

Rosenblum Report

on the
Legal Arizona Workers Act's Unintended Consequences,
Flaws in the Federal E-Verify System
and the
Likely Impact on Wages and Unauthorized Employment

December 28, 2007

Section 1: Federal Immigration Workplace Enforcement System

- 1) Universal document-based I-9 system
- 2) Limited electronic E-Verify system.

Section 2: Flaws with the E-Verify

- 1) False Positives,
- 2) False Negatives, and
- 3) Discriminatory Error Pattern (i.e., the victims of these “false negatives” are disproportionately foreign-born and/or of Hispanic descent).

Section 3: Legal Arizona Workers Act (LAWA)

Section 4: Unintended Consequences of Legal Arizona Workers Act (LAWA)

- 1) Defensive Hiring,
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- 3) Defensive Firing.

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- 1) Likely Effect of LAWA on Wages and Unauthorized Employment,
- 2) Costs to Employers and Overall Economic Productivity,
- 3) Does LAWA conflict with Congress' intended balance among the needs of employers, workers, and the goals of enforcement?, and
- 4) Relationship Between Immigration and U.S. Foreign Policy.

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Case: *Arizona Contractors Association, Inc. et al. v. Janet Napolitano et al.*

Qualifications

My background and qualifications are noted on my CV, which is attached hereto as Exhibit 1, and incorporated herein by reference.

Report

Introduction

For many years, immigration analysts and policy experts have identified interior enforcement in general, and worksite enforcement in particular, as the Achilles heel of the US immigration control system (e.g., US Select Commission on Immigration Reform 1980; US Commission on Immigration Reform 1997). In short, the overwhelming majority of undocumented immigrants to the United States migrate in pursuit of employment, and the effective elimination of the “job magnet” would therefore discourage future undocumented migration. Yet interior enforcement presents a set of challenges that differs fundamentally from enforcement at the border: whereas border enforcement seeks to prevent the entry without inspection of *all* potential crossers, interior enforcement is ultimately a screening problem, in which potential employers and others are tasked with identifying the legal residency status of individuals on a case by case basis. The United States lacks an institutional infrastructure to clearly make this determination, and policymakers designing interior enforcement mechanisms therefore confront a dilemma: to set the standards too low guarantees that some undocumented immigrants will slip through the screening system and be granted undue rights within the United States, but to set the standards too high guarantees that some US citizens and other legal residents will be wrongly denied their due rights and privileges, and imposes harmful barriers to economic growth and prosperity.

Thus, a fundamental challenge for legislators is to ensure that interior immigration enforcement mechanisms are able to identify and exclude those they are designed to screen out, without wrongly penalizing others who may “seem” undocumented. The Legal Arizona Workers Act, A.R.S. §§ 23-211 through 214 (the Act) strengthens worksite enforcement by suspending or revoking business licenses for employers who knowingly employ unauthorized workers. With these enhanced penalties along with new reporting requirements, the Act would likely produce some reduction in unauthorized employment in Arizona, though these benefits will likely be modest and illegal employment would undoubtedly continue. And the failure to include appropriate due process protections, along with flaws in the existing federal verification infrastructure, essentially guarantees that the Act also will produce a number of unintended consequences, including the wrongful termination of work-authorized individuals, discriminatory hiring process (mainly to the detriment of Hispanic workers), falling wages, and burdensome costs to Arizona employers with negative consequences for overall productivity in the state.

The first part of this report summarizes the federal immigration workplace enforcement system, including the universal document-based “I-9” system established by the 1986 Immigration Reform and Control Act (IRCS) and the limited electronic “Basic Pilot” system established by the 1996 Illegal Immigration Reform and Immigrant Responsibility Act. Section two of this report identifies three main flaws with the federal system: (1) its failure to prevent all cases of unauthorized employment (i.e., the system returns “false positives”), (2) its failure to permit all cases of authorized employment (i.e., the system returns “false negatives”), and (3) its discriminatory error pattern (i.e., the victims of these “false negatives” are disproportionately foreign-born and/or of Hispanic descent). Section three of this report summarizes the Legal Arizona Workers Act, which imposes new requirements on Arizona employers and imposes new penalties on employers found to have hired unauthorized employees. Section four identifies three likely unintended consequences of the Act: (1) an increase in discriminatory hiring practices (“defensive hiring”), (2) the wrongful termination of work-authorized employees whose status cannot be confirmed by the federal electronic verification system, and (3) the pre-emptive termination of additional work-authorized employees by risk-averse employers to avoid potential penalty (“defensive firing”). Section five addresses three additional issues addressed by the court in its 21 December 2007 denial of plaintiffs’ request for a temporary restraining order: (1) the likely effect of the Act on wages and unauthorized employment, (2) the costs to employers and overall economic productivity in the state, and (3) whether or not the Act conflicts with Congress’ intended balance among the needs of employers, workers, and the goals of enforcement. In the context of discussing the balance between state and federal responsibility for immigration enforcement, section five also addresses a fourth issue: (4) the relationship between immigration and US foreign policy.

1. Summary of the federal immigration workplace enforcement system

The 1986 IRCA made it illegal for employers to “knowingly employ” undocumented immigrants. The primary mechanism for preventing the employment of undocumented immigrants within the United States is the so-called I-9 document review process. Under this system, employees and employers are required to jointly complete a federal I-9 form every time a new employee is hired. The I-9 form requires the employee to provide his or her identity information, including Social Security number and Alien identification number if applicable, and to attest under penalty of perjury to their legal residency status (citizen, lawful permanent resident, or employment-authorized temporary immigrant). Federal law also requires employers to review one or more documents proving the identity and work-eligibility of the new employee; and the I-9 form requires employers to make a record of the forms reviewed and to attest under penalty of perjury that the documents appear genuine and appear to relate to the named employee. Employers are required by law to retain completed I-9 forms for three years after the date of hire or one year after the date employment ends, whichever is later.

In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which included provisions to establish three separate pilots programs to address these weaknesses in the I-9 system by allowing employers to verify job applicants’ status through phone or internet connections to the INS and SSA eligibility databases. Two of the three pilots have since been discontinued, but the so-called Basic Pilot remains in operation and was

expanded from its original six states to become a nationwide voluntary program in 2004. Approximately 19,000 employers were registered to use the Basic Pilot program as of August 2007, out of approximately 7 million employer firms nationwide (.25% of all employers), though only 4,300 employers actively use the program (.05% of all employers).¹

Under the Basic Pilot system (now called E-Verify), participating employers still fill out the I-9 form as above, and then also submit employees' identification data (name, Social Security number, date of birth, Alien identification number if applicable) via a secure website for verification of the employee's work eligibility status. Electronic verification proceeds in four steps. First, all employees' data is automatically checked against the Social Security Administration's primary database, the Numident file. If an employee's data match information in the Numident database and SSA's records reflect that the person is a U.S. citizen, the Basic Pilot system issues an immediate confirmation that the employee is work-authorized. Second, if the data are not automatically confirmed by the SSA, the website returns a tentative non-confirmation (TNC). US citizens may appeal the TNC by personally visiting a SSA field office to resolve the problem. If the employee fails to appeal a TNC and resolve the data mismatch, a final non-confirmation is issued and employment must be terminated.

Third, for non-citizens, the SSA verification or tentative non-confirmation is followed by a secondary analysis by the US Citizenship and Immigration Service (USCIS), where identity and immigration status data from the I-9 are checked against the USCIS' Customer Processing System (CPS) database. If the CPS confirms the individual's work authorization, a confirmation is issued. If not, the case is automatically referred to an immigration status verifier (ISV), who manually checks the data against additional DHS databases before issuing a confirmation (if the individual's status can be verified) or a second TNC. Fourth, the job applicant then has the right opportunity to appeal the second TNC, a process which typically requires the employee to contact the ISV by telephone. If the employee is able to provide missing information necessary to resolve ambiguities in the record, a confirmation of work authorization is issued. If database ambiguities cannot be resolved, or if the individual fails to contest the TNC, a final non-confirmation is issued and employment must be terminated.²

2. Flaws in the federal immigration workplace enforcement system

The system is characterized by three well-documented problems.³ First, neither the I-9 process nor the Basic Pilot is able decisively to identify undocumented job applicants. Thus, the system returns a certain number of "false positives," or cases in which undocumented immigrants are wrongly identified as work-authorized. Second, both the I-9 system and the Basic Pilot fail reliably to confirm the legal status of every work-authorized individual. Thus, the system returns a certain number of "false negatives," or cases in which work-authorized individuals are wrongly denied employment. Third, in practice, both the I-9 and Basic Pilot systems are discriminatory because legal non-citizens, foreign-born citizens, and native-born citizens of non-Anglo descent

¹ General Accounting Office 2006a; Institute for Survey Research (ISR)/Westat 2006; Department of Homeland Security 2007.

² See Jernegan 2005 for a more detailed treatment of the history and mechanics of the Basic Pilot program.

³ See, e.g. General Accounting Office 2006a; Rosenblum 2007.

are, for a variety of reasons, far more likely to be wrongly identified as undocumented (i.e., to receive false negative findings).⁴

A) False Positives

The I-9 process fails reliably to detect all undocumented job applicants for the following reasons:

- The I-9 process is vulnerable to document fraud. Job applicants may present fraudulent documents (“fake ID’s”) to complete the I-9 form. Fake ID’s are readily available in all American cities, and employers lack expertise to distinguish between legitimate and fraudulent documents. This problem is exacerbated by the I-9 rules, which allow job applicants to present a wide range of different documents to prove their identity and work eligibility and by anti-discrimination provisions which require employers to treat documents as genuine if they appear legitimate on their face.
- The I-9 process is vulnerable to identity fraud. Job applicants may present borrowed or stolen *genuine* documents. In this case, employers would correctly judge the documents to be genuine, and must make a judgment call about whether or not the documents pertain to the individual job applicant before them.
- “Bad apple” employers may exploit these weaknesses, because federal authorities are unable to prove that they have knowingly hired an undocumented immigrant, rather than fallen victim to one of the shortcomings identified above.

The Basic Pilot generally prevents job applicants from obtaining employment through the use of fake ID’s because the name and identification data on a fraudulent ID will not match the data in the SSA and USCIS databases. However, the Basic Pilot does nothing to prevent a job applicant from presenting a borrowed or stolen document as their own, in which case the data (which would pertain to a genuinely work-authorized individual) will be confirmed by the system. Experts agree that expansion of the Basic Pilot system is likely to lead to an increase in identity theft, a problem already estimated to affect 8.4 million Americans per year at an estimated cost of \$49.9 billion.⁵ Bad apple employers are likewise able to game the system by submitting data to the Basic Pilot which they know or suspect do not apply to the actual job applicant or running some but not all of their employees through the system. In this way, mandatory participation in the Basic Pilot (without additional improvements to the system under consideration by Congress) is likely to lead to more off-the-books employment, driving down wages of all workers.⁶

Between shortcomings in the I-9 process, and the Basic Pilot’s inability to detect document fraud, even conscientious employers may unknowingly hire a substantial number of unauthorized workers. In one well-documented example, the meat processing firm Swift and Company was found to employ 1,282 workers thought to be unauthorized even though Swift had obtained I-9

⁴ A fourth problem—arguably the most significant—is that employer sanctions provisions have never been aggressively enforced. This shortcoming is not inherent to the structure of the program, but rather a function of low congressional appropriations for interior enforcement and limited executive branch commitment to worksite enforcement. Poor enforcement will not be discussed in this report.

⁵ Privacy Rights Clearinghouse 2007. These numbers are down from an estimated 8.9 million individuals and a cost of \$56.6 billion in 2006.

⁶ Moran 2007

documentation for each of their employees and has participated in the Basic Pilot program since its inception in 1997.⁷

B) False negatives

The I-9 process depends on employers' judgment, and well-intentioned employers who are concerned about preventing the employment of undocumented immigrants may err on the side of caution by failing to hire job applicants who look or seem as if they might be undocumented. This problem is exacerbated by employers' lack of training and by the complexity of the I-9 system.

The Basic Pilot eliminates the need for employers to make these judgment calls, but the structure of the system places the burden of proof of work eligibility on job applicants and their employers. In short, if the system fails to automatically confirm a job applicant for whatever reason, the applicant must prove that an error has occurred or, by law, be terminated from their place of employment. It bears emphasis that the logic of this system runs counter to the basic American principle that an individual is innocent until proven guilty; under the Basic Pilot all job applicants are *undocumented* until proven otherwise. This design choice is especially troubling because analysis of the Basic Pilot reveals a high number of false negative findings. The structure of this system produces false negatives for four distinct reasons:

i) Data entry error by employers at the point of hire. If employers enter incorrect information, the federal databases will not recognize employees as work-authorized, though the verification system makes use of logical algorithms to "look for" likely key stroke errors. According to the most recent analysis of Basic Pilot users, fifty-two percent of all employers received an erroneous tentative non-confirmation for one or more employees as a result of employers' data-entry errors.⁸

ii) Database errors. Neither the SSA nor the USCIS databases are reliably up-to-date.

- The most common errors in the SSA database pertain to legal name changes, which often take as long as a year or more to be recorded in the SSA database. Correcting these errors typically requires an individual to physically visit an SSA field office and present relevant documentation. A 2006 analysis of the SSA's NUMIDENT database found that 4.1 percent of cases analyzed contain discrepancies which would lead to incorrect responses in a Basic Pilot query, an error rate potentially affecting 17.8 million individuals.⁹
- The most common errors in the USCIS database pertain to the failure of other DHS agencies and offices (e.g., Border Patrol, USCIS field offices) to transmit information about immigrants' legal status to the USCIS's CPS database in a timely manner. Because the various DHS databases are not networked, it can take several weeks or more for work-authorized individuals to be recorded as such in the CPS database. A 2006 analysis of the DHS system for tracking A-files, the primary record for all immigrants in the United States, found that between one and four percent of all records could not be located. Missing A-files

⁷ Shandley 2007.

⁸ ISR/Westat 2006.

⁹ Social Security Administration 2006.

were much higher in busier regions, including a 20 percent missing record rate in the San Diego field office.¹⁰

- Both the USCIS and SSA databases make errors related to complex or unusual names, especially where transliterated names may be spelled multiple ways, or may be characterized by ambiguous word order (e.g., because individuals have multiple last names, hyphenated last names, or because the individual's family name precedes his or her given name in normal usage).
- Both databases are also subject to routine data entry errors.
- While the precise error rate in the SSA and DHS databases cannot be estimated, *error rates are at least three percent for non-US citizens and 10.9 percent for naturalized citizens; best estimates suggest that actual error rates may be one-and-a-half times higher than these figures.*¹¹

iii) Immigration status verifier (ISV) error. Where non-citizens' data are not confirmed automatically by the CPS database, the system is vulnerable to human error by the ISV assigned to a particular case. This error rate has not been estimated, but will likely increase as the system is rapidly scaled up and new, inexperienced status verifiers are brought on-line and case-loads expand. USCIS officials have expressed concern about their ability to bring additional ISV's on-line in time to handle increased workload associated with expansion of the Basic Pilot program.¹²

iv) Failure of employers or employees to understand/follow the correct procedures in response to a TNC.

- Employers may treat a TNC as a final non-confirmation, terminating an employee without first giving the employee the right to appeal the TNC as required by law. Statistic?
- Based on employers' self-reported statistics, 47 percent of employers screen job applicants or new hires before they begin work, meaning employees in receipt of a TNC are typically not offered employment and therefore never notified of the TNC.¹³
- Employers also fail to notify employees of their TNC or provide them with needed information to appeal the TNC. In this case, a final non-confirmation will be issued ten days later by default. At least 16 percent of employers in the ISR/Westat study fail to consistently provide workers with written notice of tentative non-confirmations, and many employers notify employees of TNC's but do not explain the appeals process.¹⁴
- Employers were also found to suspend employment, delay training, or otherwise penalize an employee who appeals a TNC until the TNC is resolved. In the latest ISR/Westat study, 19 percent of employers admitted to restricting work assignments while TNC's were pending; 14 percent delayed training while TNC's were pending; and two percent reduced pay while TNC's' pending. These numbers almost certainly under-estimate the

¹⁰ General Accounting Office 2006b.

¹¹ These figures are based on the TNC rates for ever-confirmed participants in the Basic Pilot system surveyed by the 2006 ISR/Westat analysis; see below for further details.

¹² General Accounting Office 2007.

¹³ ISR/Westat 2006.

¹⁴ Ibid. Previous research by the ISR/Westat team also found that 73 percent of job applicants in receipt of a TNC were not informed by the employers of this status, and that 39 percent of employees who sought to appeal a TNC did not recall receiving the printed instructions for doing so which employers are required by law to distribute. See ISR/Westat 2002.

actual rate of non-compliance because they rely on employer self-reporting of violations.¹⁵

Each of these problems contributes to false negatives; but it bears emphasis that the exact rate of false non-confirmations cannot be measured because the overwhelming majority of employees in receipt of a Basic Pilot tentative non-confirmation never appeal the preliminary finding. We do not know what percentage of those who fail to appeal their TNC's are in fact work-authorized—but we do know that most employers fail to notify workers that they have received a TNC response or to provide adequate information for a TNC appeal, as discussed above. For this reason, *it is not safe to assume that an employee who fails to appeal a TNC is unauthorized to work in the United States*; and many legal workers have undoubtedly lost their jobs as a result of false Basic Pilot non-confirmations. A 2002 independent analysis of the Basic Pilot program found that 42 percent of employees who received *final non-confirmations* after their cases were referred to the INS for review (a non-random sub-sample of all final non-confirmations) were in fact work-authorized at the time of their referral.¹⁶

C) Discrimination, wage compression, and threats to privacy

The federal system of worksite immigration enforcement results in discriminatory outcomes, unfairly penalizing US citizens, legal permanent residents, and temporary immigrants of foreign descent in general and Hispanic descent in particular. These discriminatory outcomes are the result of four main tendencies under the current system:

i) “Defensive hiring.” Many employers rationally respond to the threat of employer sanctions by avoiding hiring employees who “look” or “seem” undocumented in their subjective determination. In the current context of the US immigration system, in which 80 percent of undocumented immigrants are Latin American, many employers use the information shortcut of assuming that all Latin Americans may be undocumented. A 1990 General Accounting Office analysis of employment practices found that this type of defensive hiring was especially widespread in the immediate aftermath of IRCA’s passage, at which time employers were especially concerned about the threat of workplace enforcement:

- 5 percent of employers in their study “began a practice, as a result of IRCA, not to hire job applicants whose appearance or accent led them to suspect that they might be unauthorized aliens.”¹⁷
- 9 percent of employers said that because of IRCA they “began hiring only persons born in the United States or not hiring persons with temporary work eligibility documents.”¹⁸
- A “matched pair” survey of job applicants found that Anglo job applicants received 52 percent more job offers than Hispanic job applicants with identical records.¹⁹

¹⁵ Ibid.

¹⁶ ISR/Westat 2002. The 2006 ISR/Westat study did not measure this statistic.

¹⁷ General Accounting Office, *Immigration Reform: Employer Sanctions and the Question of Discrimination*. (Washington, DC: 1990).

¹⁸ Ibid.

¹⁹ Ibid.

The defensive hiring observed in the wake of IRCA's passage was a result of employers' rational calculation that the expected costs of possibly employing unauthorized workers were high—a function of IRCA's penalties and the likelihood of being investigated—and by the absence of reliable verification mechanisms (along with weak anti-discrimination provisions in IRCA). Defensive hiring is likely to be far more extensive under the Arizona Act because the penalties for violating the act are far higher, and the likelihood of being investigated is far higher, while verification mechanisms remain unreliable and anti-discrimination provisions are essentially non-existent.

ii) Differential standards. Document discrimination—requiring Latino immigrants to provide more or different documents than non-Latinos—is the most frequent type of discrimination of this kind.²⁰ Because employers are uncertain about a job applicant's legal status, many employers assume all Latino workers may be undocumented and hold them to different standards in a variety of ways:

- The 1990 GAO study found that 7.5 percent of employers only required individuals to fill out I-9 forms if the person “had a ‘foreign’ appearance or accent.”²¹
- Overall, the 1990 GAO survey found that 19 percent of all employers in their population engaged in one or more forms of national origin or related discrimination after IRCA's implementation.²²

iii) Other employers hire Hispanic job applicants, but pass along the risks of immigration enforcement to their employees by paying individuals who “look or seem undocumented” (i.e., Hispanics) lower wages than are paid to similarly-qualified applicants who appear native-born.

- While the passage of IRCA had no measurable impact on the ability of undocumented immigrants to obtain employment in the United States, the imposition of employer sanctions made it “much more likely” that undocumented immigrants would earn below the US minimum wage, contrary to the pre-IRCA finding.²³
- Latino non-agricultural wages fell by 9.6 relative to Latino agricultural wages during the initial post-IRCA period in which only non-agricultural employers were required to check status (Raphael 2001).²⁴
- Latino wages fell by 6-7 percent relative to non-Latino wages as a result of the introduction of employer sanctions in general.²⁵
- The real wages of legal immigrants fell 35 percent between 1980 and 1993. Analysts attribute most of this wage drop to IRCA, as wages fell 9 cents per year prior to IRCA and 27 cents per year after IRCA.²⁶
- An analysis of US Census data found that workers of Mexican descent—including US citizens of Mexican descent—saw a “sizeable” decline in their hourly earnings relative to Cuban and Puerto Rican workers and relative to non-Latino white workers following

²⁰ Christi 1995.

²¹ GAO 1990.

²² Ibid.

²³ Donato and Massey 1993; also see Massey et al. 2002.

²⁴ Raphael 2001.

²⁵ Ibid.

²⁶ Massey et al. 2002.

IRCA's passage. This analysis concluded that employer sanctions adversely affected the earnings of Mexican workers.²⁷

- iv) Basic Pilot errors disproportionately affect non-native and foreign-descent individuals.
- Database errors discussed above (misspellings, reversed name order, etc.) are disproportionately likely to affect foreign-born individuals and individuals with atypical (from a US perspective) names.
 - Because non-citizens must be confirmed by both USCIS and SSA databases, they have twice as many opportunities to be victims of database errors.
 - In addition, the SSA database is generally more accurate than the USCIS databases—with the exception of foreign-born non-citizens, for whom the SSA database is unusually error prone.²⁸
 - The various DHS databases covering work eligibility are not networked, so that newly legal immigrant workers routinely face delays before their change of status is recorded in the CPS database.

While a significant number of erroneous TNC's are never detected, the 2006 ISR/Westat study traced the Basic Pilot history of those eventually confirmed by the system, a subset of all work authorized individuals participating in the system. In this case, while only 0.1% of native-born US citizens were affected by database errors, error rates were at least 3% for foreign-born workers and at least 10.9 % for naturalized US citizens. It bears emphasis that these numbers are lower—and probably a good deal lower—than actual database error rates because they do not count individuals receiving a false TNC who fail to correct their records. Given that a majority of employers pre-screen their employees and/or fail to provide them with written notification of how to appeal a TNC, inaccuracies in the databases are likely to roughly one-and-a-half times this measured rate.

- v) Employer sanctions depress wages for all US workers. On one hand, because some employers pass along the expected costs of possible enforcement to their undocumented and legal immigrant employees in the form of lower wages, as discussed above, all US workers see their wages decline through “ripple effects” from this immigrant-based wage depression.²⁹ On the other hand, employer sanctions also empower “bad apple” employers who knowingly hire undocumented immigrants to use the threat of enforcement to intimidate workers who press for wage increases, seek to join labor unions, or complain about working conditions. All US workers see wages decline as a result of such coercion.³⁰

- vi) Basic Pilot exposes all US workers to greater risk of identity theft. The Basic Pilot process requires that employers obtain access to job applicants' personal and private citizenship and

²⁷ Bansak 2005.

²⁸ SSA database error rates differ for native-born citizens and immigrants because most native-born citizens are enrolled in the SSA database at birth, and their data are cross-checked against birth certificates. Immigrants' data are entered later, and must be updated with each change in migration status.

²⁹ Borjas et al. 1996.

³⁰ This problem is widely recognized, but difficult to measure since most cases of this type of employer abuse go unreported. Since 2001, the Equal Employment Opportunity Commission has worked with the Department of Justice, the Labor Department's Occupational Safety and Health Administration, and several Latin American consulates to target this type of discrimination through its Justice and Equality in the Workplace Program.

residency data. While employers are required by law to protect this data as a condition for participating in the Basic Pilot program, the 2002 ISR/Westat study found that half of all computers on which Basic Pilot queries were submitted were kept in unlocked rooms and that data in the system was generally vulnerable to being stolen by any “moderately competent computer user.” In addition, 39 percent of employees were informed of problems with their Basic Pilot approval process in public settings, a further violation of privacy.³¹

Privacy and data security experts warn that the greatest problems associated with the Basic Pilot process concern the aggregation of core personal identification data in a single location, and creating a large number of user interface points with the system—a combination seen as highly attractive to those who traffic in stolen identity data. The current system *fails* to incorporate many standard security measures to safeguard these data, including high security in data transmission, and strict accountability for access to records. The current system is therefore seen as vulnerable to data theft, both in the form of database “hacking” and through a variety of internet and email scams. As the system is expanded, these vulnerabilities will increase dramatically.³²

3. Summary of Legal Arizona Workers Act

A) The following new enforcement provisions of the Legal Arizona Workers Act are relevant to this report:

- Section 23-212(B) of the Arizona statute establishes a procedure for filing a complaint alleging that an Arizona employer intentionally or knowingly employs unauthorized aliens. Upon receipt of such a complaint, the attorney general or a county attorney shall investigate the employer by submitting an inquiry to the federal government under 8 USC 1373(c), ostensibly to verify the work authorization status of the allegedly unauthorized alien(s).
- Section 23-212(C) requires the attorney general or county attorney to forward information about alleged undocumented immigrant(s) to federal and local law enforcement agencies and to forward information about alleged employment of unauthorized aliens to county attorneys.
- Section 23-212(D) requires county attorneys to bring an action against employers in the county where allegedly unauthorized employment has occurred. The statute appears to apply to any allegedly unauthorized employment occurring after January 1, 2008 (i.e., new and continuing employees), though the language is somewhat ambiguous.
- Section 23-212(F) establishes the following penalties for employers who are found to have knowingly employed an unauthorized alien:
 - 1) The court shall order the employer to terminate all unauthorized aliens;
 - 2) The employer shall be required for three years to file quarterly reports with the county attorney describing all new hires;
 - 3) The employer shall be required to file a signed affidavit that the employer has terminated all unauthorized aliens, and has not intentionally or knowingly employed an unauthorized alien. The employer’s business license(s) shall be suspended until the affidavit is filed, and may be suspended for up to 10 days regardless of whether the employer has filed an affidavit.

³¹ ISR/Westat 2002. The 2006 study does not address privacy issues in detail.

³² Neumann 2007.

The lengths of the quarterly reporting period and of the suspension of business licenses are increased for intentional violations.

For a second violation in a three year period (or a five-year period for employers found to have intentionally employed unauthorized aliens), employers' business licenses shall be permanently revoked, a penalty Governor Napolitano has described as a "business death penalty."

B) The following procedural provisions are relevant to this report:

- Section 23-212(H) directs the court exclusively to consider the federal government's 1373 response as a "determination" of an employee's legal status.
- Section 23-212(I) establishes participation in the Basic Pilot program as a rebuttable presumption that an employer did not knowingly employ an unauthorized alien.
- Section 23-212(J) establishes that an employer who complies in good faith with requirements of 8USC 1324b did not knowingly or intentionally employ an unauthorized alien. This appears to be a drafting error, since 8USC 1324b concerns anti-discrimination provisions of the Immigration and Nationality Act; whereas 8USC 1324a(b) concerns procedures for verifying workers' employment eligibility.³³
- Section 23-214 establishes that the statute shall not be construed to require an employer to take any action that the employer believes in good faith would violate federal or state law.

C) Section 23-214 requires employers to verify the employment eligibility of new workers hired after December 31, 2007 through Basic Pilot; no penalties are specified for failure to comply with this provision.

4. Predicted Unintended Consequences of the Act

Based on the record of IRCA's implementation and what we know about the functioning of the Basic Pilot employment verification system, the Legal Arizona Workers Act is very likely to produce the following unintended consequences:

A) Increased de facto employment discrimination in the form of "defensive hiring"

- Under the threat of the enhanced penalties in section 23-212(F), many employers will be reluctant to hire workers they believe *might be* unauthorized to work in the United States—i.e., (for most employers) a foreign-born individual or an individual of Hispanic descent. As documented above, there is clear evidence that this type of employment discrimination occurred in the wake of IRCA's implementation, and that the credible threat of sanctions made de facto employment discrimination more likely. Roughly one million Arizona residents would be vulnerable to this type of discrimination.
- Legal workers will be victimized by the Arizona Act even where employers have no intention to practice discriminatory hiring because no reliable system exists to screen workers for eligibility. In short, where the penalty for making a hiring error is high, as would be the case under the Arizona Act, and where hiring decisions must be made in a context of uncertainty, as would remain the case given the weaknesses in the US verification system, some employers will rely on a variety of "informational shortcuts"

³³ Napolitano 2007.

and other tools to screen workers. This problem will be especially severe for firms with multiple locations and multiple agents making hiring decisions because foremen and other hiring agents will be reluctant to make a hiring mistake which jeopardizes their own employment; imposing centralized anti-discrimination “quality control” will be all but impossible under these circumstances.

- The likelihood of defensive hiring will increase in cases in which an employer is on probation and required to file quarterly reports on hiring practices. The quarterly reports themselves will likely have an extreme chilling effect on employers’ and their agents’ willingness to take the risk of hiring workers who seem like they *might be* undocumented. In addition, the enhanced penalties for a second violation would create a very strong incentive for employers and their agents to err on the side of a caution in their hiring practices.
- Use of the Basic Pilot system will not prevent false non-confirmations. The ISR/Westat study documents a wide range of flaws in the E-verify system as a function of database errors and of user errors resulting in an alarmingly high rate of false non-confirmations. Moreover, *both of these error rates are likely to increase as Arizona employers are compelled to participate in the program.* Database error rates will be higher in Arizona than in the national program because of Arizona’s higher than average rate of foreign-born workers (17.9 percent, as compared to 14.7 percent nationally). User errors will be higher because current users self-select into the program, and are predominantly large firms with full-time human resources departments. As smaller and less conscientious firms are compelled to enroll in the program, user errors are likely to increase substantially, resulting in far more false non-confirmations. (For the same reason, compulsory participation in the Basic Pilot system will also likely to lead to increased rates of other problems associated with Basic Pilot, including greater exposure of workers’ private data, as described above.)
- The likelihood of defensive hiring is also increased by the Act’s failure to include strong and unambiguous anti-discrimination language, and by the fact that federal anti-discrimination provisions are also weak and rarely enforced.³⁴ The Act fails to spell out penalties to discourage employers from adopting defensive hiring practices, and it also does not set aside resources to educate employers regarding their obligations and the rights of actual and potential employees under the Basic Pilot program. Education of this sort is especially important in literature of the Act’s mandate that all employers participate in the program.

B) False negatives resulting in the termination of work-authorized employees

- The Act apparently allows anyone to bring a complaint against an Arizona employer for allegedly employing unauthorized workers. It is quite likely that many complaints will be filed for dubious reasons—including a general suspicion of particular employers or workers, and a specific effort to sabotage economic competitors. The deterrent effect for filing wrongful complaints is minimal because the standard is high for proving a frivolous complaint (complainant must have “knowingly” made a false *and* frivolous complaint to be penalized, with frivolous not defined in the statute) and the penalty for doing so is low (Class 3 misdemeanor).

³⁴ Moran 2007; Napolitano 2007.

- The procedure for verifying workers' eligibility will lead to numerous false non-confirmations. The Act requires county attorneys to request eligibility verification from DHS through the procedures described in 8 USC 1373(c). Under this statute, Arizona officials may submit identity data to DHS for verification through the Basic Pilot system, but federal officials must attempt to make a determination of employment eligibility without the benefit of the procedural protections and opportunities for appeal found in the employer-based Basic Pilot. No mechanism exists for DHS agents to inform employees of their TNC response, or to provide them an opportunity to appeal the finding. As a result, *any employee whose identity cannot be automatically confirmed by the Basic Pilot databases will be determined to be ineligible without any opportunity to appeal the response* by the federal government that is deemed to be a determination. County attorneys will be relying on erroneous data in their investigations of complaints under the Act.
- Opportunities to appeal an erroneous non-confirmation appear extremely limited. The Act mandates that the DHS finding of eligibility or non-eligibility is the only evidence that the Court shall consider with respect to an individual's eligibility.
- Based on experience with the existing Basic Pilot program, this procedure will result in the wrongful non-confirmation of between three and 4.5 percent of all legal immigrant workers in Arizona and between 10.9 and 16.4 percent of all naturalized US citizens in Arizona, in addition to .1 - .15 percent of native-born US citizens. *Taken together, between 28,000 and 42,000 legal workers in Arizona would be non-confirmed by this system, including between 18,000 and 28,000 US citizens.*³⁵

C) Increased de facto employment discrimination in the form of "defensive firing"

- Many employers will not wait for a determination by DHS and county attorneys, but will preemptively terminate employees they believe *might be* unauthorized to work in the United States to avoid the risk of punishment. Indeed, ample anecdotal evidence already exists in published media reports that this sort of defensive firing is already occurring.³⁶
- For employers facing a complaint—even a dubious one—the risk of defensive firing is especially high because the standards for compliance are substantially greater than those found under the federal system. In particular, employers are not only prohibited from *knowingly* employing an unauthorized worker, but are also required to sign an affidavit that they are *not employing* any unauthorized workers. Moreover, the employer must sign such an affidavit within three days of a court order—a timeline which leaves employers precious little time to be notified of an order and take appropriate legal action. Moreover, even if an employer learns of an order immediately, the three-day timeline leaves too little time for employers to verify the status of all workers on their payroll, a task which employers are unable to accomplish in any event given prohibition on re-screening employers under existing federal law. Thus, in effect, the Act requires any employer facing a court order to choose among three courses of action: 1) preemptively fire any worker who *might possibly* be undocumented; 2) sign a sworn affidavit which may be false, and therefore risk perjury charges; or 3) face revocation or suspension of the

³⁵ Calculations based on Arizona workforce data from US Census Bureau, 2005 American Community Survey (ACS); data provided by the Migration Information Source (<http://www.migrationinformation.org>).

³⁶ See e.g., Jordan 2007; Archibold 2007.

employer's business license. Faced with these three choices, any rational employer is likely to terminate *suspected* unauthorized workers en masse.

- The likelihood of defensive firing is a function of flaws in the Act, and would persist regardless of employers' intent. The standards in the Arizona Act—an affidavit attesting that the employer does not employ any unauthorized workers—substantially exceed those established by Congress in 8 USC 1324a(a)(1)(A) (i.e., the prohibition on knowing employment). At the same time, the Act does not include language designed to protect against this type of defensive firing because employers who complied with federal hiring practices would not have a safe harbor from the state-level affidavit requirements, even in the case of employees hired years earlier.
- The problem of defensive firing is also exacerbated by the likelihood that employers will be targeted by spurious complaints given the permissive complaint procedures outline by the Act, as noted above. It bears emphasis that the Act requires county attorneys to investigate every complaint, and does not include language allowing county attorneys to screen complaints which may be based solely on race, national origins, or ethnicity, or which appear dubious for other reasons.
- Needless to say, the incentives to preemptively terminate *suspected* unauthorized workers will be substantially higher for employers previously convicted of knowing employment, and therefore subject to the “business death penalty” for a second violation. As in the case

5. Additional Considerations

In the Court's 21 December 2007 denial of plaintiff's request for a temporary restraining order, the Court raises several additional issues which merit attention.

A) The Court argues that “[t]hose who suffer the most from unauthorized alien labor are those whom federal and Arizona law most explicitly protect”; and suggests that the Act would provide further protection for these “unskilled, low-wage, sometimes near or under the margin of poverty” workers (page 10).

Yet the overwhelming evidence from IRCA's implementation is that employer sanctions produced downward pressure on wages for exactly this population of workers, as noted above. In addition, given Arizona's demographics, unskilled and low-wage workers are also disproportionately likely to be affected by employers' defensive hiring and defensive firing decisions, driving down wages among this precise population of vulnerable workers. Low-skilled wages will also suffer as a result of employers' decisions to export many manufacturing jobs to other states or countries. In the worst cases some “bad apple” employers will respond to the Arizona Act by moving some or all of their business to the black market, employing workers off the books to avoid detection. This type of illegal practice is particularly widespread in many of the low-wage construction, agriculture, and service-sector jobs particularly likely to be affected by the Arizona statute.

Thus, if the Arizona legislature is genuinely concerned with protecting the wages and working conditions of its most vulnerable legal workers, at a minimum, the Act should be revised to include far more substantial worker protections and anti-discrimination provisions, as well as a

more certain mechanism for workers to appeal TNC's and to identify and protest defensive hiring and firing decisions. In addition, the Act should spell out in greater detail what constitutes a frivolous complaint under §23-212(B). The Act should also include some mechanism to compensate victims of wrongful termination as a result of the Act, though it is unclear who would pay for these inevitable mistakes.

It also bears emphasis that the Act's positive effect on wages through the reduction of unauthorized employment would likely be quite limited in the absence of broader reforms undertaken at the federal level. On one hand, many jobs in Arizona's service, agriculture, and construction sectors over the course of many decades have become "structurally dependent" on immigrant labor. That is, for a variety of cultural, economic, and sociological reasons, it is simply not possible to recruit native born workers for certain jobs, even at above-market wages.³⁷

On the other hand, unauthorized workers and their employers will independently and together look for and find new and innovative ways to elude enforcement efforts, especially in a state like Arizona with its large existing undocumented population. In the case of undocumented immigrants, the shift to a system which emphasizes electronic verification will likely lead to a substantial increase in identity fraud—fraud which neither the Arizona Act, the Basic Pilot program, nor the procedures in 8 USC 1373 have any mechanism to detect. In the case of "bad apple" employers, unauthorized employment will likely shift off the books to the black market, resulting in lost tax revenues at the state and federal level, and also resulting in a greater likelihood of additional health and safety violations. Indeed, the Act effectively rewards employers for taking this action: given that the only state-level punishment for employment of unauthorized workers is loss of an employer's business license(s), employers may effectively avoid punishment by choosing to operate without a license.

For all of these reasons, there is a broad consensus among policy analysts and current and former migration enforcement officials that the most promising and most efficient strategies for gaining control of undocumented immigration is through a *combination* of enhanced enforcement, more effective admissions policies, and some form of legalization for existing undocumented immigrants.³⁸ The whole is far greater than the sum of its parts.

B) The Court argues that plaintiffs' (and by extension Arizona employers') hardship is minimal because the only concrete expense under the Act is the use of the Basic Pilot program, and because Basic Pilot provides workers with opportunities to appeal TNC's (p. 6).

Yet the full costs of compliance with Basic Pilot (E-Verify) are higher than the ruling suggests, including the costs of training human resources personnel, establishing new hiring procedures, establishing internet connections at hiring locations, creating new security systems to safeguard employee data, etc.

These direct costs would be a small fraction of the hidden costs of the Arizona statute, which are harder to estimate precisely. Tens of thousands of lawful workers who are unable to immediately prove their eligibility may be subject to employment delays of several days as a result of

³⁷ Cornelius 1998; Tsuda 2003.

³⁸ See e.g., Meissner et al.; Coalition for Immigration Security 2006

database errors in the Basic Pilot system. The costs to businesses and workers of the wrongful termination of these tens of thousands of workers, as well as the defensive non-hiring and defensive firing of many additional tens of thousands of workers would be especially high. For example, roughly 288,000 Arizona workers speak only Spanish, including perhaps 145,000 legal workers who speak no English.³⁹ It is simply not possible to predict how many of these workers will be wrongfully terminated as a result of the Act, nor the expense employers will go to in order to replace these legal workers.

Ironically, the Act will impose the greatest business expenses on the most conscientious employers. In the absence of a reliable national verification system, employers who comply with the requirements of the Act while taking care not to discriminate on the basis of national origins will be paralyzed by structural uncertainty built into the system. In this way, the Act shifts the burden of immigration enforcement from state and federal agents, where it belongs, on to Arizona employers. This type of cost-shifting unfairly asks Arizona employers to pay for decades of flawed immigration policies at the federal level, and places Arizona employers at a substantial competitive disadvantage relative to employers in other states.

C) The court rejects plaintiffs' claim that federal law preempts the Act because IRCA permits states to impose penalties through licensing and permit laws, and because the Act is not seen as an obstacle "to the accomplishment and execution of the full purposes and objectives of Congress." (pp. 14-17).

Yet the court also asserts that "People disagree whether the great number and continuing flow of unauthorized workers into the United States has more benefits than costs. But no one can disagree that the costs and benefits accrue differently to different people in our society. It is the responsibility of our elected representatives in Congress and in our legislatures to strike the balance among those competing social and economic interests" (p. 9).

It seems clear that the Arizona Act substantially changes the balance that Congress has struck between the rights of legal workers and employers, and the benefits of migration control. In particular, Congress has debated and *rejected* proposals to make Basic Pilot mandatory for all US employers, leaving the program as a voluntary pilot in its 2003 expansion of the program, and mandating phased implementation in the different proposals considered in 2006 and 2007.⁴⁰ In floor debate and in extensive staff-level negotiations in which I participated concerns about inaccuracies in the Basic Pilot databases, poor rates of employer compliance with the system, and high levels of false non-confirmations were repeatedly identified as major obstacles to expanding the Basic Pilot.

Executive branch officials charged with managing the Basic Pilot have repeatedly described a multi-year timeline as necessary for the successful implementation of a universal electronic verification system, citing both infrastructural and personnel changes necessary before the system can accommodate the increased traffic associated with a universal system. In proposals to

³⁹ US Census Bureau American Community Survey; data provided by Migration Information Source 2007.

⁴⁰ The House-passed H.R.4437 would have phased mandatory participation in Basic Pilot in over a two-year timeline; The Senate passed S.2611 would have established a default confirmation rule in Basic Pilot until such time as the system was demonstrated to be 99 percent accurate.

expand the participation in an electronic verification system Congress also included substantial new worker protections to balance the predictable increase in discrimination associated with new enforcement provisions.⁴¹

The Arizona Act goes considerably farther than Congress by not only prohibiting the *knowing* employment of unauthorized workers, as under federal law, but also by requiring employers who are found to have violated the act to sign an affidavit avowing that they are not employing any unauthorized workers at all—a far higher standard. When combined with the substantially greater penalties under the Arizona Act, including the “business death penalty” for a second violation (as compared with IRCA’s modest civil fines for knowingly hiring or employing unauthorized aliens or failing to comply with the I-9 requirements), these higher compliance standards clearly strike a far different balance among these competing priorities than Congress intended under IRCA or has contemplated in more recent legislative debates.

D) Immigration and US Foreign Policy

An additional consideration in the balance between state and federal immigration policymaking—one not considered by the Court in its 21 December 2007 ruling—is the relationship between immigration and US foreign policy. Indeed, while many American policymakers approach immigration issues from a strictly domestic political perspective, political scientists for many years have recognized that immigration policy is the “quintessential intermestic issue” in that policies made in the United States have a direct impact on migration countries of origin; and policymaking abroad likewise has an important effect on outcomes in the United States.⁴²

Nowhere is this domestic-international interaction more central to migration or to US foreign policy concerns than in the case of immigration and U.S.-Mexican/US-Caribbean Basin relations. On one hand, the regional migration relationship is particularly well-developed from both a historical perspective and in terms of the structural migration system in which current flows are embedded.⁴³ Thus, policymaking to influence U.S.-Mexican and US-Caribbean Basin flows is more challenging than is the case for other migration dyads, and successful management depends more heavily on a degree of bilateral and regional cooperation. Put simply: Mexico and other countries of origin have substantially greater control over their side of the U.S.-Mexican border than does the United States, and shared regional interests in promoting orderly flows and controlling border area violence create important opportunities for collaborative policymaking.⁴⁴

On the other hand, the density and complexity of U.S.-Mexican and US-regional relations also means that US immigration policy has a direct and important impact on broader US foreign policy goals in the region and throughout the hemisphere. The enhanced importance is partly a function of economic integration per se, i.e., because the effects of US immigration policy on Mexican and regional growth and development rebound throughout the broader US economy. Indeed, for countries like Mexico, El Salvador, and the Dominican Republic, migrant remittances

⁴¹ See e.g. the provisions in Title III of the Senate-passed S.2611 in 2006; also see GAO 2007.

⁴² Lowenthal 1999, p. 124. Also see Manning 1977.

⁴³ Massey et al. 1998.

⁴⁴ Rosenblum 2008.


are the single largest source of foreign exchange—exceeding exports and foreign direct investment.

Partly for this reason, US immigration policy also has important diplomatic implications for US-Mexican and US-regional relations. Indeed, current and former Mexican and Central American congressional and executive branch officials have described US and regional migration policies as being top diplomatic priorities, of greater concern, for example, than trade policy or economic assistance packages.⁴⁵ Growing U.S.-Mexican economic integration, as well as Mexico's recent democratization and the development of stronger and more globalized transnational communities spanning the two nations have accelerated this tendency in recent years.

For these reasons, especially in the U.S.-Mexican case, the last two decades have been characterized by important efforts to develop new cooperative institutions for managing bilateral and regional migration. During the 1990s, these efforts were led by The U.S.-Mexican Binational Commission, which sponsored a major binational study of immigration in 1994,⁴⁶ and which oversaw the development of four separate programs to establish joint procedures for U.S. Border Patrol agents and Mexican consuls during deportation proceedings (Mechanisms of Consultation), standing links between municipal officials along the border (Border Liaison Mechanisms), and a program to target U.S. resources to migrant-sending communities.⁴⁷ More recently, Presidents Vicente Fox of Mexico and George W. Bush of the United States announced ambitious plans in 2001 to develop a new binational guest-worker program as part of a broader comprehensive immigration reform strategy. Although these plans were substantially scaled back in the wake of the 9/11 terror attacks, the two countries continued to promote an agenda organized around "shared responsibility" after 2001, and have implemented important new security and economic arrangements related to immigration as part of the Partnership for Prosperity program. These existing and ongoing bilateral migration policies are directly threatened by state and local policies which may conflict with federal and binational policymaking efforts.

5. Miscellaneous

I have been paid for my time in preparing this report and will be paid for any time testifying at my standard hourly rate of \$225/hour. I have previously testified as an expert witness in the case of *Lozano v. City of Hazleton*, 6-cv-56-JMM (M.D.Pa), and I have also testified before the Immigration Subcommittee of the United States Congress on employment verification matters.



Marc R. Rosenblum, Ph.D.

12/28/2007
Date

⁴⁵ Dominguez and Fernandez de Castro 2001; Rosenblum 2004.

⁴⁶ Binational Study on Migration 1997

⁴⁷ Rosenblum 2008.

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Marc R. Rosenblum. 2002. "Illegal Immigration." In Lee Stacy and Gordon Leney, eds. *Mexico and the United States*. New York: Marshall Cavendish. Pages 409-410.

Marc R. Rosenblum. 2002. "Beyond the Policy of No Policy." *UCSD Center for Comparative Immigration Studies Working Paper* #54.

Marc R. Rosenblum. 2001. "Book Review: Ian Shapiro and Stephen Macedo, eds. *Designing Democratic Institutions*." *American Review of Politics* 22 (Spring): 143-7.

Newspaper Opinion Pieces

Marc R. Rosenblum. 2005. "Rebuilding Quickly vs. Rebuilding Wisely." *The New Orleans Times-Picayune*. Wednesday September 28. On-line edition.

Marc R. Rosenblum. 2004. "Why Blame Must Go to the Top." *New Orleans Times-Picayune*. Saturday, May 22. Page B-7.

Marc R. Rosenblum. 2003. "A Coalition of the Willing is not Enough." *New Orleans Times-Picayune*. Monday, March 17. Page B-7.

Marc R. Rosenblum. 2002. "Beware the Pitfalls of Going it Alone." *New Orleans Times-Picayune*. Monday, October 7. Page B-5.

Marc R. Rosenblum. 2002. "Will We Keep a Failed Cuba Policy?" *New Orleans Times-Picayune*. Sunday, May 19. Page B-7.

Marc R. Rosenblum. 2000. "Hand Recount Must Be Allowed to Go On in Florida." *New Orleans*

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Current Projects

- Marc R. Rosenblum. *Defining Migration: America's Great Debate and the History of US Immigration Policy*. Book ms. in process.
- Marc R. Rosenblum and Daniel J. Tichenor, eds. *Oxford Handbook of International Migration*. Oxford University Press. Under Contract.
- Marc R. Rosenblum. "Immigration." In *The Encyclopedia of US Political History*, vol. 3. Washington, DC: CQ Press. Under Contract.

Honors and Awards (last 5 years)

- 2007 University of New Orleans, Robert Dupuy Professor of Pan-American Studies
- 2006 Columbia University American Assembly, Next Generation Fellowship
- 2005 Council on Foreign Relations, International Affairs Fellowship
- 2005 University of New Orleans, University-wide Early Career Achievement Award
- 2004 University of New Orleans, College of Liberal Arts. Summer Research Fellowship
- 2003 Pi Sigma Alpha Award for best paper (with Xinmin Liu and Michael Huelshoff). Annual meeting of the Southwestern Political Science Association, San Antonio, Texas.
- 2002 University of New Orleans, College of Liberal Arts: Travel grant

Papers Presented (last 5 years)

Colloquia

- "Policy vs. Politics: The Immigration Debate of 2005-06." Council on Foreign Relations International Affairs Fellows Conference. New York, May 4, 2007.
- "U.S.-Mexican Migration Cooperation: Obstacles and Opportunities." Conference on *Migration, Trade, and Development* hosted by the Federal Reserve Bank of Dallas, the Tower Center for Political Studies and the Department of Economics at Southern Methodist University, and the Jno E. Owens Foundation. Dallas, TX, October 6, 2006.
- "Politics and the National Interest: The Paradox of US Immigration Policy." Junior Faculty Colloquium Series in International Political Economy, Columbia University Department of Political Science. New York, NY, May 1, 2006.
- "Immigration and the US National Interest Before and after 9/11." Europe and the United States: Immigration and the 9/11 Attacks. University of Texas at Austin, LBJ School of Public Policy. Austin, Texas, March 3, 2006.
- "US Immigration Policy: Can the System be Repaired." Research Seminar jointly sponsored by the UCSD Center for Comparative Immigration Studies, the UCSD Institute for International, Comparative, and Area Studies (IICAS), and the California Western School of Law. San Diego, CA, January 17, 2006.
- "The Costs and Benefits of Immigration to the United States." Presentation to the National Programmers Workshop sponsored by Catholic University of America (CUA), the Office of International Visitors, and the National Program Agencies (NPA). Washington, DC. December 9, 2005.
- "Reforma Migratoria en Estados Unidos: Perspectivas e Implicaciones para México." Presented at *The Second Forum on Binational Reflection: Mexicans from Here and There: Common Problems*. Sponsored by the Senate of the Republic of Mexico and Mexico-America Solidarity Foundation. Mexico City, October 26, 2005.
- "Evaluating the Prospects for a Migrant Guest-worker Initiative." Luncheon and Policy Brief Co-Sponsored by the SDSU Center for Latin American Studies (CLAS), the USD Trans-Border

Institute (TBI), and the UCSD Center for Comparative Immigration Studies (CCIS). San Diego, CA., April 4, 2005.

"Immigration and Globalization." Tulane University Honors Colloquium on Globalization. New Orleans, LA, November 10, 2004.

"Elite Attitudes about Trade and Immigration in Mexico and Central America." Paper presented in joint colloquium of the UCSD Center for U.S.-Mexican Studies and the UCSD Center for Comparative Immigration Studies. San Diego, CA, May 22, 2002.

Academic Conferences

"The 2006 Immigration Debate: Issues and Prospects for Legislation." U.C. California Conference on Immigration Reform and Agriculture. June 14, 2006, Washington DC.

"Immigration and the US National Interest Before and after 9/11." Presentation to Conference, Europe and the United States: Immigration and the 9/11 Attacks. University of Texas at Austin, LBJ School of Public Policy. Austin, Texas, March 3, 2006.

"Congress, the President, and the Two-Level Politics of U.S. Migration Policy." Paper presented at the 77th annual meeting of the Southern Political Science Association. January 5, 2006.

"Congress, the President, and the Two-Level Politics of U.S. Migration Policy." Paper presented at the 100th annual meeting of the APSA. Chicago, IL. August 30-September 4, 2004.

"Political Parties in New Democracies: Learning, Wealth, or Context?" (with Michael Huelshoff). Paper presented at the annual meeting of the Midwest Political Science Association. Chicago, IL, April 15-18, 2004.

"Institutional Factors, Structural Factors, and the Number of Parties: A Critical Examination of Traditional Wisdom and a Cross-national Analysis" (with Xinmin Liu and Michael Huelshoff). Paper presented at the annual meeting of the Southwestern Political Science Association. San Antonio, Texas, April 16-19, 2003.

"The Political Economy of Immigration Control in Fifteen OECD States" Paper presented at the 2003 meeting of the International Studies Association. Portland, OR March, 2003.

"Congress, the President, and the INS: Who's in Charge of U.S. Immigration Policy?" Paper presented at the 98th annual meeting of the APSA. Boston, MA. August 29-September 1, 2002.

"Presidential Shirking and Immigration Enforcement: A Quantitative Analysis." Paper presented at the 2002 meeting of the International Studies Association. New Orleans, LA. March 24-7, 2002.

"U.S. Asylum Enforcement: A Test of Globalization, Realist, and Liberal Hypotheses." (Co-authored with Idean Salehyan.) Paper presented at the annual meeting of the International Studies Association. New Orleans, LA. March 24-7, 2002.

Other Speaking Engagements

"US Congressional Staff Briefing: Employment Eligibility Verification System." Washington, DC, September 21, 2007.

"The Congressional Politics of US Immigration Policy." Tulane University Summer Teachers Institute. New Orleans, July 13, 2007.

"Immigration and the US Interests: Good politics vs. Good Policy." World Affairs Council of New Orleans. New Orleans, LA May 9, 2007.

"Immigration, US Interests, and Legislative Options." Senate Presidents' Forum. Bonita Springs, Florida, January 11-14, 2007.

"The 2006 Immigration Debate: Issues and Prospects for Legislation." U.C. California Conference on Immigration Reform and Agriculture. Washington DC, June 14, 2006.

“Immigration and the US National Interest.” US Department of State, Bureau of Intelligence and Research. Arlington, Virginia, April 20, 2006.

“Immigration and US Foreign policy.” Presentation to the Young Professionals in Foreign Policy. Washington, DC. November 10, 2005.

“Diasporas and U.S. Foreign Policy.” Keynote address presented at *The World in Canada: Demographics, Diversity & Domestic Politics in Canadian Foreign Policy*. Sponsored by the Canadian Defense and International Affairs Institute. Ottawa. November 1, 2005.

“Globalization and U.S. Immigration.” Presentation to the New Orleans Society for Secular Humanism. February 20, 2005.

“Jews in American Politics.” Presentation to the Gates of Prayer Synagogue, Continuing Education Series. January 23, 2005.

Academic Service (last 5 years)

Panel chair, “REAL ID and Habeas Corpus.” Catholic University Law School Symposium on Immigration Appeals and Judicial Review. Washington, DC, January 30, 2006.

Organizer, *Latino Politics and Culture into the 21st Century*. Six-session speaker series at UNO, spring 2004.

Member, University of New Orleans Faculty Advisory Committee, Bachelors of Arts in International Affairs (2004 - present)

Member, University of New Orleans Committee for the Creation of an Interdisciplinary American Cultures Ph.D. in the College of Liberal Arts (2002-04)

Member, University of New Orleans Committee for the Creation of an Interdisciplinary Minor in Peace and Social Justice Studies (2002-04)

Campus Representative, Inter-University Consortium for Political and Social Research (2002-present)

Reviewer, *American Journal of Political Science*, *International Organization*, *Comparative Political Studies*, *International Migration Review*, *Ethics and International Affairs*, *American Review of Politics*, *Journal of Political Psychology*, *Journal of Training and Development*, *Migraciones Internacionales*

Member, *Phi Beta Delta Honor Society*, *American Political Science Association*, *Midwest Political Science Association*, *Latin American Studies Association*, *International Studies Association*, *Southeastern Conference on Latin American Studies*.

Other Service

Board Member. International School of Louisiana (public charter school). October 2006 – present. (Secretary, August 2007 – present)

Member of Executive Board. International School of Louisiana Family, Teacher, and Community Organization (PTO), June 2004 – June 2005.

President, International School of Louisiana Family, Teacher, and Community Organization (PTO), May 2003-June 2004.

Member, Advisory Committee on Interfaith Weekend 2005 sponsored by Touro Synagogue and Masjid Al-Islam Mosque. October 2004- January 2005; October 2006 – present.