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José M. Serrano**



**EAST HARLEM  
AGAINST DEPORTATION**

**IMMIGRATION REFORM  
STARTS HERE:**

**City and State Policy  
Recommendations to Protect New  
York Immigrants and their Families**

# East Harlem Against Deportation Coalition

## ELECTED OFFICIALS:

State Senator José M. Serrano  
Congressman Charles B. Rangel  
Manhattan Borough President Scott M. Stringer  
Councilmember Melissa Mark-Viverito

## MEMBER ORGANIZATIONS:

The Children's Aid Society  
Art for Change  
Asociación Tepeyac de New York  
Esperanza del Barrio  
Make the Road New York  
Manhattan Community Board II: Immigrant Rights Task Force  
Manhattan HIV Care Network  
Mano a Mano: Mexican Culture Without Borders  
Immigrant Defense Project  
The Immigration Services Project of the Neighborhood Defender Service of Harlem  
Northern Manhattan Coalition for Immigrant Rights

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Dear Friend:

East Harlem Against Deportation was launched in May 2009 with a press conference at The Children's Aid Society East Harlem Center on 101st Street. The event featured speeches from several elected officials and community leaders.

What I found most gripping were the testimonials from local parents in East Harlem. They feared detention and deportation. They feared being separated from their children. They feared losing hope.

Since that time, the East Harlem Against Deportation coalition has collected 1,000 appeal letters, which we are forwarding to the White House. We have convened several community events, including a public forum and an outdoor movie screening. Moreover, we have engaged with experts in the field to present policy recommendations that would improve the lives of immigrant families in our city and state. The recommendations are outlined in this report.

The inspiration for our work comes from the hard-working immigrant families of New York ... past, present and future.

During my tenure as an elected official, first in the City Council and now in the State Senate, immigrants' rights have always ranked high on my legislative agenda. One of my Senate bills, modeled on the city's Executive Order 41, would make it the policy of state employees to keep immigration status confidential when providing essential services.

But my legislative colleagues and I are only as good as the communities we represent, and it has been our pleasure to join forces with a tremendous group of individuals throughout this project. The advocates and civic leaders here in New York City – in particular, in East Harlem – boast an unsurpassed mix of passion, selflessness and knowledge.

We are forever in debt to this web of greatness.

Sincerely,  
Senator José M. Serrano  
September 2009

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## INTRODUCTION

### **Mission Statement:**

East Harlem Against Deportation, at its roots, draws strength from immigrants, their friends and loved ones, and local community organizations, all of whom daily live out the struggle against our country's broken immigration system.

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East Harlem has distinguished itself as a capital of Puerto Rican culture, not to mention a once-strong Italian-American enclave. The robust African-American population can trace its roots back to the early Dutch settlements of Upper Manhattan.

At the same time, East Harlem boasts one of the richest immigrant traditions in New York City, having welcomed Germans, Haitians, West Africans, Russian Jews, and Latin Americans – among so many other groups of people – over the past two centuries.

Despite periodic tensions and tough times, East Harlem is an unqualified story of success, a community that does not simply tolerate difference, but actively celebrates it. The result has been new forms of art and social activism, new coalitions and ideologies, as well as homegrown leaders and innovators.

But if East Harlem owes so much of its vitality to new residents, it also remains vulnerable to the often unjust mechanisms of immigration enforcement that emanate from Washington and ripple down to the state and local levels.

In too many corners of government, deportation is a mere statistic. In East Harlem, deportation is a broken family.

While there is no conclusive data on the number of immigrants, undocumented immigrants or deported immigrants in East Harlem, the Census Bureau's 2007 American Community Survey estimates that foreign-born residents number 30,921, or more than 25 percent of the neighborhood.<sup>1</sup>

A 2004 Planning Assessment by Manhattan Community Board II shows overall increases in the number of non-Puerto Rican, Hispanic residents. In particular, the Mexican population increased more than 324 percent between 1990 and 2000, to an estimated 10,316 persons. Still, the report notes that Hispanic residents are historically under-counted "due to their immigration legal status and fear of deportation."<sup>2</sup>

What remains clear is that deportations and detentions are exploding across the nation, and they are hurting the very groups that live and work in East Harlem. A 2009 report by the Department of Homeland Security states that, between 1998 and 2007, more than 100,000 parents of US citizens were deported from the United States.<sup>3</sup>

According to *Jailed Without Justice*, a 2009 report by Amnesty International, more than 30,000 immigrants are detained each day in the United States: "They include asylum seekers, torture survivors, victims of human trafficking, longtime lawful permanent

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<sup>1</sup> U.S. Census Bureau, 2007 American Community Survey. "Selected Social Characteristics in the United States: 2007." PUMA5 03804, New York. Available online: [http://factfinder.census.gov/home/saff/main.html?\\_lang=en](http://factfinder.census.gov/home/saff/main.html?_lang=en)

<sup>2</sup> "Manhattan Community District Planning Assessment." Prepared for Manhattan CB II by Urban Technical Assistance Project, Columbia University (Winter 2004). Available online: <http://www.cbllm.org/files/CommunityDistrictIIReport.pdf>

residents, and the parents of U.S. citizen children.”<sup>4</sup>

This marked increase over the past ten years has created a high demand for detention space. Amnesty reports that approximately 67 percent of detainees are held in state and county criminal jails under contract with the federal government, “while the remaining individuals are held in facilities operated by immigration authorities & private contractors.”<sup>5</sup>

The federal government has gained access to state and local government in other ways as well. The 287(g) program allows the Department of Homeland Security (DHS) to essentially deputize local police officials so they might enforce immigration law.

In New York City, the Department of Correction allows federal officials to interview, detain, and take custody of prisoners believed to be in violation of immigration law. “An estimated 13,000 New Yorkers have been placed into deportation proceedings” due to the collaboration of the city and the federal government.<sup>6</sup>

A newer DHS program, launched in March 2008 and known as “Secure Communities,” further tightens the enforcement grip by cross-checking fingerprints against a DHS database when individuals are booked into local jails. The problem, as highlighted by the National Immigration Law Center and other organizations, is that DHS records are often inaccurate. Moreover, existing enforcement efforts have largely targeted persons accused of minor infractions, like traffic offenses, rather than violent criminals.<sup>7</sup>

The Obama administration, despite welcome engagement on the overall issue of immigration reform, has preserved both the 287(g) and Secure Communities programs.

While comprehensive immigration reform is the responsibility of the federal government, it must be complemented by greater awareness, advocacy and policy change at the state and local levels. This is the mission of East Harlem Against Deportation.

The policy proposals listed in this report are intended for city and state policy-makers, in particular those in the executive branch. Members of the East Harlem Against Deportation coalition firmly believe that positive change can be effected not only through big and often timely legislative struggles, but also more immediate shifts in departmental guidelines and regulations. For government to remain proactive, its many bureaucracies must work diligently to correct flaws and close loopholes.

The coalition is committed to a dialogue on policy that is not confined to the criminal justice system. Simply put, immigrants are not criminals. Proposals for the Police Department, for example, are offered in the context of community engagement and safety. Immigrants can best help to fight crime, and provide needed “eyes on the street,” only if they do not see in their local police officer the long arm of unjust federal immigration law. Protecting immigrants also means expanding educational opportunities, and improving access to local services.

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<sup>3</sup> “Removals Involving Illegal Alien Parents of United States Citizen Children.” Department of Homeland Security, Office of Inspector General (Jan. 2009). Available online: [http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG\\_09-15\\_Jan09.pdf](http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG_09-15_Jan09.pdf)

<sup>4</sup> Amnesty International. “Jailed Without Justice: Immigration Detention in the USA” (March 2009). Available online: [www.amnestyusa.org/uploads/JailedWithoutJustice.pdf](http://www.amnestyusa.org/uploads/JailedWithoutJustice.pdf)

<sup>5</sup> Amnesty International. “Jailed Without Justice: Immigration Detention in the USA.”

<sup>6</sup> “New York City’s Collaboration with ICE Hurts its Own Residents.” New Sanctuary Coalition / New York (2009).

<sup>7</sup> “More Questions than Answers about the Secure Communities Program.” National Immigration Law Center (Mar. 2009). Available online: <http://www.nilc.org/immlawpolicy/LocalLaw/secure-communities-2009-03-23.pdf>

The coalition aims to better protect immigrants and their families in a country that has always thrived when promoting civil and human rights, and fallen behind when building fences.

The United States must renew its commitment to hard-working immigrants, and re-pave the paths to citizenship and opportunity that have been obstructed for too many years. New York City and State – and communities like East Harlem – owe so much of their energy and strength to immigrant forebears, and thus have an obligation to implement reforms and help gather momentum for comprehensive change across the country.

## CHAPTER I

### **IMMIGRATION AND CUSTOMS ENFORCEMENT PRESENCE IN LOCAL JAILS**

#### **Recommendations for the City Department of Correction and the State Division of Criminal Justice Services**

Over the past several years, the U.S. Immigration and Customs Enforcement (ICE) agency has established a permanent presence on Rikers Island and in other New York City Department of Correction (DOC) facilities. Without any oversight, accountability or written agreement, federal immigration agents have regularly engaged in coercive interrogations of DOC detainees.

Data from a Freedom of Information Act request – obtained by a coalition of advocacy groups including the New Sanctuary Coalition, Make the Road New York, and the Northern Manhattan Coalition for Immigrant Rights – found that more than 13,000 inmates at Rikers Island have been placed into deportation proceedings over the past five years.<sup>8</sup>

In total, 4,000 Rikers inmates are interrogated by ICE every year; at least two-thirds of them are pre-trial detainees who still enjoy the presumption of innocence. During these interrogations, ICE agents use heavy-handed tactics and routinely deny the detainees their most basic constitutional rights, including the right to be represented by an attorney.

As a result, many New Yorkers have spent years in immigration detention, including those who are: wrongfully arrested or later found not guilty of any crime; arrested for only minor charges; eligible for / in the process of obtaining legal status; asylees and refugees fleeing persecution; and green card holders.

ICE's presence at Rikers Island has had a devastating impact on people like Florentina, a resident of Queens and member of Make the Road New York. "My brother-in-law did nothing wrong. He worked paid his taxes and raised his family. The charges they put him in Rikers for were dropped but now because of ICE he is in detention in Texas. ICE is trying to give him a life sentence of exile from his family."<sup>9</sup>

The city Department of Correction agreed earlier this year to make some positive administrative changes to help protect the rights of those interviewed by ICE at Rikers. Detainees will now be presented a consent form before being interviewed by ICE officials, and guards will be given training in order to make detainees aware that interviews are

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<sup>8</sup> "New York City's Collaboration with ICE Hurts its Own Residents." New Sanctuary Coalition / New York (2009).

<sup>9</sup> "Immigration Out of Rikers: Get New York City Out of the Deportation Business." Make the Road New York (1 Sept. 2009).

voluntary.

Nevertheless, ICE enforcement tactics remain unjust and underhanded. The policy tears apart New York families, deporting breadwinners and leaving the burden of dependents on city social service agencies. Moreover, the presence of ICE undermines community policing efforts, resulting in less safe neighborhoods for immigrants and non-immigrants alike.

Despite some welcome dialogue on immigration reform, the Obama administration has continued, even expanded, aggressive enforcement programs. ICE collaboration at Rikers and other facilities has been a forerunner to the much larger Secure Communities initiative. Secure Communities empowers local jails to cross-check a Department of Homeland Security database while booking detainees. President Obama has committed to expanding and enhancing the program, which now operates in 70 counties across the country.<sup>10</sup>

Perhaps most vexing is the number of individuals arrested on minor charges as part of Secure Communities. “Nationally, only 15 percent of the 6,130 suspects that authorities filed paperwork to detain after finding a match in the system were classified as ‘aggravated felons’ – the agency’s primary target group.”<sup>11</sup> But even the term “aggravated felon” can be misleading; in New York it sometimes includes people with shoplifting and turnstile-jumping convictions.

In the absence of strong oversight by local and state authorities, the federal government’s formidable enforcement toolkit will increase the number of wrongful detentions and broken families in East Harlem and across the country.

## RECOMMENDATIONS

- The East Harlem Against Deportation coalition urges the City Department of Correction to: restrict ICE access to pre-trial detainees; prohibit the sharing of fingerprint data with the Department of Homeland Security; and protect the legal rights of all New York City detainees. Additionally, ICE must not transfer immigrants between ICE and criminal custody while a criminal matter is still pending. This will reduce the risk of warrants filed against immigrants due to their inability to attend criminal hearings while in ICE custody.
- According to a map on the Immigration and Customs Enforcement website, federal authorities plan a 2010 “deployment” of Secure Communities in portions of downstate New York.<sup>12</sup> Guidelines on deployment remain unclear. Some localities in the U.S. have, on their own accord, partnered with ICE to implement Secure Communities, though it appears ICE is committed to entering into Memoranda of Understanding (MOU) with state identification bureaus. In New York State, this bureau is the Division of Criminal Justice Services (DCJS). The coalition strongly recommends that DCJS not enter into an MOU, at the very least without first engaging in a process of comprehensive review and full public consultation. Given the problems associated with the related ICE program at Rikers Island, not to mention national statistics suggesting that Secure Communities casts far too wide a net, DCJS must protect New York immigrants from carte blanche federal enforcement. For example, if DCJS decides to enter into such an MOU, it should make sure the document

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<sup>10</sup> Bernstein, Nina. “Immigration Officials Often Detain Foreign-Born Rikers Inmates for Deportation.” New York Times (25 Aug. 2009).

<sup>11</sup> Carroll, Susan. “ICE Program is Casting a Wide Net.” Houston Chronicle (13 Jul. 2009).

<sup>12</sup> “Secure Communities, Phased Implementation.” US Immigration and Customs Enforcement. Available online: [http://www.ice.gov/secure\\_communities/deployment/](http://www.ice.gov/secure_communities/deployment/)



## CHAPTER 2

guarantees that New York State residents apprehended through Secure Communities will have their removal cases heard in New York, where they are most likely to have access to family members, witnesses, and attorneys – all of whom are critical to fair and just removal proceedings. To the extent that state bureaus have authority over localities, DCJS must encourage them to adopt a similarly vigilant stance in their interactions with ICE.

### NEW YORK MUNICIPAL CARDS

#### Recommendations for the New York City Mayor, City Council, and New York City Department of Education

In July 2007, the City of New Haven, Connecticut launched a municipal ID card program designed to increase public safety and expand access to municipal services. Since that time, more than 8,000 people have obtained the “Elm City Resident Card” and major cities including San Francisco and Oakland, CA have followed suit.

The ID card can be used to access all of New Haven’s public libraries, recycling centers, the golf course and public beaches. It also comes with a debit feature allowing for easy payment at parking meters, city garages, and for goods and services at approximately 50 participating downtown stores. The debit and other services have enabled the card to garner broad-based appeal regardless of residents’ immigration or socioeconomic status. There is a separate “Kid Card” version of the ID card issued to youth 16 and under where parents or guardians can opt to include emergency contact and allergy information.

The issue of public safety is perhaps most strongly tied to the creation of the card, and its fundamental goals. In 2006, a Mexican immigrant named Manuel Santiago was robbed and killed while walking home from his job at a local bakery. Like many immigrants who lack access to financial institutions, Manuel became a victim after cashing his paycheck at a local check cashing store. His death renewed calls for the city to take action to better protect immigrants, and helped lead to the establishment of the ID card.<sup>13</sup>

The problem of anti-immigrant crime is not confined to New Haven. In recent years, the New York Times has reported on the robbery of undocumented persons from the North Bronx all the way to West Palm Beach, Florida. Criminals pejoratively call it “amigo shopping” and label their prey as “walking A.T.M.’s.”<sup>14</sup>

According to officials interviewed in a Washington Post article on assaults in Prince William County, “Hispanic immigrants are being targeted, often in gratuitously violent attacks by non-Hispanics, because they are thought to carry cash rather than use banks and to be reluctant to report crimes to the police.”<sup>15</sup>

The New Haven card aims to expand access to financial institutions in order to deter these crimes. The Elm City Resident Card is now accepted as a secondary form of identification at

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<sup>13</sup> Matos, Kica. “The Elm City Resident Card: New Haven Reaches Out to Immigrants.” Federal Reserve Bank of Boston, Issue I (2008).

<sup>14</sup> Brady, Emily. “For Mexican Workers, a Long Walk Home.” New York Times (21 Oct. 2007). See also: Aguayo, Terry and Riki Altman. “Here Illegally, Guatemalans Are Prime Targets of Crime.” New York Times (27 Aug. 2006).

<sup>15</sup> Londoño, Ernesto and Theresa Vargas. “Robbers Stalk Hispanic Immigrants, Seeing Ideal Prey.” Washington Post (26 Oct. 2007).

several local and national banks.<sup>16</sup> In short, more bank accounts will translate to less crime.

The card also helps tackle the issue of underreported crime. Undocumented immigrants often stay away from the police due to fears of detention and deportation. But New Haven, which made a very public and very concerted effort to reach out to the immigrant community around the identification card and broader integration efforts, has been able to engender the trust and cooperation of immigrant communities. The New Haven Police Department has spoken publicly about the benefits that the ID card has had on policing in the immigrant community.

In cities like New York, which relies on statistical data to deploy added police presence in high-impact zones, the reporting of crime is essential to curbing new waves of violence.

In 2007, a municipal ID card proposal, based on the New Haven model, was introduced in the New York City Council, but it failed to win enough support. The East Harlem Against Deportation coalition believes the time is right to renew this fight.

Some government identification programs, such as the federal REAL ID Act, have met with strong opposition from civil libertarians and immigrant groups. The New York Civil Liberties Union states that: "The Real ID Act allows states to issue non-Real ID-compliant drivers' licenses and identification cards. However, the licenses and ID cards must explicitly state that they do not meet Real ID requirements, thus serving as a 'scarlet letter' of unlawful immigration status."<sup>17</sup>

The New Haven model, on the other hand, is anything but a scarlet letter. First, the card is optional not mandatory. Second, it aims to engage immigrant groups in the larger community rather than set them apart. The cards have been used, for example, to increase participation in municipal flu shot initiatives. Efforts are currently underway to link the ID card to health initiatives, and a local community bank scheduled to open in the spring of 2010 plans to link the ID card to financial literacy efforts. This summer, the city began distributing ID cards to public school students in schools that do not currently issue ID cards.

The residency card does not allow immigrants to circumvent federal law or citizenship procedures, nor does it allow them to access government programs and services for which they do not already qualify under current law.

To be sure, the institution of an ID card program in New Haven was not without some tumult. Just two days after the Board of Alderman approved the measure, federal immigration officials conducted raids in the city's largest immigrant neighborhood. The timing of the raids was deemed very suspicious by city officials and advocates, who accused the federal government of retaliation for its immigrant-friendly approach.<sup>18</sup>

In 2008, opposition groups tried – unsuccessfully – to reveal the names, photos and contact information of all card applicants through a Freedom of Information request.<sup>19</sup>

But municipal ID cards offer both quantifiable and non-quantifiable gains for any major city.

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<sup>16</sup> Currently, undocumented immigrants must still present a valid passport or consular ID card as a primary form of identification.

<sup>17</sup> "Real ID & Immigrants' Rights." New York Civil Liberties Union. Available online: <http://www.nyclu.org/node/1321>

<sup>18</sup> Matos, Kica. "The Elm City Resident Card: New Haven Reaches Out to Immigrants." See also: "Courage in Elm City." New York Times editorial (22 May 2008).

<sup>19</sup> Gurwitt, Rob. "Welcome Mat." *Governing Magazine* (Dec. 2008).

They can reduce crime and bolster one's sense of personal security and comfort. They can support local business and increase civic pride. They can encourage participation in the kind of municipal programs and services that improve quality of life for families, and the quality of the communities in which they reside.

## RECOMMENDATIONS

- The coalition recommends the introduction of new City Council legislation to establish New York City's first municipal ID card. In recognition of the many logistical and bureaucratic challenges faced in a city of eight million people, we believe this should be implemented as a pilot program in conjunction with the Department of Education. Our vision for an ID card is one that connects people and protects families; the existing infrastructure of schools can best nurture that vision. The card would be made available to students, parents, teachers, and administrators.
- The student card would incorporate public transportation subsidies; the New York City Department of Education already provides full and half-fare Student MetroCards based on grade level and one's proximity to school. Also, the card would offer the opportunity to list emergency contact and allergy information for students.
- The parent card would substantively improve access to schools. A 2009 report by Advocates for Children of New York, entitled "Our Children, Our Schools," called for the creation of a parent ID card after finding that immigrant parents are often prevented from, or do not feel comfortable participating in school activities. Many of these parents lack identification just to gain entry into the school building.<sup>20</sup>
- As in New Haven, we believe the inclusion of a debit function would generate interest among non-immigrants as well. But it can also be used as a public policy tool to improve food policy; for example, through collaboration with restaurants, grocery stores and farmers markets that serve healthy food. Participating establishments would benefit from increased business, particularly among teachers and administrators who work in the local neighborhood. Parents who fear their children spend money on junk food after school would be able to ensure healthier food choices by adding money directly onto their child's debit card.
- In the future, the city should look to expand utilization of the ID card and debit function to include parking meters, public libraries, a broad array of businesses, as well public athletic courts and fields.

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<sup>20</sup> "Our Children, Our Schools: A Blueprint for Creating Partnerships Between Immigrant Families and New York City Public Schools." Advocates for Children of New York. Mar. 2009. Available online: [http://www.advocatesforchildren.org/Our\\_Children\\_Our\\_Schools%20\\_FINAL\\_Report.pdf](http://www.advocatesforchildren.org/Our_Children_Our_Schools%20_FINAL_Report.pdf)

## CHAPTER 3

### **BUILDING TRUST – NYPD AND THE IMMIGRANT COMMUNITY**

#### **Recommendations for the New York Police Department**

East Harlem Against Deportation recommends a framework to build stronger relationships between undocumented immigrant families and New York Police Department (NYPD) officers. As a model, we will examine the partnership with police, established in 2006, by the Children’s Aid Society (CAS) East Harlem Head Start Program. This partnership emerged when undocumented families participating in the Head Start program confided to staff that they did not feel safe in their own homes and were afraid to go to the police for assistance. “No one calls the police because of Immigration,” was a comment staff heard again and again. Crimes were not being reported because immigrant families feared that interacting with the police would lead to deportation. Concurrently, police recognize that in communities where they are feared, public safety is undermined: “How do you police a community that won’t talk to you?”<sup>21</sup>

The NYPD has recognized the need to address issues specific to immigrant communities. Its New Immigrant Outreach Unit (NIOU) serves as a link between the NYPD and new immigrant communities not traditionally engaged with the police department. New Immigrant Outreach Liaisons make presentations on police department policies, programs, and services affecting new immigrant communities.

Police departments across the country have noted that local enforcement of federal immigration laws undermines community trust and public safety.<sup>22</sup> Thus, it is of utmost importance that leaders in communities with undocumented immigrant populations work closely with police towards a clear, consistent, and unified approach to address public safety concerns. Building and maintaining trust between undocumented immigrants and the police is work that demands mutual responsibility, cross-sector involvement, and a dynamic, multi-strategy approach.

In collaboration with the police and the wider community, the CAS East Harlem Head Start program has been successful in facilitating the transformation of undocumented immigrants’ perspectives of the police from one of fear and avoidance to one of trust and engagement. Over three years, the CAS East Harlem Head Start program has brought together an engaged group of immigrant families, local and city-wide levels of the NYPD and multiple community-based organizations, government agencies, and elected officials for conversations, events, and celebrations focused on sharing ideas, clarifying misinformation, and reducing fear and isolation.

#### **An Outreach Framework for the New York Police Department**

The following outlines the two main components recommended to create a successful framework for building trust, improving communication, and creating more effective relationships among undocumented immigrant families, the police, and the wider community. These elements include: (1) community education and (2) police training.

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<sup>22</sup> “M.C.C. Immigration Committee Recommendations: For Enforcement of Immigration Laws By Local Police Agencies.” Major Cities Chiefs (Adopted Jun. 2006). Available online: [http://www.majorcitieschiefs.org/pdfpublic/mcc\\_position\\_statement\\_revised\\_cef.pdf](http://www.majorcitieschiefs.org/pdfpublic/mcc_position_statement_revised_cef.pdf)

## **I. Community Education**

The first responsibility is to lay a strong foundation of correct, pertinent information through educational community forums for immigrant families. During these forums, it is important to clarify misinformation and confusion about federal and local immigration law, policy, and police procedures. These forums must be conducted in the families' native language, be held in a location where families feel most comfortable, and repeatedly explain the difference between NYPD and Immigration. A standard set of forums should include the following (future forums can be planned based on issues identified during the forums below):

- **Know Your Rights:**

Police explain their overall functions and services to the families. Topics may include: the importance of reporting crimes; 311 vs. 911; acceptable forms of IDs; introductions (local Precinct administrators, district chief, New Immigrant Outreach Unit, etc.); overall protocol; Executive Order 41; civilian complaints; open exchange for community concerns.

- **Paths to Citizenship:**

Immigration lawyers explain legal paths to citizenship, while police administrators and the District Attorney's office clearly explain their immigration policies. Topics may include: immigration scams; U-Visas; T-Visas; victim vs. perpetrator; the right to contact your Consulate; lawyers can explain when interactions with the police could lead to deportation and police could then directly address these fears.

- **Government IOI / Civic Participation:**

Families learn about the function and structure of their local government, including police, district attorney offices, appropriate consulate, and local elected officials. Topics to include: available services; differentiating between the police and immigration officers; how each unit of government interacts to best serve the undocumented immigrant community; clear examples of how families can get involved and contribute.

## **2. Police Training**

The second element of a successful framework is to properly train police officers on how to most effectively work with immigrant populations. The police should engage in direct dialogue with undocumented families in the community. These trainings should provide the officers with a better understanding of immigrants, their challenges and strengths, their fears related to collaborating with the police, the history that affects these relationships, and the police procedures that will guide their interactions. Officers should be made aware of the larger immigration picture, while being trained to be grounded in local issues and safety. Training should include:

- An expert overview of immigrant demographics, police protocol, and national/local immigration policy. For example, a credible immigration advocacy group in collaboration with the New Immigrant Outreach Unit could explain to officers the possible ramifications of police interactions, and how they can lead to deportation.
- The majority of the training should be a direct personal exchange with undocumented community members and police officers. Small discussion groups made up of officers and undocumented families can tackle topics such as identity, stereotypes, and police protocol. As it regards police protocol, for example, one item of concern for immigrants is the use of mere suspicion of "illegal activity" to circumvent Executive Order 41 protections. Break-out groups are then followed by a larger collective discussion on tangible strategies to build better relationships and create partnerships between the police and the undocumented community.

## RECOMMENDATIONS

Mandate that under the leadership of the New Immigrant Outreach Unit, precincts in densely populated undocumented immigrant communities implement the outlined framework, focused on: (1) community education, and (2) police training.

### **1. Community Education:**

Forums used to present undocumented immigrant families with clear, correct, and pertinent information related to immigrants' rights, paths to citizenship, and function of government, as outlined above.

### **2. Police Training:**

Trainings must include an expert overview and direct personal exchanges between community members and police officers. Trainings must be attended by all new officers, as well as officers of every rank in Precincts located in densely populated undocumented immigrant communities.

- Implement a piloted replication of the above framework in partnership with a community based organization (i.e.: school, religious institution, non-profit agency) within a precinct located in a densely populated undocumented immigrant community.
- Increase funding and resources to the NYPD's Community Affairs' New Immigrant Outreach Unit.

With immigration policy for the undocumented community, New York City has made a concerted effort to ensure that municipal interests are not subordinated to those of the federal government with policies such as Executive Order 41. However, in order to achieve overall public safety, policies need to be enacted through NYPD that promote more direct interactions between undocumented immigrant families and the wider community to facilitate successful integration and engagement. Our two core framework elements are directly aligned with the 2009 Police Foundation report citing the necessary involvement of undocumented community members in developing immigration policies as an integrated part of their community policing approach:

... local law enforcement agencies should open lines of communication with immigrant communities to establish collaborative partnerships for public safety and crime control purposes and to obtain input from the immigrant community on the impact of police department policies. Police departments should regularly meet with representatives of immigrant communities to educate them about their immigrant policies, obtain their perspective on immigration enforcement and other issues involving immigrant communities, and to monitor impact of their efforts.<sup>23</sup>

The suggested framework requires a combination of overall coordination by the NYPD's New Immigrant Outreach Unit, as well as the touchstone of local Precinct Community Affairs offices. This equation can then leverage local expertise, as well as foster department-wide consistency, while fulfilling the New Immigrant Outreach Unit's mission and facilitating the unit's objectives. Through authentic community partnerships, these recommendations have the opportunity to increase effectiveness with minimal cost.

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<sup>23</sup> "The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties." Police Foundation (2009). Available online: <http://www.policefoundation.org/strikingabalance/strikingabalance.html>

By engaging competent partners within the NYPD and the wider community, paired with this successful framework, we believe the City has the opportunity to not only change the undocumented immigrant perspective from fear to trust, but to also create a more united and safe city for all its residents. After going through the CAS East Harlem Head Start program, a parent was interviewed on her shift in perspective regarding the police. “I used to be afraid of the police, but that’s because I didn’t have the right information. They are not Immigration. Now, after all the work the [Head Start] Program has done with the Precinct, I use 311, I go directly to the Precinct if I have questions, and if something should happen, I will call the police.”

## CHAPTER 4

### EMPOWERING IMMIGRANT STUDENTS

#### **Recommendations for the New York State Department of Education, the State Board of Regents, and the New York City Department of Education**

Often missing from the immigration debate is the unique role that schools play as critical engines of integration, mobility, and civic participation for immigrant communities. Today’s immigrant communities in East Harlem have the same goals as previous generations of immigrants – to give their children a quality education that will allow them to go to college and succeed in life. However, immigrant students face huge obstacles to academic success. At the primary school level, the disregard for the needs of immigrant students and a stagnant dropout crisis is wiping out the futures of an entire generation of immigrant youth. This chapter discusses these challenges and presents recommendations for strengthening educational opportunities for immigrant students.

More than half of New York City’s school-age children come from immigrant families. Some 140,000 students do not speak or understand English well, and are classified as English Language Learners or ELLs.<sup>24</sup> Immigrant students, particularly those learning English, face huge obstacles to academic success. About two-thirds of children who have not yet learned English are living in poverty, compared to only one-third of English proficient children.<sup>25</sup> Their parents are likely to have had only limited schooling and more than half are enrolled in “linguistically-segregated” schools.<sup>26</sup> ELLs who were not born here face additional obstacles: not only must they learn a new language, but often have to adjust to a new country and school system – all while trying to meet promotion and graduation standards.

Today’s immigrant students, in New York and all across the United States, are being held accountable to new and more difficult promotion and graduation standards without receiving the help they need. As a result, there has been an unprecedented increase in

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<sup>24</sup> Throughout this paper we refer to English Language Learners or ELL students. This description is understood to be coextensive with the term Limited English Proficient or LEP that is often used in statute and case law to describe the same group of students. In New York, ELL students are defined as students coming from homes where English is not the primary language and who test below a minimum English proficiency level on a state-mandated exam called the Language Assessment Battery-Revised (LAB-R). Students remain classified as ELLs until they score above the proficiency level on the New York State English as a Second Language Achievement Test (NYSESLAT), which is administered to all current ELLs each May. Source: New York City Department of Education, New York City’s English Language Learners: Demographics and Performance, Office of English Language Learners (Summer 2007), charts 20, 21 and 23, page 16-17 available online: [http://schools.nycenet.edu/offices/teachlearn/ell/DemoPerformanceFINAL\\_10\\_17.pdf](http://schools.nycenet.edu/offices/teachlearn/ell/DemoPerformanceFINAL_10_17.pdf)

<sup>25</sup> McHugh, Margie. “LEP and Immigrant Students in US Schools.” National Center on Immigrant Integration Policy (19 Oct. 2006).

<sup>26</sup> Linguistically segregated schools are those where more than one-third of the school’s total enrollment is also classified as ELL. Source: McHugh, Margie. “LEP and Immigrant Students in US Schools.”

dropout rates for immigrant students learning English, with many more ELLs being pushed out of high schools, as these schools attempt to suppress their dropout rates.

Even by the New York City Department of Education's own statistics, ELLs have one of the highest dropout rates – only 36 percent of ELL students in the New York City's class of 2008 graduated high school – or about half the rate of English Proficient students.<sup>27</sup> Data from the New York State Education Department also indicates that fewer ELLs take the Regents exams, those who take the exams are more likely to fail, and those who do pass are more likely to pass the exams with lower scores.<sup>28</sup> Beginning this year, all entering ninth-graders will be required to earn a Regents diploma to graduate high school. This new requirement has the potential of intensifying the already dire dropout crisis facing ELL students. This is a crisis. It demands change.

## RECOMMENDATIONS

New York State must address the high school dropout rate for immigrant and ELL students through comprehensive strategies and goal-setting to close the achievement gap.

- **Strengthen ELL funding accountability within the State Education Department:**  
In 2003, New York State's highest court upheld a lower court ruling that the way the state paid for education was unconstitutional. If all students were going to have a chance to meet the Regents Learning Standards, we were going to need to do things differently, and we were going to have to do more. The 2007 Campaign for Fiscal Equity (CFE) settlement promised the opportunity to begin to remedy many years of inequities for all students, particularly immigrant students learning English. As a result, the State made an unprecedented commitment of \$712 million in education funding for ELLs over four-years.

However, the past two years have been marked by lack of transparency on how these funds have benefited ELL students. Of particular concern is the lack of mechanisms to ensure that funds are used in services and programs to help ELL students succeed. At the most basic level, accountability is knowing where our tax dollars are going, and what our children are getting in return. An analysis by the Fiscal Policy Institute estimates that English Language Learners generated \$120 million, or 19%, in new foundation aid for New York City last year.<sup>29</sup> Yet, only 3.6% of these funds were specifically allocated for ELL program models.<sup>30</sup>

East Harlem Against Deportation urges the Regents and the State Department of Education to strengthen guidance and accountability on the use of ELL funds by requiring districts to use ELL-generated funds on programs for these students. Alternatively, we support legislation to require the Regents and State Education Department to create a comprehensive system-wide plan for improving ELL services and to guide districts and schools in improving services and outcomes for ELLs.

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<sup>27</sup> "Graduation Rates – Class of 2008 (2004 Cohort)." New York City Department of Education (Summer 2008). Available online: [http://schools.nyc.gov/Accountability/Reports/Data/Graduation/GRAD\\_RATE\\_2008\\_EXTENDED.pdf](http://schools.nyc.gov/Accountability/Reports/Data/Graduation/GRAD_RATE_2008_EXTENDED.pdf)

<sup>28</sup> META, Inc. "Ensuring an Adequate Education for ELLs in New York." Commissioned by the New York Immigration Coalition (2008).

<sup>29</sup> Renwick, Trudy. "Impact of Schools for New York's Future Act (A100) on State Aid for Limited English Proficient (LEP) Students." Fiscal Policy Institute (May 2008).

<sup>30</sup> Avitia, Deycy. "Analysis of New York City's Contract for Excellence Plan." New York Immigration Coalition (Jun. 2008).



- Invest in high quality, proven programs: The State and the City must provide adequate resources to support ELL students and ensure that quality programs and services are available throughout our schools. The East Harlem Against Deportation coalition supports recommendations from Getting it Right: Ensuring a Quality Education For ELLs in NY, a policy brief by the New York Immigration Coalition based on a study of successful schools in New York, as well as professional judgment panels with experienced ELL educators, and guidance from national experts.
- In particular, the coalition supports the following elements of a sound basic education for immigrant and ELL students: extended hours, Saturday instruction, and academic tutoring; emotional supports, including guidance counseling, mentoring, and dropout-prevention programs, particularly in high school; enhanced parent engagement, family outreach, and community partnerships; lower class sizes for intensive instruction; and trained ESL and bilingual teachers.
- We know that few ELL students currently receive these services. One study estimates that more than 7,500 additional bilingual and ESL teachers are needed to improve achievement in the ELL population.<sup>31</sup> We urge the New York State Education Department (NYSED) to guide and help districts and schools develop programs that include the aforementioned elements, which draw upon research-based best practices to improve outcomes for immigrant and ELL students.

## CHAPTER 5

### U-VISA CERTIFICATION

#### Recommendations for the New York Police Department

The Victims of Trafficking and Violence Protection Act, a bill with strong bipartisan and near unanimous support in the U.S. Congress, was signed into law October 28, 2000. It sought to expand the capacity of local law enforcement to investigate crime by establishing protections for immigrant victims. One important provision, the U-Visa, would provide a path to permanent residency for undocumented victims of violent crimes, including domestic violence, rape, attempted murder, and sexual assault.

The enthusiasm of immigrant rights advocates gradually turned into frustration, as the Department of Homeland Security waited seven years to issue regulations for the law. This despite a follow-up mandate from Congress, and a class-action lawsuit brought by organizations across the country. By the time the regulations were issued, several thousand immigrant victims found themselves in a bureaucratic limbo of temporary authorization.<sup>32</sup>

Petitioning for U Nonimmigrant Status is a complicated process, and victims are advised to retain help from one of the many well-regarded non-profit legal service organizations in New York. Applications must include – among other things – evidence of the crime, evidence of substantial harm, and evidence of cooperation with local authorities, as well as a personal narrative detailing the nature and extent of criminal activity.

<sup>31</sup> “Teacher Supply and Demand in NYS in 2005-2006, Second Annual Report.” New York State Education Department (2007), p. 27.

<sup>32</sup> Londoño, Ernesto. “Visa Places Abuse Victim In State of Uncertainty.” Washington Post (13 Nov. 2006). Also see: Bernstein, Nina. “Special Visas for Victims Remain Elusive Despite a Law.” New York Times (7 Mar. 2007).

Applicants are also required to have written certification from a government agency that has investigated or prosecuted the crime. In New York City, there has been significant action by local authorities to formalize this certification process, and to designate qualified supervisors to sign off on the document, known as Form I-918, Supplement B. The district attorney offices in each of the five boroughs, not to mention the city's Administration for Children's Services, have all developed appropriate protocol and moved forward on certifications.

Meanwhile, the New York Police Department has been slow out of the gate. Despite greater dialogue in recent months, thanks in part to pressure from a coalition of legal providers, it appears the NYPD has yet to sign off on a single U-Visa certification. Moreover, the police commissioner retains sole certifying authority, which creates significant bureaucratic logjams.

While district attorney offices are able to certify U-Visas in cases of prosecutable crimes – when the perpetrator has been apprehended and charged – sometimes the perpetrator remains at large, or is no longer alive. Certification then falls upon the local law enforcement agency. Without active NYPD engagement, the U-Visa remains out of reach for too many immigrant victims in New York City.

Improved U-Visa protocol is not a cure-all for unjust deportations; there are a limited number of applications in the pipeline. But U-Visas were created to help families in need of immediate relief, not protracted technical battles. The delays in implementation, first at the federal level and now in the city, violate the spirit of the federal law.

The delays also lead to a crisis of confidence in the immigrant community. If regulations that expand the muscle of federal immigration officials are vigorously and often zealously enforced, why then are regulations that protect immigrants – like U-Visas – encumbered by politics and bureaucracy? Just as local police must build trust with immigrants in order to help protect their community, government legislatures and executives must work to build that same trust.

## RECOMMENDATIONS

- The East Harlem Against Deportation coalition urges the NYPD to establish a formal and comprehensive protocol for U-Visa certification. Moreover, certifying authority should not be confined to the Commissioner himself, but instead granted to a select group of qualified personnel in the department. The protocol should also include provisions for public reporting of how many U-Visa applications have been received and how many have been certified. Such accountability measures will foster a more collaborative relationship between the police department and the immigrant community.
- We believe the New Immigrant Outreach Unit should assume a leadership role within the department on matters pertaining to U-Visas. The Unit should incorporate U-Visa education into the community organizing events it convenes and participates in throughout the city. The head of the Unit should be among those officers with authority to certify. Non-profit advocates have also recommended that the Chief of the Domestic Violence Unit be granted such authority; the East Harlem Against Deportation coalition strongly supports that position.