

CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

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NATIONAL OFFICE

April 1, 2003

Mr. Asa Hutchinson
Under Secretary
Border & Transportation Security
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Under Secretary Hutchinson:

We, the undersigned organizations, write to ask that the Department of Homeland Security (DHS), specifically, the two bureaus within the DHS that are charged with enforcement of federal immigration laws -- the Bureau of Immigration and Customs Enforcement (BICE) and the Bureau of Customs and Border Protection (BCBP) -- adopt a policy where they do not inquire about the immigration status of anyone who comes forward and assists in a police investigation. This would enhance community policing as well as homeland security by encouraging all immigrants to share what information they have regarding crimes or suspicious activities.

Safe communities require the participation of all community members, regardless of their immigration status. The sharing of immigration status information between federal immigration enforcement officials and local law enforcement undermines the ability of police to gain trust in immigrant communities. It reduces the likelihood that undocumented or out of status immigrants and their family members will voluntarily come forward to report crimes. Tom Needham, Former General Counsel and Chief of Staff of the Chicago Police department, noted that the mission of police is to prevent and solve crimes and said, "It would be virtually impossible to do that effectively if witnesses and victims, no matter what their residency status, had some reluctance to come forward for fear of being deported."¹ Rather than alienate immigrants, we should include them as important partners in the protection of our nation and society.

A recent high profile case in Washington, D.C. demonstrated that the INS, at times, recognized the value of disregarding the immigration status of people who cooperate with police. When the Washington area was terrorized by the sniper shootings in October 2002, Montgomery County, Maryland Police Chief Charles Moose made a special appeal to the immigrant community to come forward with any information regarding the case. On October 23, 2002, then-INS Commissioner James Ziglar issued a statement supporting police efforts. He said: "We are committed to supporting the investigation into the shootings in any way possible. It is crucial that local authorities get the help they need in this investigation. I want to personally urge the immigrant community to come forward if they have information that will assist in this investigation, and assure everyone that INS will not seek immigration status information provided to local authorities in this effort."²

Another high profile case, which remains unsolved, highlights the need for assurances that local authorities will not seek immigration status or provide such information to officials charged with the enforcement of federal immigration law. In Arizona, eight migrants have been found murdered since March of last year. The police investigating the murders believe that immigrant smugglers committed the murders, and that the victims are all undocumented immigrants. Maricopa County Sheriff Joseph Arpaio, the lead investigator in the murders, has been frustrated by a lack of information in the case, and believes that undocumented immigrants may have information but are reluctant to come forward

out of fear of repercussions due to their immigration status.³ Sheriff Arpaio wrote a letter to the INS asking that the INS grant the same protections to potential undocumented witnesses as was given in the sniper case in the Washington, D.C. area. Although Ronald Smith, the acting Arizona District Director for the INS, stated that “Solving a murder certainly takes precedence over any administrative action that the INS would consider,” he refrained from guaranteeing that the INS would not seek information about the immigration status of witnesses, and stated that cases would have to be assessed individually.⁴

We urge the DHS to adopt the policy the INS implemented in the Washington D.C. case as a general policy, not only in select or exceptionally high profile cases. Several local law enforcement agencies and city governments across the country have supported similar policies, and many more have publicly expressed their opinion that INS involvement in local law enforcement is detrimental to the creation of safe communities (see attached). The Seattle City Council recently codified the police department’s policy that prohibits police officers from inquiring into the immigration status of any person. The new ordinance, passed unanimously by the city council, demonstrates that more law enforcement agencies and municipalities are placing public safety above enforcement of possible immigration violations. Council member Nick Licata sponsored the Seattle ordinance and said, “Specifically, we don’t want fewer witnesses coming forward to report suspicious activity; this would endanger all citizens. Crime victims, particularly domestic violence victims, must not be discouraged from calling the police.”⁵

We are aware that the Department of Justice may have reversed its longstanding legal opinion regarding the authority of state and local police officers to arrest persons suspected of committing civil infractions of federal immigration law. Whereas the 1996 legal opinion from the Department of Justice’s Office of Legal Counsel holds that police do not have this authority, outside of explicit instances carved out in federal law, we learned from press reports and the Attorney General’s announcement about the National Security Entry-Exit Registration System (NSEERS) in June 2002 that the OLC has reversed its opinion and found “inherent authority” for local police to enforce civil immigration laws. We understand that to date, the Justice Department does not intend to ask local police to use such newfound authority in a broad sense, but is implementing this policy with the introduction of NSEERS. Still, we strongly oppose the broad implications of this new legal opinion, which would harm police-community relations and undermine public safety, as dozens of police officers and associations attest in the attached document. We also question the legal basis for such a policy shift, as well as the Justice Department’s decision to keep this rumored new OLC opinion private.

The confusion around this shift in policy has been heard loud and clear in immigrant communities. The perception that the police are an extension of the federal immigration enforcement authorities only undermines the work of the local law enforcement agencies charged with safeguarding our communities. The DHS should present a consistent and vocal message to immigrant communities that people can feel free to assist police without fear of reprisals from federal immigration enforcement authorities. Such a policy would have a tremendous impact on the safety of our communities.

Sincerely,

American-Arab Anti-Discrimination Committee (ADC)
American Friends Service Committee
American Immigration Lawyers Association
American Immigration Lawyers Association - Washington State Chapter
Arab Community Center for Economic and Social Services (ACCESS), Dearborn, MI
Asian Law Alliance, San Jose, CA

Asian Pacific American Legal Center of Southern California
Association of Farmworker Opportunity Programs, Arlington, VA
CASA of Maryland, Inc.
Casa Reina, Sisters of Guadalupe, Gallup, NM
Catholic Charities Archdiocese of New Orleans
Catholic Charities Archdiocese of San Antonio, Inc.
Catholic Charities of Central Texas
Catholic Charities Community and Immigrant Services, Honolulu, HI
Catholic Charities, Diocese of La Crosse
Catholic Charities, Diocese of Rockville Centre
Catholic Charities, Diocese of Toledo
Catholic Charities Immigration Clinic, Jackson, MS
Catholic Charities Immigration Legal Services of Washington, DC
Catholic Charities Immigration and Resettlement Services, Santa Rosa, CA
Catholic Charities, Immigration Outreach Office, Archdiocese of Dubuque, IA
Catholic Charities Refugee and Immigrant Services of San Diego
Catholic Charities of St. Petersburg, FL
Catholic Community Services of Baton Rouge, Inc., Migration and Refugee Services
Catholic Community Services, Refugee Resettlement & Immigration Assistance Program,
Newark, NJ
Catholic Diocese of Jackson
Catholic Legal Immigration Network, Inc. (CLINIC)
Catholic Social Services, Atlanta, GA
Center for Constitutional Rights, New York, NY
Central American Refugee Center (CARECEN), Hempstead, NY
Central Indiana Jobs With Justice
Centro Salvadoreno, Inc., Hempstead, NY
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)
Community Refugee & Immigration Services, Columbus, OH
Episcopal Farmworkers Ministry, Newton Grove, NC
Farm Labor Organizing Committee, Toledo, OH
Florida Immigrant Advocacy Center, Inc., Miami, FL
Garment Worker Center, Los Angeles, CA
Georgia Coalition Against Domestic Violence
Hispanic Apostolate / Immigration Legal Services, Baltimore, MD
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Defense Project of the New York State Defenders Association
Immigrant Legal Advocacy Project, Portland, ME
Immigrant Legal Resource Center (ILRC), San Francisco, CA
Immigrant Rights Network of Iowa-Nebraska
Kentucky Domestic Violence Association, Frankfort, KY
Korean American Resource and Cultural Center, Chicago, IL
Korean Resource Center, Los Angeles, CA
Latino Community Development Center, Durham NC
Latino Northeast INC., South Portland, ME
Law Offices of Carol L. Edward & Associates, P.S.
Law Offices of Jon Eric Garde & Assoc.
Law Offices of Stephen B. Horton
Lawyers' Committee for Civil Rights Under Law of Texas
Lutheran Immigration and Refugee Service, Baltimore, MD
Maxwell Street Legal Clinic, Lexington, KY
Mexican American Legal Defense and Educational Fund (MALDEF)
Migration and Refugee Services, Diocese of Trenton
Migration and Refugee Services, U.S. Conference of Catholic Bishops

National Asian Pacific American Legal Consortium
National Coalition for Dignity and Amnesty for Immigrants
National Council of La Raza
National Immigration Forum
The National Immigration Project of the National Lawyers Guild
Northwest Immigrant Rights Project, Seattle, WA
Office of Community Services, Diocese of Providence, RI
Office of International Student Services, University of Wisconsin (Platteville)
Office of Justice and Peace, Conference of Major Superiors of Men, Washington, D.C.
Presbyterian Church USA, Washington Office
Rocky Mountain Survivors Center, Denver, CO
Roman Catholic Diocese of Springfield, Springfield Catholic Charities
Rural Communities Resource Center, Yuma, Colorado
Sikh Mediawatch and Resource Task Force (SMART), Washington, D.C.
SOFIA Immigration Services, San Diego, CA
South Texas Immigration Council Inc.
Spring Institute for Intercultural Learning, Denver, CO
Su Casa Hispanic Ministry Center of Cincinnati, OH
Tahirih Justice Center, Falls Church, VA
Tapestri, Inc., Immigrant & Refugee Coalition Challenging Gender Based Oppression, Atlanta, GA
Union of Needletrades, Industrial and Textile Employees (UNITE)
Washington Defenders Immigration Project, Seattle, WA
Washington Lawyers' Committee for Civil Rights and Urban Affairs
Washington State Coalition Against Domestic Violence
Western Kentucky Refugee M.A.A., Inc.
Young Christian Workers of U.S.A.

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Sister Dorothy Strelchun
Father Brian Jordan, OFM, St. Francis of Assisi Church
Dustin W. Dyer, Esq., McDonald Dyer, P.C., Attorneys & Counselors at Law

cc: Tom Ridge, Director, Department of Homeland Security
Robert Bonner, Commissioner, Bureau of Customs and Border Protection
Michael Garcia, Acting Assistant Secretary, Bureau of Immigration and Customs Enforcement
John Ashcroft, Attorney General, U.S. Department of Justice

Enclosure: "Law Enforcement, State and Local Officials, Community Leaders, Editorial Boards, and Opinion Writers Voice Opposition to Local Enforcement of Immigration Laws" prepared by the National Immigration Forum, 3/10/2003.