



February 12, 2013

Dear President Obama:

We write in our individual capacities as two members of the eight-member U.S. Commission on Civil Rights, and not on behalf of the Commission as a whole. In light of your proposal to reform the immigration system, we are writing to address a rarely-discussed effect of granting legal status or effective amnesty to illegal immigrants. Such grant of legal status will likely disproportionately harm lower-skilled African-Americans by making it more difficult for them to obtain employment and depressing their wages when they do obtain employment.

In 2008, the Commission held a briefing regarding the impact of illegal immigration on the wages and employment opportunities of African-Americans.<sup>1</sup> The testimony at the briefing indicated that illegal immigration disproportionately impacts the wages and employment opportunities of African-American men.<sup>2</sup>

The briefing witnesses, well-regarded scholars from leading universities and independent groups, were ideologically diverse. All the witnesses acknowledged that illegal immigration has a negative impact on black employment, both in terms of employment opportunities and wages. The witnesses differed on the extent of that impact, but every witness agreed that illegal immigration has a discernible negative effect on black employment. For example, Professor Gordon Hanson's research showed that "Immigration . . . accounts for about 40 percent of the 18 percentage point decline [from 1960-2000] in black employment rates."<sup>3</sup> Professor Vernon Briggs writes that illegal immigrants and blacks (who are disproportionately likely to be low-skilled) often find themselves in competition for the same jobs, and the huge number of illegal immigrants ensures that there is a continual surplus of low-skilled labor, thus preventing wages from rising.<sup>4</sup> Professor Gerald Jaynes's research found that illegal immigrants had displaced U.S. citizens in industries that had traditionally employed large numbers of African-Americans, such as meatpacking.<sup>5</sup>

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<sup>1</sup> U.S. COMMISSION ON CIVIL RIGHTS, THE IMPACT OF ILLEGAL IMMIGRATION ON THE WAGES AND EMPLOYMENT OPPORTUNITIES OF BLACK WORKERS [hereinafter THE IMPACT OF ILLEGAL IMMIGRATION], available at [http://www.usccr.gov/pubs/IllegImmig\\_10-14-10\\_430pm.pdf](http://www.usccr.gov/pubs/IllegImmig_10-14-10_430pm.pdf).

<sup>2</sup> *Id.* at 3, Finding 5:

Illegal immigration to the United States in recent decades has tended to depress both wages and employment rates for low-skilled American citizens, a disproportionate number of whom are black men. Expert economic opinions concerning the negative effects range from modest to significant. Those panelists that found modest effects overall nonetheless found significant effects in industry sectors such as meatpacking and construction.

<sup>3</sup> *Id.*, at 26.

<sup>4</sup> *Id.* at 37, 38-39

<sup>5</sup> *Id.* at 31.



Illegal immigration has a disparate impact on African-American men because these men are disproportionately represented in the low-skilled labor force. The Census Bureau released a new report on educational attainment after the Commission issued its report. This report, released in February 2012, found that 50.9 percent of native-born blacks had not continued their education beyond high school.<sup>6</sup> The same report found that 75.5 percent of foreign-born Hispanics had not been educated beyond high school, although it does not disaggregate foreign-born Hispanics who are legal immigrants from those who are illegal immigrants.<sup>7</sup> However, Professor Briggs estimated that illegal immigrants or former illegal immigrants who received amnesty constitute a third to over a half of the total foreign-born population.<sup>8</sup> Foreign-born Hispanics who are in the United States illegally are disproportionately male.<sup>9</sup> African-Americans who have not pursued education beyond high school are also disproportionately male.<sup>10</sup> These poor educational attainment levels usually relegate both African-American men and illegal immigrant men to the same low-skilled labor market, where they must compete against each other for work.<sup>11</sup>

The obvious question is whether there are sufficient jobs in the low-skilled labor market for both African-Americans and illegal immigrants. The answer is no. As Professor Briggs noted in his testimony to the Commission, “[i]n February 2008 . . . the

<sup>6</sup> CAMILLE L. RYAN & JULIE SIEBENS, U.S. CENSUS BUREAU, EDUCATIONAL ATTAINMENT IN THE UNITED STATES: 2009 (Feb. 2012), at 7, available at <http://www.census.gov/prod/2012pubs/p20-566.pdf>.

<sup>7</sup> *Id.*

<sup>8</sup> THE IMPACT OF ILLEGAL IMMIGRATION, *supra* note 1, at 35-36.

<sup>9</sup> Peter Skerry, *Splitting the Difference on Illegal Immigration*, NATIONAL AFFAIRS (Winter 2013), at 5 (“Of the undocumented immigrants over the age of 18 currently residing in the U.S., there are approximately 5.8 million males, compared to 4.2 million females.”), available at [http://www.nationalaffairs.com/doclib/20130102\\_Skerry.pdf](http://www.nationalaffairs.com/doclib/20130102_Skerry.pdf).

<sup>10</sup> THE IMPACT OF ILLEGAL IMMIGRATION, *supra* note 1, at 52; see also Anne McDaniel, Thomas A. DiPrete, Claudia Buchmann & Uri Shwed, *The Black Gender Gap in Educational Attainment: Historical Trends and Racial Comparisons*, 48 DEMOGRAPHY 889, 890 (2011) (“It is well known that black males trail black females on a range of key educational outcomes, including high school graduation, college enrollment, and college completion.”), available at <http://jrnetserver.shorensteincenter.netdna-cdn.com/wp-content/uploads/2011/10/fulltext.pdf>.

<sup>11</sup> THE IMPACT OF ILLEGAL IMMIGRATION, *supra* note 1, *Statement of Vernon M. Briggs, Jr.*, at 37.

[I]t is not everywhere that there is likely to be significant competition between low skilled black workers and illegal immigrant workers, but there are ample circumstances where there is – such as the large metropolitan labor markets of Los Angeles, New York, San Francisco, Chicago, Miami and Washington-Baltimore. Moreover, some of the fastest growing immigrant concentrations are now taking place in the urban and rural labor markets of the states of the Southeast – such as Georgia, North Carolina and Virginia, which never before were significant immigrant receiving states in previous eras of mass immigration. Indeed, about 26 percent of the nation’s foreign-born population are now found in the states of the South – the highest percentage ever for this region. There is mounting evidence that many of these new immigrants in this region are illegal immigrants.



national unemployment rate was 4.8 percent, but the unemployment rate for adults (over 25 years old) without a high school diploma was 7.3 percent.”<sup>12</sup> During 2007, “Black American adult workers without a high school diploma had an unemployment rate of 12.0 percent, and those with only a high school diploma had an unemployment rate of 7.3 percent.”<sup>13</sup> These statistics suggest both that there is an overall surplus of workers in the low-skilled labor market, and that African-Americans are particularly disfavored by employers.<sup>14</sup>

Furthermore, these statistics reflect an economy that was not experiencing the persistent stagnation we are experiencing today. The country’s economic woes have disproportionately harmed African-Americans, especially those with little education. In 2011 24.6 percent of African-Americans without a high school diploma were unemployed, as were 15.5 percent of African-Americans with only a high school diploma.<sup>15</sup> Two and half years into the economic recovery, African-Americans face particular difficulty obtaining employment. According to the Bureau of Labor Statistics, the seasonally adjusted January 2013 unemployment rate for all black Americans – not just those with few skills – was 13.8 percent, nearly twice the white unemployment rate of 7.0 percent.<sup>16</sup> The economy has a glut of low-skilled workers, not a shortage.

Not only do illegal immigrants compete for jobs with African-Americans, but that competition drives down wages for the jobs that are available. It is a truism that illegal immigrants are willing to work long hours for low pay, even under poor conditions. As Professor Briggs noted in his testimony, it is not that there are American citizens who are unwilling to perform the jobs taken by illegal immigrants. It is that American citizens are unwilling to take these jobs for the same wages as illegal immigrants, and are unwilling to endure the same poor working conditions. When faced with a willing, albeit illegal, workforce, some employers hire the people who will work for less money and will not complain about working conditions. This drives down the prevailing wage.

Julie Hotchkiss, a research economist and policy advisor at the Federal Reserve Bank of Atlanta, estimated that “as a result of this growth in the share of undocumented workers, the annual earnings of the average documented worker in Georgia in 2007 were

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<sup>12</sup> *Id.* at 36.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*, *Statement of Harry J. Holzer*, at 41.

Other evidence, including that by ethnographers, indicates that employers filling low-wage jobs requiring little reading/writing or communication clearly prefer immigrants to native-born blacks, and encourage informal networks through which immigrants gain better access to these jobs. The native-born black workers likely would be interested in some, but not all of these jobs, depending on their wages.

<sup>15</sup> U.S. DEPT. OF LABOR, *The African-American Labor Force in the Recovery* (Feb. 29, 2012), at Chart 3, available at [http://www.dol.gov/\\_sec/media/reports/BlackLaborForce/BlackLaborForce.pdf](http://www.dol.gov/_sec/media/reports/BlackLaborForce/BlackLaborForce.pdf).

<sup>16</sup> BUREAU OF LABOR STATISTICS, *Employment situation summary* (Feb. 1, 2013), available at <http://www.bls.gov/news.release/empsit.nr0.htm>.



2.9 percent (\$960) lower than they were in 2000. . . . [A]nnual earnings for the average documented worker in the leisure and hospitality sector in 2007 were 9.1 percent (\$1,520) lower than they were in 2000.”<sup>17</sup> A \$960 annual decrease may not seem like much to a lawyer or a doctor. But as you noted in regard to the 2012 payroll tax cut extension, an extra \$80 dollars a month makes a big difference to many families: “It means \$40 extra in their paycheck, and that \$40 helps to pay the rent, the groceries, the rising cost of gas . . . .”<sup>18</sup>

Granting amnesty to illegal immigrants will only further harm African-American workers. Not only will the low-skilled labor market continue to experience a surplus of workers, making it difficult for African-Americans to find job opportunities but African-Americans will be deprived of one of their few advantages in this market. Some states require private employers to use E-Verify to establish that their workers are in the country legally. This levels the playing field a bit for African-Americans. If illegal immigrants are granted legal status, this small advantage disappears.

Furthermore, recent history shows that granting amnesty to illegal immigrants will encourage more people to come to the United States illegally. The 1986 amnesty did not solve the illegal immigration problem. To the contrary, that amnesty established the precedent that if you come to America illegally, eventually you will obtain legal status. Thus, it is likely that if illegal immigrants are granted legal status, more people will come to America illegally and will further crowd African-American men (and other low-skilled men and women) out of the workforce.

Before the federal government decides to grant legal status to illegal immigrants, due deliberation should be given to what effect such grant will have on the employment and earnings prospects of low-skill Americans generally and black Americans specifically. We respectfully submit that granting such legal status is not without substantial costs to American workers.

Sincerely,

Handwritten signature of Abigail Thernstrom in black ink.

Abigail Thernstrom  
Vice Chair

Handwritten signature of Peter Kirsanow in black ink, followed by a vertical line.

Peter Kirsanow  
Commissioner

<sup>17</sup> THE IMPACT OF ILLLEGAL IMMIGRATION, *supra* note 1, at 46.

<sup>18</sup> Amie Parnes, *Obama: Payroll tax cut extension will help with higher gas prices*, THE HILL, Feb. 21, 2012, available at <http://thehill.com/blogs/e2-wire/e2-wire/211765-obama-payroll-tax-cut-extension-will-help-with-higher-gas-prices>.



UNITED STATES COMMISSION ON CIVIL RIGHTS

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1331 PENNSYLVANIA AVENUE , NW, WASHINGTON, DC 20425

[www.usccr.gov](http://www.usccr.gov)

Cc: Representative Bob Goodlatte (Chair, U.S. House of Representatives Committee on the Judiciary)

Representative John Conyers (Ranking Member, U.S. House of Representatives Committee on the Judiciary)

Representative Marcia Fudge (Chair, Congressional Black Caucus)

Senator Patrick Leahy (Chair, U.S. Senate Committee on the Judiciary)

Senator Charles Grassley (Ranking Member, U.S. Senate Committee on the Judiciary)

Senator Charles Schumer (Chair, U.S. Senate Committee on the Judiciary Subcommittee on Immigration, Refugees, and Border Security)

Senator John Cornyn (Ranking Member, U.S. Senate Committee on the Judiciary Subcommittee on Immigration, Refugees, and Border Security)