

FAIRNESS

for



IMMIGRANTS' RIGHTS PROJECT

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125 Broad Street, 18th Floor
New York, NY 10004-2400
(212) 549-2500
www.aclu.org

Local Contact Information:

Why WE DEFEND IMMIGRANTS' RIGHTS

The constitutional protections of due process and equal protection apply to everyone in the United States, including non-citizens – even those not here lawfully. However, politically disenfranchised immigrants are an especially vulnerable group and are routinely denied these basic rights embodied in our Constitution and Bill of Rights. Eroding the fundamental rights of immigrants is dangerous for us all. When the government has the power to deny legal rights and due process to one group, all Americans' rights are severely threatened.

DUE PROCESS AND EQUAL PROTECTION IN THE IMMIGRATION PROCESS

Our nation has the authority to control its borders and to regulate immigration but not in a way that denies immigrants their fundamental rights. The United States must exercise the awesome power to exclude or deport immigrants in a manner consistent with the rule of law, the fundamental norms of humanity and the requirements of the Constitution. Unfortunately, immigrants are routinely denied their constitutional right to a day in court. Moreover, immigration laws require the automatic deportation of even longtime lawful residents for many minor offenses, regardless of how long they have lived here or whether they have a citizen spouse or children.

DETENTION

Detention is increasingly being used as an immigration enforcement strategy, and immigrants, including those with legal status, are detained for prolonged periods – sometimes several years – without any legal determination that they pose a danger to society or a flight risk that would justify their detention. In addition to being cruel and unnecessary, prolonged detention makes it nearly impossible for individuals to fight their immigration cases, including those with strong claims to remain in the U.S.

Most immigrants held in detention have never been convicted of a crime, and those who have committed crimes have already served their sentences been released. Nonetheless, immigrants in deportation proceedings, including those seeking asylum, are held in conditions almost identical and in many cases worse than the conditions imposed on prisoners serving sentences for violent criminal offenses. Dozens of immigrants have died in immigration detention because of inadequate medical care and a lack of minimal standards and oversight.

DISCRIMINATION

In states, towns, cities and counties across the U.S., there is a growing movement to introduce anti-immigrant laws that attempt to drive out undocumented immigrants and their families and punish those who employ or rent to them. In addition to violating the Constitution and federal civil rights laws, these laws promote distrust of immigrants, including those here legally, and fuel xenophobia and discrimination.

Business owners, local law enforcement, landlords, city employees and hospital staff are forced to take on the unfair burden of acting as immigration agents, though they lack the skills and training to determine an individual's immigration status or the authenticity of immigration-related documentation. As a result, people who are perceived as looking or sounding foreign – whether or not they are here legally or are U.S. citizens – are refused employment, medical treatment and housing and are harassed by the police.

Immigration enforcement is a federal responsibility and local anti-immigrant ordinances only hurt city economies and community relations. Rather than waste resources on unlawful and mean-spirited laws, responsible officials should seek to fight discrimination and ensure that their laws are fair for all of their residents.

WORKERS' RIGHTS

Immigrant workers, who often lack knowledge of U.S. labor laws and afraid to assert their legal rights as employees, are commonly exploited by employers who refuse to pay them minimum wage or over-time.

Laws meant to curtail the hiring of undocumented workers often end up as major roadblocks to gainful employment for U.S. citizens and other legal residents. Federal contractors and businesses in several states must check the eligibility of all potential workers – U.S. citizens and immigrants alike – against E-Verify, a flawed federal database program with a high error rate. Using such an error-ridden database leads to problems for lawful workers who must persuade multiple bureaucracies to fix their records if they want to keep their jobs.

Rather than run the risk of suffering the laws' penalties, many employers would simply rather not hire individuals they perceive as foreign-born resulting in widespread employment discrimination.

POLICE/ICE ABUSE

Looking Latino and speaking Spanish is far from the probable cause the police must have to question and arrest a person. Yet that's exactly what happens to many Latinos in this country, whether they are U.S. citizens or non-citizens who are legal residents. These types of stops are rampant and violate the Fourth Amendment's prohibition of warrantless searches and seizures, which applies to everyone regardless of immigration status.

Recently, the Department of Homeland Security has expanded programs that allow certain state and local law enforcement agencies to engage in federal immigration enforcement activities. The programs have led to illegal racial profiling and civil rights abuses, including the unlawful detention and deportation of U.S. citizens and permanent residents. At the same time, they divert scarce resources from traditional local law enforcement functions and distort immigration enforcement priorities.

The programs have drawn sharp criticism from police chiefs, federal lawmakers, and community groups who point out that such efforts not only fuel discrimination against people based on the color of their skin, their appearance or their accent, but also undermine everyone's safety by making immigrant communities afraid to report crimes as victims and witnesses.