. Mo. Div. 13 Mar. 12, 2007).
\textsuperscript{193} \textit{Id.} at *7.
\textsuperscript{194} \textit{Id.} at *31.
\textsuperscript{195} Notice of Appeal, Reynolds v. City of Valley Park, No. 06CC-003802 (Cir. Ct. of St. Louis County, Mo. Nov. 21, 2007).
substandard housing.\textsuperscript{197} Instead, the legislation created a system for complaints about unauthorized immigrants renting in Escondido and required landlords to obtain immigration documents from tenants for verification by city officials.\textsuperscript{198} On November 3, 2006, MALDEF, as part of a consortium of public interest and private lawyers, filed a complaint in the U.S. District Court for the Southern District of California seeking a declaration of the ordinance’s unconstitutionality.\textsuperscript{199} Just two weeks after the complaint was filed, a federal judge granted plaintiffs’ motion for a temporary restraining order enjoining Escondido from enforcing the ordinance.\textsuperscript{200} Shortly afterwards, Escondido stipulated to a permanent injunction.\textsuperscript{201}

In all, municipalities in at least 22 states have enacted anti-immigrant ordinances, ranging from ordinances that mirrored the San Bernadino/Hazleton model to ordinances with a more limited focus, such as English-only restrictions.\textsuperscript{202} The peculiar thing about these ordinances is that the majority of the states and cities that draft them are locations with relatively small immigrant populations, and they tend to be cities that have seen a recent and rapid expansion of their Latino or foreign-born population.\textsuperscript{203} Other local efforts targeted at Latino and immigrant communities use facially neutral policies that have a disproportionate impact on immigrant communities. For example, several

\begin{itemize}
\item \textsuperscript{197} Am. Civil Liberties Union, Anti-Immigrant Ordinances: Escondido, Cal., http://www.aclu.org/immigrants/discrim/27689res20061214.html (last visited Mar. 28, 2008).
\item \textsuperscript{198} Garrett, 465 F. Supp. 2d at 1048.
\item \textsuperscript{199} Id.
\item \textsuperscript{200} Id. at 1060.
\item \textsuperscript{202} MALDEF Anti-Immigrant Legislation, supra note 169.
\end{itemize}

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local jurisdictions and states have implemented roadblocks to identify drivers without licenses.204 Because undocumented workers cannot get driver's licenses in most states, police officers may identify them as being in the country without documents, ticket them for not having a driver's license, tow their cars and impose a significant fine and, in some cases, detain them for immigration officials.205

There is also a federal program, known as 287(g) agreements, through which local law enforcement may receive training and authorization to enforce federal immigration laws. The Immigration and Nationality Act § 287(g)(1) states:

(1) Notwithstanding section 1342 of title 31, United States Code, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.206

The local government must request participation in such programs and enter into a Memorandum of Understanding with

ICE.\textsuperscript{207} There are currently 47 local law enforcement agencies in the program and dozens of other agencies with applications pending or in preparatory stages.\textsuperscript{208} Local politicians use the law enforcement program to show that they are ready to step in because they are frustrated that the federal government has not solved the immigration problem.\textsuperscript{209} Such programs break down trust and communication within the Latino community, threatening to decrease local law enforcement's effectiveness in investigating crimes and obtaining community assistance during emergencies.\textsuperscript{210}

Not only are the laws limiting immigrants' access to services ineffective policies, but certain anti-immigrant ordinances are federally preempted and subject to constitutional challenge or otherwise legally questionable.\textsuperscript{211} State and local governments should make better use of their time and resources by advocating for federal policies that would assist immigrant integration efforts by effectively using immigrants' unique skills and recognizing their contributions.\textsuperscript{212}

\begin{itemize}
\item \textsuperscript{210}NNIRR, supra note 99, at 35. See also MCC, supra note 152.
\item \textsuperscript{211}Am. Civil Liberties Union, Local Anti-Immigrant Ordinance Cases, http://www.aclu.org/immigrants/discrim/27848res20070105.html (last visited Dec. 8, 2008).
\item \textsuperscript{212}Broder, supra note 126, at 23.
\end{itemize}
Both increasing anti-immigrant sentiment and greater enforcement efforts by ICE officials have intensified the demand for legal and social services. Thus, advocacy organizations need more volunteer attorneys to help educate detainees about their rights. The American Immigration Lawyers Association joined other organizations to develop plans to immediately respond to workplace raids. Further, mental health providers report that both documented and undocumented immigrants suffer paranoia and other problems as a result of immigration issues. Individuals decrease their involvement in community activities designed to educate, inform and assist them because they fear harassment by police or immigration officers. For example, following a summer of increased efforts by immigration enforcement and local police in Waukegan, Illinois, MALDEF’s Parent and School Partnership Program saw a dramatic drop in enrollment in the fall.

As in the past, increased enforcement efforts that lead to deportation or removal of immigrant parents severely impact their children, many of whom are U.S. citizens. A newly released report documents the impact of three well-publicized workplace raids.
immigration raids on children and concludes that children are put at a higher risk of family separation, economic hardship and psychological trauma.220 The report confirms what has been conveyed through anecdotal information: communities often live in fear and children are terrorized by seeing their parents being forcibly removed.221

Some organizations attempt to provide support to children whose parents were removed during an immigration raid. Schools provide some protection and stability.222 Social service and religious organizations step in to provide needed direct assistance to children and families in raid situations, but these efforts require their full attention and cannot be sustained for long periods of time.223 The psychological damage to families, however, has not been addressed.224 The logical result of these actions against families is that we are raising a generation of children who are afraid of their own government.

**SOME GOOD NEWS**

While there has been a significant increase in anti-immigrant sentiment, it is important to note that there are also a number of innovative, positive efforts being made. These efforts aim to welcome and integrate new legal immigrants and change the environment for all immigrants. In Santa Clara County, California, where immigrants comprise one-third of the county’s population, a program known as the Immigrant Relations and Integra-
tion Service (IRIS) has been developed. The IRIS program offers a variety of services, including a multi-lingual website directing immigrants to services in the county, citizenship classes, community education and diversity training regarding 16 immigrant groups. In Massachusetts, the Office for Refugees and Immigrants aims “to promote the full participation of refugees and immigrants as self-sufficient individuals and families in the economic, social and civic life of Massachusetts.” Despite this program, Massachusetts was later the site of an ICE raid that brought a public outcry about the tactics used and their impact on immigrant families.

Illinois is at the forefront of promoting policies that positively affect immigrants. In 2005, former Illinois Governor Rod Blagojevich signed the New Americans Executive Order, which focused strategically on how to realize the potential of immigrants for the benefit of the entire state. The state opened an Immigrant Welcoming Center to assist immigrants to access and understand state programs. The Order mandated the creation of a New Americans Immigrant Policy Council to identify best practices and make policy and programming recommendations to the state government, with the goal of providing immigrants

226 Id.
with the tools to become full, contributing state residents. In the past, the Metropolitan Mayors Caucus, in conjunction with the University of Notre Dame's Institute for Latino Studies, held a series of roundtable discussions on issues related to immigrants, particularly those from Mexico. The discussions led to the development of strategies and recommendations regarding issues such as housing, education and social services. These findings and strategies encourage communities to work together to resolve problems by developing plans with attainable goals and objectives, promoting dialogue and understanding and building capacity for Latino involvement.

MALDEF: LAW FIRM OF THE LATINO COMMUNITY

MALDEF's priority is to challenge anti-immigrant proposals nationwide, making it an important legal resource for the Latino community. Its mission is to foster sound public policies, laws and programs to safeguard the civil rights of the 45 million Latinos living in the United States and to empower the Latino community to fully participate in our society. As discussed above, increased immigration policies on a local and state level are the direct result of the inaction of the United States Congress. MALDEF maintains the position that the power to enact and enforce immigration laws is the responsibility of the federal

231 Ill. Exec. Order No. 10, supra note 229.
233 Id. at 4-5.
234 Id. at 3.
government. MALDEF is in a unique position to “connect the dots” between current local anti-immigrant ordinances and other threats to overturn MALDEF’s 1982 Supreme Court victory for undocumented immigrant children in Texas in Plyer v. Doe. It recognizes that today’s anti-immigrant ordinances may be the vehicle used by anti-immigrant activists to turn back the clock on immigrant civil rights.

Despite the number of legal and policy efforts aimed at immigration, MALDEF continues its commitment to education, higher education, employment and voting rights. MALDEF President and General Counsel, John Trasvía, acknowledges that “the issues that are going to define our community are immigration and education.” Trasvía also argues that things were worse in the 1930s when United States citizens were sent to Mexico along with Mexican nationals and during the 1940s when returning veterans who had risked their lives for their country experienced discrimination. There was no MALDEF, or any other organization, at those times for individuals to turn to for help. In response to the death of David Ritcheson, Trasvía wrote to MALDEF staff and Board, “Our work at MALDEF is never more important as today.”


238 Plyer v. Doe, 457 U.S. 202 (1982). In Plyer, the Court struck down a Texas statute that denied public education funding for children who were not lawfully admitted to the United States and that also authorized local districts to deny enrollment of these children in public schools. The ruling was based on the Equal Protection Clause of the Fourteenth Amendment. Id.

239 Telephone interview with John Trasvía, supra note 235.

240 Id.

241 E-mail from John Trasvía, President and General Counsel, MALDEF, to Virginia Martínez et al., (July 2, 2007) (on file with DePaul Journal for Social Justice).
In addition to the legal services provided by MALDEF and other organizations, such as the American Civil Liberties Union, the Puerto Rican Legal Defense and Education Fund and the American Immigration Lawyers Association and committed pro bono partners, hundreds of community-based groups are organizing and educating the immigrant community to protect themselves and to advocate for changes at the national level. While on a daily basis such work can become overwhelming and frustrating, those who work in organizations dedicated to protecting and assisting Latinos and immigrants have a deep commitment to continuing their work with the hope that Congress will finally act to repair what most seem to agree is a broken immigration system.

CONCLUSION

There is a long history of anti-immigrant sentiment in the United States. There is an equally long history of anti-Mexican actions, which includes violations of the rights of U.S. citizens as well as of immigrants. Further, public policies and private actions against immigrants have increased over the past ten years and include legally indefensible local ordinances and statutes targeting undocumented workers. The debate over immigration has become highly emotional, polarized and vitriolic, which becomes apparent through increased violence and efforts by local and state governments, and even individuals, to do what they believe the federal government has not done—to control the borders and properly manage immigration. The Latino community has become fearful and isolated just as it did during similar periods in the past. As MALDEF Chicago staff have commented, “The nopal on our forehead has become a bull’s

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Some have even called current nativist efforts “ethnic cleansing.”

How much pain does the Latino community have to suffer before common-sense, humane changes are worked out at the national level? Congress must find a solution now for David Ritcheson, Luis Ramirez and for the millions of men, women and children who have become the targets of misguided and sometimes outright racist individuals and organizations bent on ridding the country of the “brown invasion.” Until then, MALDEF and other legal and community-based organizations must continue to protect the rights of all Latinos and provide humanitarian assistance to the most vulnerable members of our community.

243 According to a Mexican saying, it is possible to tell that a person is Mexican by spotting the nopal (cactus) on his or her forehead.