UNDER SIEGE

Life for Low-Income Latinos in the South

SPLC Southern Poverty Law Center

About the Southern Poverty Law Center

The Southern Poverty Law Center, based in Montgomery, Alabama, is a nonprofit civil rights organization founded in 1971 to combat bigotry and discrimination through litigation, education and advocacy. Its Immigrant Justice Project has filed numerous lawsuits on behalf of migrant laborers and guestworkers in a variety of industries across the South. Mary Bauer, director of the Immigrant Justice Project, is the principal author of this report. Sarah Reynolds was the lead researcher.

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A REPORT BY THE SOUTHERN POVERTY LAW CENTER

These migrant workers were among thousands who flocked to New Orleans to help restore the city after Hurricane Katrina. They worked long hours in dangerous conditions — only to be cheated out of the wages they earned. An SPLC lawsuit resulted in the payment of their withheld earnings.

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Executive Summary

In Tennessee, a young mother is arrested and jailed when she asks to be paid for her work in a cheese factory.

In Alabama, a migrant bean picker sees his life savings confiscated by police during a traffic stop.

In Georgia, a rapist goes unpunished because his 13-year-old victim is undocumented.

These are just a few examples of the injustices that confront Latino immigrants as they struggle to gain a foothold in the South.

The region is now home to the fastest growing population of Latinos in the country, many of them lured by the manufacturing and construction jobs created during the economic boom of the 1990s. But many in Dixie aren't treating their new neighbors with any semblance of Southern hospitality.

In fact, Latinos in the South – many of whom came here to escape crushing poverty in their home countries – are encountering widespread hostility, discrimination and exploitation.

They are routinely cheated out of their earnings and denied basic health and safety protections. They are regularly subjected to racial profiling and harassment by law enforcement. They are victimized by criminals who know they are reluctant to report attacks. And they are frequently forced to prove themselves innocent of immigration violations, regardless of their legal status.

This treatment – which many Latinos liken to the oppressive climate of racial subordination that blacks endured during the Jim Crow era – is encouraged by politicians and media figures who scapegoat immigrants and spread false propaganda. And as a result of relentless vilification in the media, Latinos are targeted for harassment by racist extremist groups, some of which are directly descended from the old guardians of white supremacy.

Instead of acting to prohibit and eliminate systematic exploitation and discrimination against Latinos, state and local governments in much of the South have exacerbated the situation. A number of Southern communities, for example, have enacted ordinances designed to limit services to undocumented immigrants and make their lives as difficult as possible, with the ultimate goal of driving them away. In addition, many law enforcement agencies in the South, armed with so-called 287(g) agreements with the federal government, are enforcing immigration law in a way that has led to accusations

"The assumption is that every Latino possibly is undocumented. So [discrimination] has spread over into the legal population."

of systematic racial profiling and has made Latino crime victims and witnesses more reluctant to cooperate with police. Such policies have the effect of creating a subclass of people who exist in a shadow economy, beyond the protection of the law.

The South's immigration explosion began in the 1990s. By 2006, six Southern states (Arkansas, Alabama, Georgia, North Carolina, South Carolina and Tennessee) had added 1.6 million Latinos.

Latino workers provided cheap labor to fuel the South's economy – building skyscrapers in Charlotte, harvesting onions in Georgia, slaughtering poultry in Alabama and rebuilding New Orleans after Katrina.

Many Latino immigrants exist in a shadow economy, beyond the protections that most workers take for granted.

Many of these new arrivals left their homes in Mexico, Guatemala, Honduras and other Latin American countries to escape poverty, which some experts believe has been worsened by U.S. trade policies. Many crossed the border illegally, risking their lives and freedom for opportunity in the United States, while others were originally "imported" by employers under the guestworker system. Many others are legal residents or U.S. citizens, caught in the crossfire of America's war on "illegals."

For this report, Southern Poverty Law Center researchers surveyed 500 low-income Latinos – including legal residents, undocumented immigrants and U.S. citizens – at five locations in the South to take the pulse of a community that is being increasingly driven into the shadows by a sweeping anti-immigration movement. [see Methodology, page 51]

We found a population under siege and living in fear – fear of the police, fear of the government and fear of criminals who prey on immigrants because of their vulnerability.

Many of the difficulties faced by undocumented immigrants are, no doubt, the result of their lack of legal status, which makes them easy prey for unscrupulous employers and puts them at constant risk from law enforcement. But even legal residents and U.S. citizens of Latino descent say that racial profiling, bigotry and myriad other forms of discrimination and injustice are staples of their daily lives.

"The assumption is that every Latino possibly is undocumented," says one immigrant advocate in North Carolina. "So [discrimination] has spread over into the legal population."

Systemic discrimination against Latinos in the region – by both private and public entities – constitutes a civil rights crisis that must be addressed. We offer recommendations for reform at the conclusion of this report.

CHAPTER 1

Latino Workers in South Face Rampant Abuse

KEY FINDING: 41% OF RESPONDENTS SAY THEY HAVE EXPERIENCED WAGE THEFT

They come for the work.

They harvest onions in Georgia and pack tomatoes in Florida. They pour concrete in Charlotte and clean hotel rooms in New Orleans. In cities and small towns throughout the South, they wash dishes, mow lawns and slaughter chickens.

They do the hardest, most hazardous work for the least pay, fueling our economy and making products cheaper for all of us.

Yet when it comes to the workplace, Latino immigrants in the South take their chances.

With the influx of Latino labor in the South, what has emerged is a shadow economy where employers are keenly aware that immigrants — including those who are working here legally — are often ill-equipped to stand up for their rights.

The result is rampant wage theft, intimidation and unsafe working conditions. Government regulation does little to protect them.

For undocumented workers, the situation is particularly oppressive. Theoretically, they have the same legal protections in the workplace as documented workers. Yet unscrupulous employers use their immigration status against them, threatening to have them deported if they object to wage theft or working conditions.

This dire situation facing Latino immigrants is reflected in the survey responses:

- Forty-one percent of those surveyed had experienced wage theft where they were not paid for work performed. In New Orleans, an astonishing 80 percent reported wage theft.
- Most people surveyed (about 80 percent) had no idea how to contact government enforcement agencies such as the Department of Labor. Many respondents did not know such agencies even exist.
- Overall, 32 percent of Latinos surveyed reported on-the-job injuries. Among those injured on the job, only 37 percent reported that they received appropriate treatment. The remainder of the Latinos who said they suffered on-the-job injuries reported that they were not paid for their lost wages, they did not receive medical care and/or they were fired because they were injured.

"When we weren't paid, we didn't even have money for food. These companies are robbing us of our money after we worked so hard."

The danger immigrants face when they stand up for their rights was powerfully illustrated when an immigrant advocate in New Orleans told SPLC researchers what happened when one Latino worker attempted to collect wages from a contractor.

"The contractor raised his shirt and showed he had a gun — and that was enough," said Eva San Martin, an advocate working in New Orleans. "He didn't have to say any more. The worker left."

Beltran, a day laborer in Louisiana, said he carpeted 10 apartments and was never paid the $3,000 he was owed for the work. It wasn't the first time he had been cheated.

"This happens to everyone," he said. "The humiliation begins there. I know in this country you can defend your rights, but people are afraid of the police."

The SPLC survey found Latino immigrants were employed in a variety of labor-intensive fields. Construction was the leading industry employing them, with 17 percent of respondents, followed by factory work (11 percent), cleaning (10 percent) and restaurant work (9 percent).

WIDESPREAD ABUSE IN WAKE OF KATRINA

Hurricane Katrina in 2005 created the ideal conditions for immigrant abuse as the cleanup and rebuilding effort drew thousands of migrant workers looking for employment. In the wake of the storm, the Crescent City quickly became home to a labor force eager to work but highly vulnerable to exploitation.

A look at a few of the cases that have resulted in legal action provides a glimpse into the conditions many of these workers endured. They also are a reminder of the immigrants who are not so fortunate to find legal help and the countless instances of abuse that go unreported every day.

Latino immigrants were among the hundreds of workers restoring schools in New Orleans following Katrina. Despite their hard labor, many discovered they were frequently shortchanged on payday.

"When we weren't paid, we didn't even have money for food," said Sergio de Leon, who cleaned toxic mud and mold from St. Bernard Parish schools. "These companies are robbing us of our money after we worked so hard."

The SPLC filed a lawsuit against LVI Environmental Services of New Orleans, Inc., and its subcontractor, D&L Environmental, Inc. on behalf of these workers. The case has since been settled.

Latino immigrants also worked to restore key public services in New Orleans and the Gulf Coast, including Tulane Hospital and Tulane University. They often worked 12 hours

They often worked 12 hours a day, seven days a week, to remove mold, mud and toxic contamination from the flooded buildings.

Belfor USA Group Inc. found certain subcontractors had not paid proper overtime wages.

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Workers employed by subcontractors of Belfor USA Group Inc. discovered they were not being paid the overtime wages they had earned. After the SPLC filed a lawsuit against Belfor on behalf of the workers, the company launched an internal investigation that found certain subcontractors had not appropriately paid overtime wages to their employees.

Belfor reached a settlement agreement in 2006 to ensure that hundreds of workers would receive the pay they earned.

Another group of immigrant workers were drawn to New Orleans to repair an apartment complex. They were promised a wage of at least $500 a week and an apartment at the Audubon Pointe apartment complex they were repairing. They arrived to discover they would be living in storm-damaged apartments and cheated out of wages. Their employer allegedly responded to complaints of nonpayment with threats of eviction and deportation.

"They said that we did not have rights in this country and that we had to shut up and continue working if we did not want problems," said Reyes Aguilar-Garcia, an Audubon Pointe worker, in an affidavit that's part of a lawsuit the SPLC filed against his employer.

Their apartments had holes in the walls or no finished walls, broken windows, smelly carpets and cockroaches. One worker shared a two-bedroom apartment with seven other workers. Despite these conditions, the fear of homelessness kept many workers from leaving.

"Without any money, Audubon Pointe was the only place we had to sleep, and we could not survive if we were to lose this housing, as bad as it was," Aguilar-Garcia said.

Forestry companies in the South have been among the most flagrant abusers of Latino guestworkers.

A federal lawsuit was filed in March 2008 on behalf of these workers by the SPLC, the Pro Bono Project and the National Employment Law Project. It alleges the employers violated the Fair Labor Standards Act and the Victims of Trafficking Protection Act. The case has since been settled and an agreement reached to pay the workers' wages.

GUESTWORKERS FACE SYSTEMATIC ABUSE

Having few opportunities in Peru, Humberto Jimenez jumped at the opportunity to earn money for his child's college education — even though it meant mortgaging his house.

A major hotel chain in New Orleans was looking for workers to fill jobs left empty after Hurricane Katrina. Labor recruiters promised 40 hours of work each week and plenty of overtime. Jimenez mortgaged his house in Peru to pay $4,000 in fees to a recruiter who helped him secure the job.

But the promises were not true. Many of the workers hired by the hotel chain found themselves working 25 hours a week or less. Jimenez couldn't make ends meet on what he earned — much less pay back the money he borrowed.

"Four thousand dollars is a lot of money in Peru," Jimenez said. "I came here to make enough money to see my child through college. If I had known the truth I would never have come."

Jimenez, who was in the country legally as a guestworker, could not get a second job or quit the job to find other work. That's because workers with H-2 guestworker visas for low-skill, seasonal jobs are bound to the employers who hire them under the program and cannot legally look for other work. They are often forced deeply into debt because of exorbitant fees charged by the recruiters who bring them to the United States. Accepting abuse and earning what little money is available is often seen as better than returning home with crushing debt and no earnings.

The SPLC documented widespread abuse in the H-2A and H-2B programs in its 2007 report, *Close to Slavery.* The report describes rampant wage violations, recruitment abuses, seizure of identity documents and squalid living conditions.

Under these conditions, it shouldn't be surprising to hear Latinos recounting stories of desperation, such as the one Berta of Oak Park, Ga., told for this report.

Berta was driving home from work one night when she saw two Latino men on the road looking for a ride. They were guestworkers who had escaped from their jobs. Their employer had threatened to fire them if they left the job site, an action that would cost them their visas and result in deportation.

The men risked an escape only because they weren't making enough money to live. The cold calculation for them was that it was better to become an undocumented immigrant than to work legally under their employer.

Antiquated labor laws in the South are vestiges of slavery.

"Even though we don't have papers, [undocumented immigrants] are sometimes a little freer because we don't have to ask permission from the boss to be able to leave," Berta said. "In some ways, it's like [guestworkers] are prisoners, because they cannot leave and look for other work. They are here like slaves."

SOUTH'S WEAK LABOR LAWS KEY TO ABUSE

It is not surprising that workplace abuse flourishes in the South. The South has the weakest labor protections of any region in the United States. Every Southern state, for example, is a "right to work" state, making it harder for workers to unionize and collectively improve wages and working conditions.

Further, these Southern states do not have strong enforcement mechanisms to help workers assert their rights. While many states have vigorous state Departments of Labor, that simply is not the case for most states in the South. The result is that, given the failure of the federal government to protect them, workers in the South are largely without recourse when their rights are violated.

In examining one major industry that relies heavily on Latino migrant labor — agriculture — it is easy to understand why conditions for agricultural workers in the Southeast are considered the worst in the nation. State laws to protect farmworkers from abuse are appallingly weak, or nonexistent.

For example, farmworkers are not covered by workers' compensation laws in many of the Southern states.[1] That means when farmworkers are injured on the job — and many are, given that it is one of the most dangerous occupations in the U.S. — they are routinely denied any benefits at all. And there is little or nothing they can do about it.

In addition, many state wage and hour laws, if they exist at all, exempt agricultural workers from their protection. In some states, farmworker children are even exempt from the state's compulsory education laws.[2] And many state health and safety laws exclude farmworkers.[3]

These antiquated laws are vestiges of slavery. The farmworker population in the Southeast has always been composed principally of racial or ethnic minorities and has suffered shocking prejudice and oppression as a result. As one North Carolina grower summed up the situation: "The North won the War on paper but we confederates actually won

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1 Employers in the following Southern states are not required to provide workers' compensation to their agricultural employees under most circumstances: Alabama, Arkansas, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.

2 Under Alabama Statute § 16-28-6(4), children who are legally employed under the state child labor code are not obligated to attend school. Because Alabama's child labor law (Ala. Stat. § 25-8-1) exempts agriculture, children employed in agriculture are not required to attend school in the state. In South Carolina, children as young as 12 can work legally in agriculture and can be exempted from attending school if they have finished the 8th grade (S.C. Code § 59-65-30(c)).

3 *See, e.g.,* Ala. Code § 25-1-1; Ark. Code Ann. § 11-2-101; O.C.G.A. (Georgia) §§ 34-2-2, 34-2-10; La. R.S. § 23.13.

"They said that we did not have rights in this country and that we had to shut up and continue working if we did not want problems."

Latino Cheese Workers Jailed after Demanding Pay

The factory workers had simply had enough.

On Oct. 22, 2007, after repeatedly being underpaid for their work and having their paychecks delayed for weeks, about a dozen Latino workers at Durrett Cheese Sales of Manchester, Tenn., decided to take a stand. They refused to leave the company's break room until they were paid.

Even after a supervisor fired them, they refused to leave. That's when company officials called in the sheriff.

"I was so happy when I heard that the police were on their way," said Teresa, one of the factory workers. "I thought to myself that they would help us get the checks we were owed."

But the sheriff's deputies weren't there to help the workers. Instead, they arrested and jailed them.

"I couldn't believe it, because we hadn't done anything wrong," Teresa said. "We were just asking for our paychecks for work we had already completed."

The workers were charged with trespassing, even though the officers knew they were involved in a pay dispute. The local prosecutor dropped the charges the next day, but the workers remained behind bars. The company had suggested they were undocumented immigrants.

Agents from Immigration and Customs Enforcement (ICE) took the workers to the Elizabeth Detention Center in Nashville, where they were interrogated. Some of the women had young children who were disabled or very ill. The women feared they would be deported without saying goodbye or arranging for their children's care.

An SPLC attorney eventually secured their release, and in October 2008, the SPLC filed a federal lawsuit charging that the company and the Coffee County Sheriff's Department subjected the workers to illegal retaliation and discrimination.

The Durrett work stoppage illustrates a plight all too familiar to Latino immigrants. They frequently encounter employers who see them as disposable workers to be exploited — people who can be underpaid or otherwise abused with little risk of a lawsuit.

MIXTECO WORKERS TARGETED

Durrett hired indigent Mexican workers to perform various jobs at the factory, including the slicing, packaging and processing of cheese. The company specifically targeted members of the Mixteco indigenous group in the Manchester area to work at the factory.

The workers say they were subjected to a hostile, intimidating and abusive work environment, where they were referred to as "stupid Indians" and "donkeys."

The company, in fact, repeatedly failed to pay the Latino workers on time before and after filing for Chapter 11 bankruptcy protection on Aug. 28, 2007. Some workers sometimes worked for more than a month without pay. Other times they were underpaid or paid with checks backed with insufficient funds. Durrett also repeatedly changed its pay dates. One of Durrett's supervisors threatened that if the workers quit they would not receive any of their back pay.

"The way they treated us was terrible," said Juana, another factory worker. "I had never been so badly treated at work. This experience hurt my children very much. They have suffered a lot because of this."

Farmworkers are not covered by workers' compensation laws in many of the Southern states.

because we kept our slaves. First we had sharecroppers, then tenant farmers and now we have Mexicans."[4]

The treatment in the fields described by one Latina is a sad confirmation of this attitude. Hilda, who has worked in the United States for eight years, described working in the fields of Georgia, where plants are covered in pesticides or even sprayed with pesticides as the workers harvest.

"There is no protection," Hilda said in an interview for this report. "A simple shirt, a bandana, no protection for the mouth or the nose — nothing. ...When we ask for protection, they say there is none."

In the spring of 2008, the author interviewed numerous migrant tomato workers in Immokalee, Fla., and found them desperately poor, fearful of retaliation and lacking in the benefits most workers take for granted. These workers earned as little as 40 to 45 cents for each 32-pound bucket of tomatoes they picked — or about $25 per ton.

The workers faced regular exposure to pesticides in the fields and chronic violations of wage and hour laws. As one worker said: "If you say something, they fire you."[5]

Farmworkers who try to stand up for their rights often find themselves frustrated by multiple layers of subcontractors and middlemen — an arrangement that seems designed to insulate corporations at the top from accountability for the mistreatment of workers. The same phenomenon was seen repeatedly in New Orleans with contractors working to clean up the city after Hurricane Katrina.

In southeast Georgia between 2003 and 2006, hundreds of Latinos — both foreign guestworkers and U.S.-based migrant laborers — toiled in onion fields controlled by Fresh Del Monte Produce (Southeast), Inc. a subsidiary of the food giant Fresh Del Monte Produce. They lived in Del Monte labor camps. They used Del Monte equipment. They were supervised by Del Monte employees.

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4 Charles D. Thompson Jr. and Melinda F. Wiggins, *The Human Cost of Food: Farmworkers' Lives, Labor and Advocacy*, University of Texas Press, 2002, p. 250.

5 See e.g. Testimony of Mary Bauer, Southern Poverty Law Center, before the Senate Committee on Health, Education, Labor and Pensions, U.S. Senate, April 15, 2008, available at www.splcenter.org/news/item.jsp?aid=308 (detailing the abuses of migrant tomato workers and recommended remedies).

The workers claim they were consistently cheated out of their pay. They contend hourly rates were sometimes wrong and that pay stubs frequently showed fewer hours than they actually worked. But the company claimed it wasn't responsible for shortchanging the workers — that it was the responsibility of an "independent" labor contractor. The SPLC brought suit against Del Monte and won a ruling that the labor contractor and the workers were really employees of the Del Monte subsidiary and that the company was indeed responsible for any wage abuses that could be proven.[6]

The federal ruling was an important milestone for workers, but the fact remains that most Latino farmworkers in the South have little or no access to legal representation.

Many low-income individuals across the U.S. rely upon legal services offices when they have legal problems. Unfortunately, many immigrants simply cannot do that. Federally funded legal services offices are prohibited from representing undocumented immigrants and many legal immigrants, as well.

Because there are few private lawyers or other nonprofits in the South willing to take cases on behalf of low-income immigrants, many people whose rights have been violated are left with no recourse whatsoever.

SUFFERING IN SILENCE

Even if an immigrant is fairly paid by an employer, there's still the worry of how the employer will respond to an on-the-job injury or illness.

Miguel, a Latino in Georgia, described the ordeal his brother faced after he began having trouble with his back on the job. The supervisor told Miguel's brother there was nothing he could do since the Guatemalan was undocumented. Eventually, his supervisor agreed to take him to the hospital — on one condition. He had to tell hospital officials that the company found him on the side of the road, drunk and run over by a car.

It was a story that would completely disassociate the man from the company that had employed him for nearly two years.

In New Orleans, an advocate recounted the story of a Latino whose thumb was severed on the job. The worker was taken to the home of his employer's brother where he waited for four hours until he was taken to the hospital.

A Latina in Nashville described how she cut herself while cleaning a restaurant. Although she had seen managers take non-Latinos to the hospital, she was told they wouldn't take her. Even after receiving medical treatment, her employer refused to pay any of the cost. The injury has left her with limited mobility in her hand.

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6 *Luna v. Del Monte Fresh Produce (Southeast), Inc.,* 2008 U.S. Dist. LEXIS 21636 (N.D. Ga. Mar. 18, 2008)

An AP study found that in the South, the rate of deaths for Mexican workers was more than double the national average for Mexican workers.

In 2004, an Associated Press investigation found that Mexican workers were about 80 percent more likely to die on the job than native-born workers. That figure translates to one Mexican worker a day dying on the job from accidental deaths; workers as young as 15 were "impaled, shredded in machinery, [and] buried alive."[7]

In the South, the rate of deaths for Mexican workers was 1 in 6,200 workers — more than double the national average for Mexican workers, the AP study found. The deadliest states were Georgia, Florida and North Carolina. The total deaths jumped from 27 in 1996 to 94 in 2002 — a more than three-fold increase.

Every day, the SPLC receives calls from workers who are not paid for work performed, illegally fired, or injured on the job and fired. Quite often, if the SPLC is unable to provide representation, there is no other legal recourse available. As a final resort, they are referred to the U.S. Department of Labor, even though it is highly unlikely they will ever see their lost wages.[8]

Berta, the Latina in Georgia, said the impact of workplace abuse, like being chronically exposed to pesticides, isn't fully realized while they still live in the United States. And the cost is not borne by the U.S. companies that employ them — or by the consumers who enjoy the products or services they produce.

"What happens is when we feel sick, we go back to our homeland, and that's where we die," Berta said. "The consequences are not seen here, they leave and they are seen in Mexico."

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7 Justin Pritchard, "AP Investigation: Mexican Worker Deaths Rise Sharply Even as Overall U.S. Job Safety Improves," The Associated Press, March 13, 2004.

8 See e.g. Testimony of the Southern Poverty Law Center before the Domestic Policy Subcommittee, Committee on Oversight and Government Reform, U.S. House of Representatives, June 26, 2007, available at www.splcenter.org/news/item.jsp?sid=102 (detailing the failure of the U.S. Department of Labor to deal with massive wage theft in post-Katrina New Orleans)

Workers gather after a long day of work near Florence, Ala.

U.S. Department of Labor Offers Little Help to Cheated Workers

Of the five Southern states surveyed, officials in all but one acknowledged to the SPLC that they simply do not enforce the minimum wage law at all. Instead, they merely refer complainants to the U.S. Department of Labor (DOL).

But for reasons that have been well documented, the DOL is ill-equipped to help most workers collect unpaid wages.[1]

In federal fiscal year 2007, the most recent year for which the Administrative Office of the United States Courts has published data, there were 7,310 Fair Labor Standards Act (FLSA) actions filed in all federal district courts, but only 151 of these actions — 2 percent — were filed by the DOL. The percentage of all FLSA actions filed by the department, as a proportion of all FLSA actions filed, has been dwindling for many years. Until fiscal year 1987, the department filed about half of all FLSA actions, and in many years a much higher percentage. (In that year, 48 percent, or 705 of 1,468 FLSA actions, were filed by the department.)

Moreover, the department does not conduct as many so-called full investigations as in the past. A full investigation is a wall-to-wall examination of all departments and all establishments of an employer. More and more, the department is conducting "conciliations" and "limited investigations." [2]

In a conciliation, the investigator, by means of a telephone call or quick visit, tries to resolve a case that seems to involve only one or just a few employees. But whether other employees have suffered similar violations — that is, whether the alleged violations represent a wider pattern — may never be determined.

In a limited investigation, only one department of a multi-department business is investigated, such as the warehouse of a retail chain, or only one establishment of a multi-establishment chain is investigated. This type of investigation can easily obscure more widespread violations.

WAGE INVESTIGATORS DWINDLE

The number of the department's Wage and Hour Division investigators has dwindled so that now the total number of hours devoted to investigating employers translates into the equivalent of an estimated 544 full-time investigators (based on 2004 data). The Department estimates that there are 135 million workers in 7.3 million establishments in the United States. This leaves each investigator with 245,000 employees to protect. These investigators are not only examining possible violations of the FLSA, but possible violations of the Family and Medical Leave Act, the Migrant and Seasonal Agricultural Worker Protection Act (AWPA), the Service Contract Act, the Davis-Bacon Act, and many other laws.

In 2008 testimony before the House Committee on Education and Labor, the Government Accountability Office reported that a study of the Wage and Hour Division of the DOL revealed that the department often failed to record complaints received, failed to use existing tools to increase compliance and failed to adjust its priorities in response to new data. [3]

1 See, e.g. *Wage Theft in America,* Kim Bobo, 2008.
2 See *Fair Labor Standards Act: Better Use of Available Resources and Consistent Reporting Could Improve Compliance,* United States Government Accountability Office, July 15, 2008.
3 Id.

CHAPTER 2

Racial Profiling by Law Enforcement is Constant Threat

KEY FINDING: 47% OF RESPONDENTS KNOW SOMEONE TREATED UNFAIRLY BY POLICE

Like African Americans during the height of Jim Crow, many Latinos in the South live in constant fear of being unfairly targeted by the police as they go about their daily lives.

Just the simple acts of driving to work or taking a child to a soccer match can result in intimidation or abuse — regardless of a Latino's immigration status. More than one person in the survey described the South as a "war zone" for immigrants, a place where harassment and routine inconvenience is a way of life and where life-altering consequences are always just one false step away.

This culture of fear is understandable given the many tales of police abuse and racial profiling recounted in extensive interviews for this report.

Forty-seven percent of the respondents in this survey said they knew someone who had been treated unfairly by police.

One of the major complaints is that Latinos are pulled over by police for the most minor of offenses — or no offense at all. Forty-seven percent of the respondents cited traffic stops as the most common form of "unjust treatment" by police. That figure climbs to 55 percent in Alabama and 60 percent in Georgia.

"Even if everything seems fine, I feel like I am being followed," one 37-year-old Mexican man living in Macon, Ga., told SPLC researchers. "If there is a cop behind you and you're doing everything right, you're still afraid."

Maria Eugenia, who came to Tennessee from Colombia, said her immigration papers are in order, but she is still afraid of being stopped by the police. "You never know when you will come across a racist police officer."

POLICE CHECKPOINTS

Police checkpoints in predominately Latino areas are a common complaint, particularly in rural areas of north Alabama. Fifty-five percent of respondents in Alabama said there are police checkpoints where they live.

These checkpoints can be a lucrative source of revenue for local governments, because many areas in the South charge substantial fines for driving without a license. Fines can range from several hundred dollars to several thousand, and many states can impose jail

"You never know when you will come across a racist police officer."

sentences. Some local ordinances allow police to confiscate a driver's vehicle and charge the owner for the number of days it sits in the lot. A number of jurisdictions use minor traffic offenses to funnel immigrants into deportation proceedings as well.

Claudia, a Mexican living in northern Alabama, has seen firsthand how the actions of police have left the Latino community isolated and fearful. Countless police checkpoints have been set up in areas near trailer parks where many Latinos live. During a May 2008 interview for this report, Claudia said there were checkpoints every weekend near these trailer parks.

"People are afraid to leave their homes," she said. "They go to and from work and don't leave the house if they don't have to."

Similar stories were reported in other communities.

"Elena," a Mexican living in south Georgia, reported daylong police checkpoints at the only entrance to her predominately Latino neighborhood. Cars were impounded, fines were issued and some neighbors were even handcuffed. The message sent from the checkpoint was clear: Stay in your home.

In a recent study by the Pew Hispanic Center, nearly one in 10 Hispanic adults — 8 percent of native-born U.S. citizens and 10 percent of immigrants — reported that in the past year the police or other authorities had stopped them and asked about their immigration status.[1]

Claudia said police set up regular checkpoints in Latino neighborhoods.

SAVINGS CONFISCATED

In May 2008, Victor Marquez was traveling to his hometown in Querétaro, Mexico, when the truck in which he was riding was stopped by a police officer in Loxley, Ala., "for failure to maintain a marked lane."

Marquez planned to pay for a retirement home in Mexico and was carrying his legitimately earned wages and savings, along with that of a brother. Even though Marquez was not arrested or charged with any crime, the officer confiscated almost $20,000, claiming it was drug money. [see sidebar, page 18]

"Samuel," a 25-year-old Guatemalan in New Orleans, was pulled over by police while riding his bicycle from soccer practice. The officer was looking for a woman's stolen bike. Even though the woman said she wasn't sure if Samuel's bike belonged to her, the officer took the bag containing Samuel's cleats from the handlebars, threw them to the ground and handed the bike to the woman.

1 Mark Hugo Lopez and Susan Minushkin. *2008 National Survey of Latinos: Hispanics See Their Situation in the U.S. Deteriorating; Oppose Key Immigration Enforcement Measures.* Washington, DC: Pew Hispanic Center, September 2008, p. 9.

"People are afraid to leave their homes. They go to and from work and don't leave the house if they don't have to."

No Charges, But Savings Confiscated

Driving through Alabama with a lot of cash is not a crime. But for migrant worker Victor Marquez, it might as well have been.

Marquez was traveling to his hometown in Querétaro, Mexico, to pay for a retirement home when a police officer pulled over the truck in which he was riding and decided to confiscate almost $20,000, claiming it was drug money.

After a season of harvesting beans in Florida, Marquez was traveling on Interstate 10 to Mexico so he could start construction of a house on land he had earlier bought. He carried his legitimately earned wages and savings, along with that of a brother, who also worked in Florida.

On May 5, 2008, a Loxley, Ala., police officer stopped the truck in which Marquez was a passenger "for failure to maintain a marked lane." The officer claimed there were reasons to suspect the cash was related to illegal drug activity. The money was confiscated, but Marquez was not arrested or charged with any crime.

Nine days later, the district attorney's office for Baldwin County asked the circuit court to issue an order forfeiting the money to the state for law enforcement purposes.

"This is the worst thing that has happened to me in almost 20 years I have been here as a farmworker in the United States," Marquez said. "It's an insult that they say this is drug money. My brothers and I worked hard in the fields to earn it."

Marquez said he spent nine years saving the money to build a home in Querétaro, where most of his family lives. "It will be a long time away before I can retire, but it has always been a dream of mine to have my own home in Querétaro to go to when I am no longer working," he said.

Citing racial profiling and a violation of his constitutional rights, the SPLC is representing Marquez as he tries to recover the money.

Marquez's case raises serious questions about whether statutes allowing law enforcement agencies to keep a portion of the money they confiscate provide incentives to target Latino workers who might be carrying cash.

AGENCIES KEEP CASH

Agencies working federal cases get to keep 85 percent of what they confiscate. The Marquez case falls under Alabama law, which also allows local law enforcement agencies to keep about 85 percent of what they confiscate. This means that from a single traffic stop, the law enforcement agency, if successful, could net about $17,000 of Marquez's money.

As of 2008, federal records show that during the past four years, the amount of assets seized by local law enforcement tripled — climbing from $567 million to $1.6 billion, a National Public Radio investigation found. This doesn't include assets kept by these agencies as part of state asset forfeiture programs.[1]

In light of these programs, one Texas state senator said the law enforcement culture in the South has particularly become "addicted to drug money."[2]

1 *Seized Drug Assets Pad Police Budgets*, National Public Radio, June 16, 2008, www.npr.org/templates/story/story.php?storyId=91490480 .
2 Id.

"Samuel" said a police officer took his bicycle to give to a woman whose was stolen.

Samuel was left on the street.

Hundreds of miles away in Tennessee, Miguel had his car towed away and impounded after a traffic stop by a police officer.

"I told [the officer] that the keys to my house, my paycheck and my tips from work were in the car," he said in an interview for this report. "He told me he didn't care."

The officer drove him out of town and left him there even though Miguel told the officer the traffic stop was within walking distance of home. Despite going through the legal system and paying a fine, he was never able to locate his car.

"Sometimes I feel terrorized because I am illegal," he said. "I only came here to work."

RACIAL DATA ON PROFILING SCARCE IN THE SOUTH

Those who study racial profiling have long advocated the retention of racial and ethnic data as an important practice to prevent racial profiling. In conducting research for this report, the SPLC found that most Southern states and localities do not require the collection of such data.

For this report, the SPLC requested data under state open records laws from several dozen localities where respondents reported profiling by the police. The vast majority of those localities refused to respond to our request and would not indicate what data, if any, they maintain.

One locality — Huntsville, Ala. — provided records that reveal some of the difficulties in interpreting the available data. Huntsville maintained substantial racial data related to roadblocks. However, the information collected about ethnicity contained only four categories: white, black, Asian and Indian. There was no record showing whether individuals were Latino.

Data provided by the city of Albertville, Ala., showed that 73 percent of the vehicles seized and impounded as a result of roadblocks were taken from drivers with Latino surnames. Census data for the small city in north Alabama shows that Latinos make up only 16 percent of its population.[2]

Georgia currently has no state law prohibiting racial profiling and does not require the collection of data that would allow one to objectively determine whether it is occurring. None of the Georgia localities to whom the SPLC sent open records requests provided any data to show that they were keeping records of their traffic stops to ensure that racial profiling does not occur.

2 "Census 2000 Demographic Profile Highlights, Albertville, Alabama," U.S. Census Bureau.

"The police get carried away by the color of the skin without knowing whether you are a citizen or if you are an immigrant."

The SPLC also received numerous complaints of racial profiling by immigrants in Louisiana, a state that has passed an anti-profiling statute. The statute requires law enforcement to collect and report data but provides an exemption from this requirement for agencies that adopt a written policy against racial profiling. As a result, virtually all law enforcement agencies have adopted such policies, and none is required to keep track of racial and ethnic data related to traffic stops.

287(G) AGREEMENTS LEAD TO SERIOUS ABUSE

Adding to these concerns is the 287(g) program, which allows local or state police to enter into an agreement to enforce federal immigration law. Latino immigrants in locales with 287(g) programs expressed enormous fears that the most minor transgression might result in the destruction of families.

Though 287(g) programs have been operating since 2003, Immigration and Customs Enforcement documents show that more than half of the 67 active partnership agreements on record by November 2008 were signed in mid-2007 or later. This is about the same time immigration reform legislation failed in Congress. ICE data shows these agreements have been negotiated disproportionately in the South. More than half of these partnerships — 37 — are in the Southeast.

One commentator stated, "ICE's roster of 287(g) agreements reads like a map to hotspots in the immigration wars, places where activists say relations between immigrants and the larger community are particularly strained."[3]

Baltazar, a Latino immigrant living in Charlotte, described the changes that occurred when local law enforcement began enforcing immigration law.

"When the police started acting as immigration agents, immediately they started having roadblocks — roadblocks on the main streets," Baltazar said. "The police get carried away by the color of the skin without knowing whether you are a citizen or if you are an immigrant."

Many question whether the eagerness among law enforcement agencies to round up undocumented Latinos is based mainly on bigotry.

In Nashville, a city with a robust 287(g) program, such notions were reinforced in January 2009 when it came to light that Davidson County Sheriff Daron Hall had spoken to a meeting of the white nationalist Middle Tennessee Council of Conservative Citizens on Nov. 22, 2008.[4] The Council of Conservative Citizens (CCC) is descended from the

3 Marcelo Ballvé, "Immigration Activists Battle Harsh Laws Across U.S.," New America Media, Dec. 22, 2008.
4 The SPLC's Hatewatch blog reported this on Jan. 29, 2009, based on an article in the Council of Conservative Citizens' *Citizens Informer,* October–December 2008.

ICE Terrorizes Communities, Latino Citizens

It was supposed to be the start of another school day for 15-year-old Marie Justeen Mancha as she sat in her bedroom, waiting for her mother to return from an errand in town.

But on this morning in September 2006, Mancha, a U.S. citizen, found herself in a situation she never expected to encounter in her own home.

"I started to hear the words, 'Police! Illegals!'" she said. "It seems as if those words still ring in my head today, giving me that fear of them busting into my home. I walked around the corner from the hallway and saw a tall man reach toward his gun and look straight at me."

She was caught in the middle of a botched immigration raid in southeast Georgia. Federal agents barged into homes without showing warrants and targeted U.S. citizens of Mexican descent, like Mancha, solely because of their skin color.

Two years later, Mancha recounted the experience before the House Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law. Her congressional testimony was part of a February 2008 hearing about problems with Immigration and Customs Enforcement (ICE) procedures.

Mancha, her mother and three other U.S. citizens of Mexican descent are plaintiffs in a federal lawsuit filed by the SPLC against ICE in 2006.

The lawsuit charges that ICE agents illegally detained, searched and harassed Latinos solely because of their appearance — a violation of their Fourth and Fifth Amendment rights — during an extensive campaign to drive them out of the area. A sixth plaintiff is a

(continued)

landlord who suffered damage to his rental properties when agents broke into trailers rented by Latinos.

Mancha told subcommittee members about the fear she felt that morning.

"I saw a group of law enforcement agents standing in the living room blocking the front door," she said. "My heart just dropped. I didn't know what was about to happen. ... When the tall man reached for his gun I just stood there, feeling so scared."

Mancha, who speaks with a gentle Southern accent, said the agents asked if her mother was in the U.S. legally. Her mother was born in Florida.

AGENTS SHOWED NO WARRANT

"I started to feel closed in, like I couldn't say no or not answer them because they were blocking the front door," she said of the agents, who never showed a search warrant.

"At times, I didn't want to be Mexican because of what we go through and how people look at us different and treat us and assume we're all illegal," she told the subcommittee.

The raids began on Sept. 1, 2006, and lasted for several weeks. They were intended to locate undocumented immigrants who worked at a poultry plant in Stillmore, a town of about 1,000 people in Emanuel County. But rather than conduct a raid only at the plant, dozens of agents fanned out across residential areas in three counties — stopping motorists, breaking into homes and threatening people with tear gas and guns. Hundreds were terrorized. Many fled into the woods.

The agents left Mancha's home after she answered their questions, telling them that she and her mother are U.S. citizens. Her mother arrived as the agents left.

ICE agents have conceded that they did not have warrants to enter the homes in southeast Georgia. However, they contend that their entries into homes were "voluntary." Nonetheless, Mancha's experience exemplifies the transformation of ICE into an agency where large, military-style raids have left immigrant communities seriously traumatized.[1]

A recent investigation found that ICE changed its focus in 2006 from deporting undocumented immigrants who are criminal and terrorism suspects to easier targets. The changes eliminated a requirement for 75 percent of those arrested to be criminals. This policy shift came after officials told Congress they would focus on the most threatening targets.[2]

These changes, according to *The New York Times*, allowed non-fugitives — those apprehended by chance without a deportation order — to be included in arrest counts of the teams in the National Fugitive Operations Program. The number of non-fugitives arrested surged to 40 percent while fugitives with criminal records fell to 9 percent of those arrested, the story found.

After the policy shift, ICE agents conducted a raid in New Haven, Conn., in June 2007. During the raid, agents didn't find a suspect at the address listed on a deportation order. The agents began knocking on doors and arresting any residents who said they didn't have legal status.[3]

The fallout from such events reverberates long after the agents leave a community. The SPLC interviewed residents immediately after the Georgia raid and returned in the summer of 2008. SPLC researchers found that Latinos in the community remain traumatized nearly two years later.

"I was so scared. I still am. I carry that fear with me every day — wondering when they'll come back," Mancha told the subcommittee.

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1 See for example "Paying the Price: The Impact of Immigration Raids on America's Children," National Council of La Raza, 2007.
2 Nina Bernstein, "Target of Immigrant Raids Shifted," *The New York Times*, Feb. 4, 2009.
3 Id.

"At times, I didn't want to be Mexican because of what we go through and how people look at us different and treat us and assume we're all illegal."

pro-segregation White Citizens' Councils of the civil rights era and is classified as a hate group by the SPLC.

When news of the appearance reached the local newspaper, Hall said he "had no idea" of the group's background and thought he was simply reaching out to a politically conservative group.[5] Nonetheless, Hall's appearance before the group sent a message.

"It is open season on Hispanics in Nashville now," Nashville immigration lawyer Elliott Ozment told the SPLC. Ozment once served on a council formed to advise the sheriff on 287(g), but the sheriff removed him after Ozment said publicly that the council played no meaningful role.

Sheriff's statistics in Nashville revealed that approximately 80 percent of the 3,000 individuals deported in the first year of the program were arrested on misdemeanor offenses. It's estimated that 25 percent were arrested on charges of driving without a license, an offense that frequently snares undocumented immigrants who cannot obtain the legal documentation to lawfully drive.[6]

For Juana Villegas, an undocumented immigrant from Mexico, a traffic stop in Nashville for a minor offense led to an appalling series of events. Nine months pregnant, Villegas was arrested pursuant to the 287(g) agreement.

Six days later, Villegas was released from the county jail. She had already given birth to her son, going through labor as a sheriff's officer stood guard in her hospital room. Much of the time was spent with one of her feet cuffed to the bed. She also was barred from seeing or speaking with her husband.[7]

The ordeal didn't end after her discharge from the hospital. Separated from her infant for two days, Villegas was not allowed to have a breast pump in jail. Infection set up in her breasts and her baby developed jaundice. She has since filed a lawsuit in a case supported by the SPLC.

THE TRADE-OFF

Although these stories show the devastating impact that overzealous law enforcement can have on the immigrant community, all residents are hurt when local agencies become preoccupied with enforcing immigration at the expense of other responsibilities. This was evident when a newspaper investigated the Maricopa County Sheriff's Office in Arizona — an agency that has gained national attention for its efforts to curb illegal immigration.

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5 Chris Echegaray, "Davidson County Sheriff Addresses White Supremacist Group," *The* (Nashville) *Tennessean*, www.tennessean.com/apps/pbcs.dll/article?AID=200990130031, Jan 30, 2009.

6 Stephen Fotopulos, Immigrant and Refugee Rights Coalition, "Overly Broad Deportation Program Needs Common Sense Guidelines," *The* (Nashville) *Tennessean*, April 17, 2008.

7 Julia Preston, "Immigrant, Pregnant, Is Jailed Under Pact," *The New York Times*, July 20, 2008.

"If the local police are doing federal law enforcement, other law enforcement responsibilities get a lower priority by default."

The investigation found that as Sheriff Joe Arpaio and his deputies arrested hundreds of undocumented immigrants, the department was failing to meet the response time set for life-threatening emergencies. It also found that "[r]ampant overtime spending" on immigration efforts pushed the office into "financial crisis" to the point of closing facilities across Maricopa County.[8]

Records examined by the newspaper also showed that efforts to fight illegal immigration by enforcing the state's human smuggling law pulled deputies from other parts of the department when it was already short-handed.

"A lot of this is the trade-off," Doris Meissner, a former commissioner of the U.S. Immigration and Naturalization Service, told the newspaper. "If the local police are doing federal law enforcement, other law enforcement responsibilities get a lower priority by default."

The economic downturn has exposed another trade-off that comes with the 287(g) program. When the sheriff's department in Wake County, N.C., was asked to trim its budget by 10 percent, the sheriff said he wanted to part with 287(g) — a program that costs the department almost $500,000 a year — *only* if the county's budget crisis reached worst-case levels. The program was placed on a list of cost-cutting measures, but the prospect of its elimination appeared unlikely in early February 2009.[9]

"With the economy as bad as it is, everything should be up on the table," Tony Asion, executive director of the North Carolina advocacy group El Pueblo, told a reporter. "We definitely need more police officers on the streets and not playing immigration officials at the jail."[10]

8 Ryan Gabrielson and Paul Giblin, "MCSO Evolves into an Immigration Agency," *East Valley Tribune*, July 9, 2008.
9 Sarah Ovaska, "Wake Sheriff Wants to Keep Deportation Program," *The (Raleigh, N.C.) News & Observer*, Feb. 4, 2009.
10 Id.

CHAPTER 3

Fear and Distrust Keep Latino Immigrants from Reporting Crime

KEY FINDING: ONLY 46% SAY THEY HAVE CONFIDENCE IN POLICE

Eduardo, a young Latino man in New Orleans, was walking to a store when he and his friends were accosted by a group of young men. The men pulled guns on Eduardo and his friends and beat them up.

The robbers took their money and telephones, leaving the young men on the street to walk home.

Such crimes have become so pervasive in the Latino world that a phrase has been coined to describe them — "amigo shopping."[1]

Latino immigrants like Eduardo have, in fact, become prime targets for robbery and other crimes. One reason is that because most undocumented immigrants can't open bank accounts, criminals know they are more likely than others to be carrying large sums of cash. Day laborers are particularly vulnerable.

"They've been dubbed walking ATMs," said Eva San Martin, an advocate working in New Orleans.

There's another reason criminals target Latino immigrants: They often don't report crimes, ensuring that criminals face little prospect of arrest.

In Eduardo's case, like many others, no one called the police.

In addition to robbery and theft, Latinos increasingly are the victims of crimes motivated by hate. FBI statistics show a 40 percent rise in hate crimes against Latinos between 2003 and 2007.[2] The FBI statistics do not break down the hate crimes against Latinos by region.

These hate crimes are in no way limited to the South. In a recent case that sent shockwaves throughout the nation, Ecuadorian immigrant Marcelo Lucero was stabbed to death in Patchogue, N.Y., during an attack by a group of teens on Nov. 8, 2008. Prosecutors say seven teenage boys attacked Lucero as part of their regular pattern of "beaner hopping." One told police, "I don't go out doing this very often, maybe once a week."[3]

1 Ernesto Londono and Theresa Vargas, "Robbers Stalk Hispanic Immigrants, Seeking Ideal Prey," *Washington Post*, Oct. 26, 2007.
2 See *Hate Crime Statistics*, 2003-2007, Federal Bureau of Investigation.
3 Anne Barnard, "Latinos Recall Pattern of Attacks Before Killing," *The New York Times*, Jan. 8, 2009.

"Sometimes we are scared of filing a complaint because [the police] see it as a way of asking us for legal status."

NO CONFIDENCE IN POLICE

In the SPLC survey, only 46 percent of the respondents said they have confidence in police. In south Georgia, only 27 percent said they are confident in the police.

These complaints indicate a serious trend that may be impossible to accurately measure. The survey findings suggest that the number of unreported crimes is high and that the toll it takes on a community is great.

Erandi, a Latina in Tennessee, said "there are thousands of injustices, hour after hour, every minute. What is told in the news is half of what people [go through]. I don't think the news has enough time to report the many injustices that happen."

Interviews for this report suggest that immigrants in the South often make a wholly rational choice in deciding not to report crime.

That's because local police are increasingly involved in enforcing immigration law. If a victim does not have the proper documentation to be living legally in the United States, reporting a crime carries the distinct risk of being jailed and deported. Even those who are here legally may fear harassment or may not report crimes because they want to protect friends, family members and witnesses from that risk.

The *Police Chiefs Guide to Immigration Issues,* published by the International Association of Chiefs of Police in July 2007, also recognized the reluctance of immigrants to report crime and cited possible causes.

"Ethnic minorities are often afraid of the perceived potential for racial profiling and prejudice towards them by the police and the communities they reside in," the guide stated. "This dynamic results in fear and distrust in the immigrant community and a general lack of cooperation with law enforcement."[4]

The obvious result of this reluctance to go to the police is that criminals who might otherwise be locked up are not caught and prosecuted, leaving them free to victimize others.

It's not uncommon for crime victims to become targets of an investigation that can ultimately lead to deportation.

"Sometimes we are scared of filing a complaint because [the police] see it as a way of asking us for legal status," said Gabriela, a Latina in Nashville. "So this is when we say, 'Never mind, I will remain silent.' They robbed me and there is nothing that I can do about it because: What if they deport me? That is the fear that one has with the police. We have to allow all of these things so that we are not deported."

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4 *Police Chiefs Guide to Immigration Issues*, International Association of Chiefs of Police, July 2007, p. 21.

Matilde has watched the immigrant community in North Carolina grow more fearful of the police over time. He came to the United States from El Salvador and was granted temporary protected immigration status.

"One loses trust [in the police]," he said. "Now, you call and say, 'I've been robbed,' and they hear you are Hispanic. They start to ask you many things before they arrive. They ask if you have legal status. Because of this, you are afraid to call."

This puts one vulnerable group, in particular, at greater risk. Matilde said he has seen an increase in domestic violence as more battered women opt against calling police for fear they will be asked about their immigration status. This can leave women defenseless against physical abuse.

Efforts to encourage immigrants to report crime have presented their own problems. The U-visa was created by Congress in 2000 to grant temporary legal status to crime victims who are cooperating with a police investigation.

It took eight years for the federal government to issue the first U-visa. By the end of 2008, it had issued just 65 U-visas, a *Los Angeles Times* investigation found. About 13,300 people have applied for these visas, and 20 have been denied. Immigrant advocates have urged faster action to encourage victims to come forward and assist police.

287(G) DISCOURAGES COOPERATION WITH POLICE

Latinos appear even less likely to contact law enforcement in areas where there are 287(g) agreements that allow local or state police to enforce federal immigration law. Both documented and undocumented immigrants, as well as Latino U.S. citizens, told the SPLC that the program made them fearful of the police and reluctant to call the police if they are victimized.

These findings were illustrated in survey responses from two cities with 287(g) agreements — Nashville and Charlotte. In Nashville, 73 percent of Latinos surveyed said they are more reluctant to cooperate with police because of 287(g). In Charlotte, two-thirds of individuals (66 percent) reported that the agreement affected their willingness to speak with the police.

"ICE is killing us little by little," said Leticia Alvarez, organizing director for the Tennessee Immigrants Refugee Rights Coalition. "People are now afraid to leave their homes and go in the street."

Rape of Latina Teen Goes Unreported, Unpunished

The fear that keeps many immigrants from reporting crimes runs so deep that even rape can go unreported and unpunished.

That was the case in 2007 when a Latino family in south Georgia contacted the SPLC about the sexual assault of a 13-year-old girl. A family acquaintance had raped the girl, and her relatives were unsure of how to protect the child. Most of the family members were undocumented immigrants.

When the SPLC contacted the local prosecutor about the case, he said he would be willing to prosecute the suspect. But there was a caveat. The prosecutor said that if the girl came forward and he discovered that she was undocumented, he would feel obligated to contact Immigration and Customs Enforcement.

SPLC attorneys believed that the girl and her family were eligible to receive immigration relief under the federal Violence Against Women Act. However, given the prosecutor's threats, the family concluded the risk of coming forward was too great.

The family decided to not report the crime at all. The rapist went unpunished.

CHAPTER 4

Latina Women Endure Sexual Violence, Discrimination

KEY FINDING: 77% OF LATINA WOMEN SAY SEXUAL HARASSMENT IS A MAJOR PROBLEM ON THE JOB

Latina women in the South face the same workplace challenges that other Latinos face. But, in addition to the other difficulties — wage theft, injuries, discrimination on the basis of race and ethnicity, and retaliation — they suffer high rates of sexual harassment and crime victimization.

Approximately 44 percent of the individuals surveyed for this report were women. Not surprisingly, their answers on many questions deviated substantially from the answers of male respondents. Concerns about violence, sexual harassment and the police were all more keenly expressed by women.

- Women were far more likely to report they believe women are the victims of discrimination at work — 72 percent versus 48 percent of men.
- 77 percent of women said sexual harassment was a major workplace problem.

The SPLC's research reveals two major themes: When these women arrive in the United States, many have already suffered severe trauma and are victims of serious crimes, often as a result of violence that occurred during migration to the United States. And the criminal justice system too often fails to protect them when they are victimized in the United States.

The stories recounted by immigrant women present a stark picture of the problems they face. A recurring theme is the male supervisor using immigration status as leverage to coerce sexual favors from female employees. These women often have little or no idea about sexual harassment laws and have nowhere to turn.

"There are some bosses, supervisors or whomever that want to take advantage of their position so that [female employees] will have sex with them," said Gabriela, a Latina in Nashville. "If not, they tell them that they are going to fire them. They want to intimidate with the simple fact of saying, 'You are an illegal and I can call immigration.' And they use that fact so that they can harass."

There are also countless tales of discrimination. Verónica, a Latina from Mexico, came to the United States on a guestworker visa to cut greens and harvest onions. She was a hard worker. She was also pregnant. Despite the fact that she was meeting her work demands, her supervisor fired her when she was eight months pregnant and told her the company no longer had a job for her. He told her that she should go back to Mexico and have her baby. Verónica found herself without a job and homeless because she was kicked out of her employer-provided housing.

"There are some bosses, supervisors ... that want to take advantage of their position so that [female employees] will have sex with them."

Border Crossing Leads to Kidnapping Ordeal

When her mother died in Mexico, "Elena" decided to make the dangerous trek back across the border while she left her husband and children behind in Statesboro, Ga.

Elena had heard stories of people being kidnapped, raped and abused while crossing the border, but her mother's passing made the February 2007 trip a necessity. What occurred was a harrowing ordeal typical of the violence immigrant women encounter as they cross the border. The women lucky enough to escape their captors enter the United States victimized and more fearful, anxious and vulnerable than immigrant men.

For Elena, it appeared as if the journey across the border would be uneventful until she, her brother and a group of about a dozen others crossed back into the United States on the way home.

That's when they were surrounded by armed bandits.

They were forced to march, with one man leading the group and the rest standing behind them with weapons at the ready. "They made us walk three days and three nights, just walking, no eating, no drinking," Elena said. "They brought us through the desert. There was a lot of suffering."

After seeing two girls raped, Elena developed a strategy to avoid the same fate.

"I got close to my brother, saying he was my husband in order to protect myself," she said.

Eventually, they were locked in a large house, possibly in Arizona.

"We can't get out. No one can do anything. We are barefooted, without blankets, and it is very cold," she said. "We have nothing to eat locked up in a house, three days and three nights."

Elena discovered the kidnappers operated a rather professional and large criminal endeavor. They appeared well-versed in their individual responsibilities and roles in the operation. Also, the house was large enough to hold several dozen people. She described three large rooms holding 10 to 12 hostages each.

Once the hostages were at the house, the kidnappers got the phone numbers of family members and called to demand ransom.

"I saw three young men that had been locked up in that house for two months because their families wouldn't respond on their behalf," Elena said. "They had wasted away."

FAMILY PAYS RANSOM

Within 72 hours, Elena's family had borrowed enough money to pay the $6,000 demanded by the kidnappers.

She was loaded into a car with several other hostages and driven for six hours to the Las Vegas McCarran International Airport. Even during their final hours as hostages, they were mistreated and deprived of food and water.

The trip came to an abrupt end at the airport where Elena was given a plane ticket and abandoned. She borrowed a phone from a stranger and called her husband to tell him where to pick her up when her plane landed.

Elena's family is still working to pay off the debt they incurred raising the ransom money. There's also the trauma that remains. She said one thing kept her going throughout her ordeal.

"I knew that on the other side I had my family and I had to be strong for my children, because they were waiting for me."

Latina Fights Back Against Harassment

Guadalupe felt she had nowhere to turn.

At the nursery where she worked, her supervisor would say sexual things to her and ask her to have sex with him. He would kiss and touch her against her wishes.

This treatment grew worse until he threatened her at knifepoint.

She was scared. Guadalupe came from Mexico and did not know much about U.S. law. As far as she knew, the company did not have a process to file a sexual harassment complaint.

She didn't know how to make her supervisor stop and she could no longer continue working under these conditions.

Eventually, she left her job.

When she learned about her legal rights, she filed a complaint for sexual harassment with the U.S. Equal Employment Opportunity Commission.

"[I took action] because when my daughter would ask me why I was crying and I told her it was nothing, she would say that I should tell her dad and her because they love me a lot," Guadalupe said. "Seeing my daughter, who was so little, telling me that, I knew that I had to do something."

After the agency investigation, Guadalupe sued the company in court. Eventually she reached a confidential settlement. She now believes the company will treat other women better in the future.

Verónica joined a pregnancy discrimination lawsuit against the company and reached a settlement.

"I would tell [other women] to not be afraid, because they have the same rights as other people," she said. "We all have the same value as human beings."

Although immigrant workers, regardless of their immigration status, are covered by federal anti-employment discrimination law,[1] in practice immigrant women face enormous obstacles to asserting their rights and have fewer available legal remedies. One court ruling, which the SPLC believes is erroneous, suggested that undocumented immigrants may not be entitled to the protections of Title VII of the Civil Rights Act of 1964, the major civil rights law prohibiting workplace discrimination.[2] The ruling in this case sends the message to undocumented women and the perpetrators that it will be difficult for them to get justice through the judicial system.

One SPLC client was savagely beaten by a supervisor on the job, even after she reported the supervisor's harassment to the company. When she filed a charge of discrimination with the U.S. Equal Employment Opportunity Commission, the company's response was predictable: The company believed the worker was undocumented and entitled to no recourse.

The belief that undocumented women who are victims of sexual harassment are entitled to no relief is not supported by the great weight of law under Title VII. But employers have been emboldened by the U.S. Supreme Court's decision in *Hoffman Plastic Compounds, Inc. v. NLRB,* 535 U.S. 137 (2002). *Hoffman* essentially found that undocumented workers who complained (under the National Labor Relations Act) that they experienced retaliation for supporting a union may not receive pay for lost work when they sue. This perverse ruling provides an enormous incentive for employers to hire undocumented workers — and little incentive

1 EEOC v. City of Joliet, 239 F.R.D. 490, 492 (N.D. Ill. 2006)
2 *Egbuna v. Time-Life Libraries* (4th Cir. 1997)

More than one woman interviewed for this report said she had been raped or witnessed a rape en route to the United States.

for employers not to abuse them. Since most Southern states have weak or no anti-discrimination statutes and systems of their own to complement the federal system, most undocumented workers who face discrimination in the South have little legal recourse in practice.

Immigrant women are faced with additional obstacles, including language barriers, in their attempts to seek justice for the violence against them. Immigrant women have reported taking their abusers to court only to find that the court provided no interpreter and that the abuser himself would serve in that role.

There are also no legal protections to prohibit law enforcement from turning crime victims — even victims of rape — over to Immigration and Customs Enforcement (ICE). The SPLC is aware of several cases in which female victims of crimes have been turned over to ICE and deported.

One immigrant advocate in North Carolina spoke to SPLC researchers about a domestic violence case where the abuser was a permanent resident and his wife was an undocumented immigrant. The woman persuaded her undocumented 13-year-old daughter and her undocumented 24-year-old niece to testify in court.

An ICE agent showed up at the proceedings and arrested the wife, daughter and niece.

Given this atmosphere, it is not irrational for immigrant women to be afraid of law enforcement and to refrain from making complaints. This, of course, makes them more vulnerable to attacks.

WOMEN DESCRIBE VIOLENT JOURNEY

Even before these women arrive in the United States, they often endure a harrowing and violent journey into the country. An overwhelming majority of women — 89 percent — describe the process of migration to the U.S. as more violent for women.

More than one woman interviewed for this report said she had been raped or witnessed a rape en route to the United States.

A 44-year-old Mexican woman in Stillmore, Ga., recalled that when she illegally crossed the border, the smuggler took her to a river where she could change her clothes. He raped her there.

Once she was in the United States, she eventually sent for her 14-year-old daughter. During her daughter's journey across the border, the teen was kidnapped, repeatedly raped and even forced to live with a man at one point.

She wasn't reunited with her family until she was 16.

"When I came across the border, it was terrible," said "Laura," a 41-year-old Honduran woman in the United States. "My family doesn't know anything. It was too terrible to tell them. I saw a woman get raped along the way. We didn't have food for days."

CHAPTER 5

Discrimination, Hostility a Staple of Life for Latinos in South

KEY FINDING: 68% OF RESPONDENTS SAY THEY SUFFER RACISM IN THEIR DAILY LIFE

Discrimination is a humiliating part of everyday life for many Latinos in the South.

Life for Latinos — regardless of immigration status — is an experience where the most mundane chore becomes a burden and where you must constantly prove yourself innocent of violating immigration law. It's an experience where renting an apartment or renewing a license can become a never-ending task of providing identification — a task people of other races and ethnicities rarely face.

Then there's the hostility aimed at anyone who appears Latino — hostility ranging from disapproving looks to physical attacks. This experience is reflected in the SPLC survey findings. Sixty-eight percent of the Latinos surveyed reported encountering what they perceived as racism — from "looks" to "physical abuse" — on a regular basis. Two-thirds reported that they have been made to feel unwelcome by others in the community.

Sometimes this hostility can turn into violence. FBI statistics show that, nationwide, hate crimes against Latinos increased 40 percent from 2003 to 2007,[1] a rise that has coincided with the increasingly ugly propaganda about Latino immigrants that has seeped into mainstream politics and media.

Hector Martinez, a church administrator of Iglesia de Guadalupe in Tennessee, attributed discrimination against Latinos to a region in the early stages of coping with a swift influx of immigrants. "Here in Nashville, we are where we were in California 50 years ago," said Martinez, who lived in California for many years.

Other studies have also documented the perception of discrimination among Latinos. In a 2008 Pew Hispanic Center survey, one in seven Latinos nationwide said they had trouble in the previous year finding or keeping a job because of their ethnicity. One in 10 reported the same about finding or keeping housing.[2]

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1 See Hate Crime Statistics, 2003-2007, Federal Bureau of Investigation. The statistics do not break down hate crimes against Latinos by region.

2 Mark Hugo Lopez and Susan Minushkin. 2008 National Survey of Latinos: Hispanics See Their Situation in the U.S. Deteriorating; Oppose Key Immigration Enforcement Measures. Washington, DC: Pew Hispanic Center, September 2008, p. 9-10.

"As soon as we show our face (to a landlord), they start asking for documents — and documents they never ask the Anglos for."

In the SPLC survey, 70 percent said they have experienced racism in finding housing. Another 20 percent were "unsure."

While the nasty looks and bigoted comments reported in this survey cannot be stopped by laws, these findings suggest that further actions are necessary to protect Latinos in the South from illegal discrimination.

RAMPANT HOUSING DISCRIMINATION

Housing was the most significant source of discrimination complaints. Many of the stories recounted to SPLC researchers appear to indicate serious violations of the Fair Housing Act.

Most Latinos in the SPLC survey said they rent their residence instead of owning — a rate of 75 percent versus 20 percent.

The respondents described a variety of difficulties in obtaining decent housing and dealing with landlords. Baltazar, who lives in Charlotte, said immigrants face "intense racism" in finding housing. "It is very, very painful for us."

Some landlords check immigration status — but only for those perceived as Latino. Some take advantage of their tenants' vulnerable status by refusing to make repairs or by imposing illegal rent or utility increases. Some threaten to call Immigration and Customs Enforcement if Latino immigrants complain about housing conditions.

"As soon as we show our face (to a landlord), they start asking for documents — and documents they never ask the Anglos for," one survey respondent told SPLC researchers.

A New Orleans immigrant advocate described how discrimination has a snowball effect. Since landlords know that immigrants are often victims of wage theft by their employers, they are wary of renting to immigrants because they may be cheated out of pay and unable to pay rent.

The desperation to find a place to live can be seen in the condition of the residences some immigrants call home.

"I have seen people living in places where even animals shouldn't live, because it is so difficult to find housing," a Mexican immigrant in New Orleans said. "I lived in a place with no hot water, no bathroom, with flies and bugs, and I paid $300 a month."

Landlord tenant laws are weak in much of the South, and there is little advocacy on behalf on immigrants related to Fair Housing Act issues. Housing advocates reported that, although discrimination is rampant, immigrants rarely bring cases to court because of the perceived risks of taking such action. One advocate told the SPLC that he was unable to assure immigrants that their immigration status would be kept confidential if a complaint were filed with the Department of Housing and Urban Development.

"I lived in a place with no hot water, no bathroom, with flies and bugs, and I paid $300 a month."

A review of the docket (in December 2008) of the Housing and Civil Enforcement Section at the Department of Justice's Civil Rights Division reveals that it is involved in hundreds of lawsuits across the nation. However, not a single lawsuit concerns Fair Housing Act issues involving Latinos in the South, despite the fact the law protects even undocumented immigrants from discrimination.

In Greensboro, N.C., two Latinos said they endured apartments with roach and rat infestations, unsanitary carpets and walls, and broken windows. The conditions spurred the men to file a lawsuit alleging the apartment complex violated the city's Fair Housing Ordinance and discriminated against Latinos. The city of Greensboro joined the men in the lawsuit.[3]

But that suit is a rare exception.

"They (Latinos) don't complain," Yamile Walker, the Greensboro Human Relations Department's administrator, told the local newspaper. "It has to get to a very frustrating level for a Latino to come forward and say, 'I'm being mistreated for being a Latino.' So, we don't get the number of cases that I know are out there."[4]

HOUSING ORDINANCES TARGET LATINOS

Local housing ordinances also are causing problems for many Latinos. Dozens of local governments have passed anti-immigrant ordinances in recent years. Many of these appear neutral on their face; that is, their language does not appear to target immigrants. For example, localities in Alabama have passed laws to limit the number of unrelated people who can live together. While these ordinances do not mention immigrants, the discussion and political rhetoric surrounding them leave little doubt that they are designed to target Latino immigrants.

When Prattville, Ala., adopted new housing rules, the city council president denied that it was about "driving illegal immigrants out of town."[5] However, two months earlier the city's mayor told a meeting of the River Region Minutemen, an organization classified as a nativist extremist group by the SPLC, that housing ordinances are one way to deal with the "aftermath" of illegal immigration.[6]

"We have areas in the city where we have multiple folks living in a single-family residence," Prattville Mayor Jim Byard said at the 2007 meeting. "By and large, most of these residences are inhabited by immigrants — illegal or otherwise, I really don't know. We have an issue with multiple families, and what the city is doing to address that is we are

3 Jennifer Fernandez, "Renters Sue for Unfair Treatment," (Greensboro, N.C.) *News and Record,* Sept. 3, 2007.
4 Id.
5 Kenneth Mullinax, "Prattville Changes Housing Rules," *Montgomery* (Ala.) *Advertiser*, Nov. 7, 2007.
6 Layne Holley, "Mayor: Immigration Woes Reaching Local Level," *Montgomery* (Ala.) *Advertiser*, Sept. 14, 2007.

defining more narrowly the definition of single-family in our subdivision regulations."[7]

The intent isn't lost on the public either. After the ordinance passed, a letter to the editor of a local newspaper praised the city for passing the ordinance to do "something to take care of the illegal alien problem in this state."[8]

One homeowner in Pelham, Ala., described to a reporter how such ordinances target the Latino community, even if the law doesn't mention race.

"I think this is race-based," Misty Gomez told *The Birmingham* (Ala.) *News*. "They are not going into white people's $350,000 homes and checking to see who is there. Since the U.S. can't pick on black people anymore, they have to pick on somebody, and now it's Hispanics."[9]

There are signs some Latinos are fighting housing discrimination. The Fair Housing Center of Northern Alabama has seen an increase in complaints filed by Latinos and by people with high-cost mortgages following a media campaign about predatory lending practices.[10]

IMMIGRATION STATUS DOESN'T MATTER

Latinos face discrimination regardless of their immigration status.

"The assumption is that every Latino possibly is undocumented," said Angeles Ortega-Moore, an immigrant advocate in North Carolina. "So it [discrimination] has spread over

Women Booted From Salon for Speaking Spanish

When "Rene" took her 3-year-old daughter to a salon in Decatur, Ala., she never expected the appointment would end with the police being called.

That's exactly what happened, though, when they upset the salon owner.

Their offense: Speaking Spanish.

As Rene and her daughter waited in the reception area for their appointment time, Rene instructed her daughter in Spanish to be sure to sit still as the stylist cut her hair. The salon owner overheard the conversation and demanded they speak only English in her shop.

Rene tried to tell the owner that her daughter had not learned English yet.

The salon owner threatened to call the police if they didn't stop.

She refused, and the police were called.

When the police came, they told Rene that because it was the salon owner's property, she and her daughter must leave the shop. Stunned, the mother and daughter left the salon.

"People feel uncomfortable when we speak in Spanish," said Rene's sister, Claudia. "Maybe they think we are talking about them. Sometimes you enter a place, they stare at you in this way, like it's something weird."

After the incident, Claudia and Rene told their story to the local Spanish radio station and encouraged people to stop patronizing the salon. Word spread quickly through the Latino community.

This story was told by her sister, Claudia.

7 Id.
8 Nick Cognasi, "Push Officials on for [sic] Action on Immigration," *Montgomery* (Ala.) *Advertiser*, Jan. 30, 2008.
9 Kelli Hewett Taylor, "Housing Law Pits Safety vs. Ethnicity," *The Birmingham* (Ala.) *News*, Feb. 5, 2007.
10 Doug Abrahms, Andre Coe, "National Housing Discrimination Charges Up, City Charges Down," *Montgomery* (Ala.) *Advertiser*, Oct. 7, 2007.

"[A]s more of us Latinos get here … the discrimination gets bigger, and it gets worse."

into the legal population. And people are having a hard time renewing their licenses or going to different places."

Efforts to crack down on illegal immigration in Beaufort County, N.C., reached a point where a county commissioner asked the health and social services departments to tally the number of clients with Spanish surnames to determine the number of undocumented immigrants using the services. That didn't happen, but the county ended up counting the number of people using interpreters at the health and social services departments to determine the number.[11]

"It's just discrimination," Cipriano Moreno, pastor of Alpha and Omega, a Latino Baptist church in Beaufort County, told a newspaper reporter. "They don't like Hispanics here. They think that all the Hispanics are here illegally, but they're not."[12]

Maria Eugenia (left) was told to wait in "Latino-only" line at employment agency.

Efforts in Beaufort County reached a point where there were reports that some social services, such as federally funded prenatal care for the poor, might be eliminated completely since attempts to exclude people would be illegal.

"When you're a pregnant lady sitting there, that's a personal problem," said County Commissioner Hood Richardson. "That's not a public problem."[13]

Richardson has twice referred to undocumented immigrants as "wetbacks" and has said he worries they will foster political and social unrest, *The (Raleigh) News & Observer* has reported.[14]

Maria Eugenia, a 51-year-old legal resident of Tennessee, has endured treatment that harkens back to the Jim Crow laws of the South. She applied for work through unemployment and temporary employment agencies — only to be forced to wait in Latino-only lines. "Americans come and enter at their own pace," she said. "Sometimes we wait for hours just to see if someone will come and choose us to work for them."

'GO BACK TO MEXICO'

Janet, a Latina teen living in Charlotte, told SPLC researchers she endures taunts in school, even though she is a U.S. citizen.

"[T]hey'll be like, 'Oh well, you're just Mexican, go back to Mexico.' You know, 'Learn English,'" she said. "I am not even Mexican. I am very proud of my background but it bothers me, the stereotypes."

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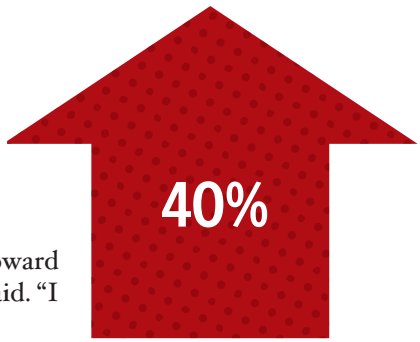
11 Kristin Collins, "Beaufort County Wants to Stem Migrant Influx," *The* (Raleigh) *News & Observer,* May 25, 2008.
12 Id.
13 Id.
14 Id.



Hate crimes against Latinos increased 40 percent from 2003 to 2007, a rise that has coincided with the increasingly ugly propaganda about Latino immigrants that has seeped into mainstream politics and media.

Ortega-Moore has seen the devastation wrought by the hostile atmosphere toward Latinos. "I can't tell you when I've seen so many suicides as I've seen here," he said. "I mean very young people — 18, 19 years old. Imagine every day ... being bullied."

In a 2007 study by Durham County, N.C., 32 percent of the 46 Latino students surveyed in high schools said they had tried to commit suicide in the previous year, compared to 15 percent of other students.[15]

Discrimination, hostility and the isolation of immigrant families were cited as possible reasons for the higher rate.[16]

"I'm surprised it's that high, but I'm not surprised there's a higher suicide rate, because of the pressure placed on immigrant families," Hannah Gill, an anthropologist at the University of North Carolina at Chapel Hill, told *The Herald-Sun* in Durham.[17]

NOT WELCOME IN CHURCH

Discrimination can seep into every aspect of life. That was the case when Cristina, a U.S. citizen of Mexican descent, sought out a church for her family. She attempted to attend a church's English service in Reidsville, a small town in southeast Georgia, but was told that she should consider the Spanish service held in a different building.

"The other church was in this really beat-up building, not as nice," she said.

Even though she explained that her children were more comfortable with the English service, she was told the service was not for her and that "Mexicanos" were not welcome in that church. "After a while, we just stopped going to church," she said.

Laura, a 41-year-old Honduran woman in New Orleans, described how something as mundane as a ride on a crowded streetcar can serve as a reminder of the hostility harbored against Latinos.

"When I bump into people, I often get a bad look and get pushed back," she said. "This is the hardest thing to deal with sometimes because it feels so hurtful."

Even though she is still a teen, Janet has seen the atmosphere worsen in North Carolina as the immigrant community has grown.

"[A]s more of us Latinos get here, then you know, the discrimination gets bigger, and it gets worse," she said. "And, like, a lot of people look at it like it's not even happening. They act like it's not there — when it really is."

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15 "Taking a Look at Societal Health," *The* (Durham, N.C.) *Herald-Sun*, April 17, 2009.
16 Monica Chen, "32 Percent of Latino Students Try Suicide," *The* (Durham, N.C.) *Herald-Sun*, Jan. 30, 2008.
17 Id.

Learning English is an important goal for many immigrants.

CHAPTER 6

Latinos Encounter Language Barrier in Courts, Schools

KEY FINDING: FORTY-SIX PERCENT OF RESPONDENTS WITH COURT EXPERIENCE SAY THERE WERE NO INTERPRETERS FOR THEM

Language is one of the greatest barriers faced by Latino immigrants in the South. When they enter schools, hospitals or courts, they often find there's no interpreter. This means that for many Latinos there is no one to help them communicate with a teacher, a doctor or even the judge deciding their fate.

Of the places the survey asked about, Latinos said they were least likely to find an interpreter in court. Forty-six percent of those reporting a court experience said there was no interpreter.

Marty Kaufman, a registered interpreter in Georgia, isn't surprised by the results. Georgia has a certification process to ensure that interpreters are qualified for the job, but many courts still use unregistered people, she said. Often, courts in rural areas of the state do not provide interpreters at all or provide those with questionable ability.

"They go down to the local Mexican restaurant and bring someone in, literally, to interpret," Kaufman said.

The lack of an interpreter has created courtroom situations that border on the absurd. There have been incidents reported in the South in which attorneys communicated with clients through their children.[1] One person interviewed for this report recounted an incident in an Alabama court where Latinos charged with traffic violations were asked to put an "X" on one hand and an "O" on the other. They would use one mark to indicate their innocence and the other to indicate their guilt. One immigrant advocate interviewed for this report cited a domestic violence case where the girlfriend of the alleged perpetrator was asked to interpret for the victim.

"That's not justice. It's awful," said Isabel Rubio, director of the Hispanic Interest Coalition of Alabama.

Despite the common criticism that problems stemming from the language barrier are the result of Latino immigrants refusing to assimilate and learn English, almost 57

1 Brendan Kirby, "Courts Struggle with Language Barrier," *Mobile* (Ala.) *Register*, Feb. 26, 2007.

"They go down to the local Mexican restaurant and bring someone in, literally, to interpret."

percent of Latinos questioned in a survey by the Pew Hispanic Center believe immigrants must speak English to say they are part of American society. An overwhelming 92 percent of all Latinos in that survey said it is "very important" to teach English to the children of immigrant families. The number was even greater for foreign-born Latinos, of whom 96 percent said it was a "very important" goal.[2]

These results suggest a desire to learn English and assimilate. Nonetheless, interpreters are needed to bridge the gap as this assimilation occurs. The failure to provide adequate interpreters in court is deeply troubling and clearly unlawful.

Unfortunately, it occurs all too often.

Sometimes, the attempts to bridge the language gap not only raise serious legal questions but are a source of embarrassment. Officials in Rogers, Ark., discovered that the Spanish-language rights waiver signed by a man pleading guilty to driving while intoxicated stated that he was charged with "a murder" and that his penalty was "1 anus in jail and a $1,000 fine."[3] A court clerk who spoke Spanish but wasn't certified by the state had translated the waiver form into Spanish several years earlier.

AGENCIES FAIL TO COMPLY WITH CIVIL RIGHTS LAWS

These failures extend well beyond the courts. The SPLC's experience has shown that many Southern agencies (schools, hospitals, social service offices and other critical resources) are failing to comply with Title VI of the Civil Rights Act of 1964, which provides that no person shall be subjected to discrimination on the basis of race, color or national origin under any program or activity receiving federal financial assistance.

Title VI prohibits agencies receiving federal money from denying persons with Limited English Proficiency (LEP) access to programs on the basis of their national origin. These agencies must take steps to ensure services are provided to LEP individuals in a nondiscriminatory manner.

Yet even court systems across the region have failed to comply with the most basic constitutional due process protections by ensuring that non-English speakers understand the charges against them and have a meaningful opportunity to be heard.

The Justice Department acknowledged in *The Police Chief*, a law enforcement trade publication, that recipients of federal funding — including police departments — have an obligation to make their services accessible to non-English speakers:

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2 "Hispanic Attitudes Toward Learning English," Pew Hispanic Center fact sheet, June 7, 2006.
3 Michelle Bradford, "Translation Errors Raise Legal Issues," *Arkansas Democrat-Gazette*, Feb. 24, 2008.

Many Southern agencies fail to comply with Title VI of the Civil Rights Act of 1964.

> Beyond the common sense reasons for addressing language barriers in police work, there are laws obligating police departments to ensure that LEP people can access their services. As a condition of receiving federal money, police departments and other recipients of federal financial assistance must comply with certain legal obligations, such as adherence to Title VI of the Civil Rights Act of 1964 and its implementing regulations.
>
> Under Title VI, police departments and other recipients of federal financial assistance must provide services accessible to all, regardless of race, color, or national origin. Individuals who are limited in their English ability are often protected by Title VI, where language serves as a proxy for national origin discrimination. By failing to provide appropriate language services to an LEP individual, police departments effectively exclude that individual from accessing the same benefits, services, information, or rights as every one else. Noncompliant police departments facing a Justice Department investigation may find themselves drained of valuable time, money, and personnel resources as they attempt to defend themselves against allegations of civil rights violations.[4]

Unfortunately, for many of the people whose rights under Title VI are violated, there is no effective remedy. A 2001 Supreme Court decision overturned decades of precedent under Title VI with its decision in *Alexander v. Sandoval*, 532 U.S. 275 (2001).

RULING REVERSES DECADES OF PRECEDENT

Sandoval, a case brought by the SPLC, was a class action lawsuit contending that the state of Alabama violated Title VI by requiring applicants for a driver's license to take the written examination in English.

The suit alleged that Alabama's policy unjustifiably excluded non-English speakers from receiving a driver's license, discriminating against them based on their national origin. Before adopting an English-only amendment to the state constitution in 1990, the state had administered the test in 14 languages.

The U.S. District Court for the Middle District of Alabama ruled in the plaintiffs' favor and ordered the Alabama Department of Public Safety to accommodate non-English speakers. The U.S. Court of Appeals for the 11th Circuit affirmed that decision.

The Supreme Court's decision in *Sandoval*, however, abruptly reversed nearly three decades of precedent, including the unanimous views of all federal appeals courts that

4 Bharathi A. Venkatraman, Civil Rights Division Coordination and Review Section, U.S. Department of Justice, "Lost in Translation Limited English Proficient Populations and the Police," *The Police Chief*, April 2006.

had addressed the issue. The federal courts had long interpreted Title VI and its regulations to imply a private right of action to sue for both intentional and "disparate impact" discrimination. Disparate impact discrimination is when minorities are disproportionately injured by a policy or practice whose effects cannot be justified. In *Sandoval*, the Supreme Court said there was no private right of action to enforce the disparate impact provisions of Title VI.

The ability to sue for disparate impact discrimination is important because proving *intentional* discrimination is often exceedingly difficult.

Meanwhile, Latinos across the South find themselves in a struggle.

Parents, for example, find themselves unable to be involved in their children's education because their school has no ability to interact with a Spanish-speaking parent. Other times, individuals are turned away from medical treatment and told to return with their own interpreter.

Kaufman, the registered interpreter, said this is the case at the indigent clinic for pregnant women in her area of rural Georgia. It has spurred a cottage industry where unqualified and unregistered interpreters are offering their services for hire to Latinos — a prospect that could compromise medical care.

The language problems are compounded in some areas by so-called "English-only" laws. Such laws restrict

Woman Ordered to Learn English or Lose Daughter

The language barrier can cost Latinos in the South many opportunities.

It almost cost Felipa Barrera her daughter.

Barrera, a Mexican immigrant living in Lebanon, Tenn., was ordered by a judge to learn English in six months or lose parental rights to her 11-year-old daughter, Linda.

The order came after her daughter was taken from her and put in foster care amid allegations of neglect. However, Barrera didn't understand the custody proceedings and couldn't even communicate with the court, because there wasn't a Mixteco translator during the 2004 hearings. Barrera speaks the indigenous Mexican language and did not understand Spanish or English.

Despite these barriers, Wilson County Judge Barry Tatum ordered her to learn English at a 4th-grade level or have her parental rights terminated.

SPLC attorneys became involved in the case after the order. Along with ensuring Barrera could communicate with the court through a translator, they refuted the charges and asked that Linda be returned to her mother's home.

"I don't hit my daughter, I love her," Barrera said from the witness stand through a court-approved translator during a hearing.

The new round of hearings offered a mother-daughter reunion that didn't require Barrera to learn English. Barrera, who did not live with Linda's father, would be granted supervised visitation.

Barrera was fortunate. She found advocates who worked to ensure the language barrier wouldn't be a factor in court. Unfortunately, many other Latino immigrants face the court system without such support.

Miguel recounts the story of his brother's attempt to get treated for an on-the-job injury.

the use of languages other than English in the delivery of government services.

Some government officials are now rethinking the wisdom of English-only ordinances and even repealing them in light of the expense of enforcing and defending them in court, and the publicity and accusations of racism that such laws attract.

In December 2008, for example, Oak Point, a small town north of Dallas, killed an English-only measure that had been adopted a year earlier.[5] "For us to spend our time pitting neighbor against neighbor was a sacrilege," City Councilwoman Judith Camp said. "We're just a tiny little city and we were getting a lot of negative publicity."[6]

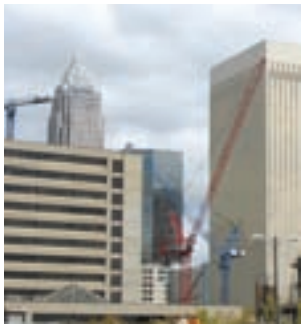
In Nashville, voters soundly defeated an English-only measure in January 2009 that would have required all Metro Nashville government business to be conducted in English. The defeat prevented Nashville from becoming the largest city in the country with such a rule.[7]

Still, much work remains as the language barrier continues to create a circle of frustration for Latinos.

Miguel recounted for SPLC researchers his brother's experience after complaining of back pain at work. The Georgia Latino was taken to the hospital — only to see a doctor who could not speak Spanish. After Miguel found an interpreter, the doctor said he could not speak to any third party about his brother's condition, including the interpreter.

"So who was going to explain to my brother what was wrong if the doctor didn't speak Spanish and my brother didn't speak English?" Miguel said. "These are inexplicable things."

5 Emily Bazar, "Revisiting Immigration Ordinances," *USA Today*, Feb. 11, 2009.
6 Id.
7 Chris Echegaray, "Nashville's English-Only Measure Defeated," *The Tennessean*, Jan. 23, 2009.



CHAPTER 7

Key Survey Results by Geographic Area

NEW ORLEANS

New Orleans is home to a new immigrant community. The majority of the city's Latino immigrants came after Hurricane Katrina devastated the city in 2005, lured by the prospect of well-paying jobs rebuilding the city.

This population has been badly hurt by the economic downturn and the utter failure of the federal government to respond to labor exploitation in the wake of Katrina. The greatest concern Latinos expressed to the Southern Poverty Law Center was related to employment. One local advocate called New Orleans "the wild, wild West."

- 80 percent of Latinos interviewed in New Orleans reported that they had not been paid for some work they performed.
- Almost half of those surveyed (47 percent) had been injured on the job, and a large majority of those (70 percent) said they were not treated appropriately (i.e., they received no medical treatment, lost wages and/or were fired) after the injury.
- New Orleans was the location where Latinos were least likely to have heard of the Department of Labor or know how to contact it. Only 37 percent said they had heard of the department, and only 14 percent said they knew how to contact it.
- Most had also received no health and safety training at all, and few (only 23 percent) had even heard of the Occupational Safety and Health Administration.

GEORGIA

Latinos across south Georgia described an immigrant community with an extreme distrust of police.

Several factors apparently fuel this distrust. There were reports by Latinos of unfair treatment and deep concerns about their inability to obtain driver's licenses and license plates — a significant concern given the lack of public transportation in the largely rural area. Immigrant advocates also reported severe penalties for driving without a license, including fines of up to $1,500 and even jail time.

But it was a series of raids by Immigration and Customs Enforcement in September 2006 that left an indelible mark on the community. Latino immigrants with and without

documentation believe the fabric of their community was torn apart as ICE agents searched door to door in their neighborhoods.

Interviews and surveys were conducted with Latinos across several counties in south Georgia. These locations included Moultrie, Macon, Augusta, Grovetown, Lyons, Vidalia, Oak Park, Statesboro, Swainsboro, Cobbtown and Twin City.

- Georgia was the location where Latinos expressed the least confidence in the police. Only 27 percent of people interviewed reported that they had trust in the police.
- 42 percent of the people who have had interactions with the police believe they were treated unfairly.
- The vast majority (88 percent) believe that ICE targets Latinos and treats them differently from people of other races or ethnicities, including other immigrants.

ALABAMA

North Alabama provided an example of how local laws erode trust in the police among Latinos.

Numerous municipalities in the region have enacted ordinances allowing law enforcement to impound vehicles when a driver cannot provide documentation proving their legal status. These ordinances greatly affect the immigrant community, especially those who are undocumented, and may lead to racial profiling.

Latino business owners interviewed by SPLC researchers cited incidents where they have been asked for help by someone whose vehicle was taken by police. A Huntsville businessman said he stopped helping people recover their vehicles because he worried about upsetting authorities by recovering so many vehicles.

Others described how these policies hurt their businesses by forcing people to stay home out of fear. Many respondents confirmed this, reporting that they felt safer staying at home as much as possible.

SPLC researchers conducted interviews and surveys in the cities of Hoover, Birmingham, Huntsville, Florence, Russellville and Albertville.

- Only 41 percent of those surveyed indicated that they have confidence in the police.
- Forty-one percent also said they personally knew someone treated unjustly by the police. Of these incidents, the majority (55 percent) involved traffic stops.
- A majority of people surveyed (55 percent) reported that there are routine traffic stops or roadblocks where they live.
- A majority of people surveyed (53 percent) also reported that the roadblocks target Latinos and do not affect people of other ethnicities equally.

NASHVILLE

Nashville is a case study in the shifting sentiment that immigrant communities have experienced in Southern cities.

In the past 15 to 20 years, the immigrant population in Nashville has been among the fast-growing in the United States. Between 2000 and 2006, Tennessee ranked 5th in the nation for the largest percentage growth in the foreign-born population (48.7 percent).[1]

Nashville initially held itself out as a city that welcomed immigrants. Tennessee even became one of the first states to offer driver's licenses to people without Social Security numbers. However, the climate toward immigrants shifted with the backlash against immigrants associated with the Sept. 11, 2001, terrorist attacks.

By April 2007, the Davidson County Sheriff's Office had signed a 287(g) agreement with Immigration and Customs Enforcement, allowing the department to assist ICE in enforcing federal immigration law. Specifically, it means the department, which runs the jails, checks the immigration status of individuals arrested in Davidson County.

Despite this climate, Nashville voters in January 2009 soundly defeated an English-only measure that would have required all Metro Nashville government business to be conducted in English. The defeat prevented Nashville from becoming the largest city in the country with such a rule, offering the possibility that the sentiment toward immigrants may be shifting again in Nashville.[2]

Nonetheless, SPLC surveys and interviews with Latinos and advocates in Nashville revealed the extreme fear cultivated throughout the area long before this vote:

- 67 percent of the respondents said they personally knew someone who had been treated unjustly by the police, the highest rate of any of the communities surveyed.
- 73 percent reported that Nashville's 287(g) agreement with ICE made them more apprehensive about cooperating with the police.
- Complaints about working conditions in Nashville were common. Thirty-seven percent reported that they had personally been cheated out of wages.
- More than 70 percent thought sexual harassment was a serious problem in employment — the highest rate reported in the survey.
- 60 percent reported experiencing racism in securing housing in Nashville.

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1 Fact Sheet on the Foreign Born, Demographic and Social Characteristics, Tennessee, Migration Policy Institute, http://migrationinformation.org/datahub/state.cfm?ID=TN

2 Chris Echegaray, "Nashville's English-Only Measure Defeated," *The Tennessean*, Jan. 23, 2009.

CHARLOTTE

Charlotte is another example of the shifting attitudes toward immigrants in the South.

The growth of Charlotte's immigrant population paralleled the city's transformation into a major financial center. Immigrant advocates were quick to note that these two events are related.

When Charlotte was known as a welcoming city for immigrants, it was at a time when it needed immigrant hands to build its skyline. More than one advocate noted how Latino immigrants "built this city" and that "undocumented hands" were responsible for many of the homes, skyscrapers and marble floors in the city.

However, the terrorist attacks of Sept. 11, 2001, changed public sentiment as illegal immigration became a security issue. The Mecklenburg County Sheriff's Office also implemented a 287(g) program, an agreement that allowed the department to assist Immigration and Customs Enforcement.

This program has been credited with fueling anti-immigrant sentiment. Talk radio in the city has been cited as a force in changing the perception of Latino immigrants from a community that helped build a better city to one that threatens the city itself.

The SPLC survey and interviews found a Latino population that reported discrimination on the job and elsewhere. It also revealed a population fearful of law enforcement.

- More than half (52 percent) of the survey respondents said there is racism when looking for a house in this area.
- 66 percent said their willingness to speak to police has been affected by the county sheriff's 287(g) agreement with ICE.
- 28 percent said they have performed work for which they were not paid.
- 73 percent of those surveyed said they believe Latinos receive different treatment on the job.
- Nearly half of those surveyed (48 percent) said women were treated differently than men on the job.

Recommendations

As this report demonstrates, Latinos in the South find themselves caught in a crossfire of hostility, discrimination and exploitation even as new Latino immigrants provide the low-wage labor craved by businesses and homeowners in the region.

Many are subjected to routine hardships and cruelties stemming from their lack of legal status. Others who have legal status are victimized by racial profiling, wage theft and other forms of abuse simply because of their ethnicity or vulnerability. And a vast number of immigrant families face great uncertainty and fear because of their mixed status, with both undocumented and documented persons living together.

The large number of undocumented persons living in the South and throughout the country reflects not just that our borders are porous but that our immigration policies have failed. Policies over the past 10 years, in particular, have made it virtually impossible for many immigrants — even those married to U.S. citizens — to regularize their status. And the employer sanctions program created by the 1986 Immigration Reform and Control Act has utterly failed. As a result, there are millions of people living in the U.S. with strong community ties, working hard and paying taxes, who have no hope of legalizing their status absent a change in the law.

In recent years, the federal government has embarked on a campaign of workplace raids to round up undocumented workers, while many cities and states have enacted harsh measures intended to make life as difficult as possible for them. Together, these activities are leading to racial profiling and other human rights abuses and are exacting a heavy toll on Latinos, regardless of their immigration status. At the same time, unscrupulous employers continue to exploit vulnerable Latino workers, eroding safeguards that protect all workers from abuse and protect honest businesses from unfair competition.

Unless we create a fair mechanism to allow undocumented immigrants to regularize their status, the exploitation and abuse of Latino immigrants will continue indefinitely — and our economy will not realize the full benefits of their participation.

Comprehensive immigration reform, which brings undocumented immigrants out of the shadows by providing a workable path to citizenship, is the only realistic, fair and humane solution.

This reform must be coupled with strong enforcement of labor and civil rights protections. This would make crime victims and communities safer, curb racial profiling and other abuses, and better protect the wages and working conditions of all workers.

The following are our specific recommendations:

I. The federal government must strengthen enforcement of wage and hour and other employment laws

• The U.S. Department of Labor should devote substantially more resources to enforcing worker protections — by increasing the staff of the Wage and Hour division and by increasing the number of cases being filed by the Solicitor of Labor's office. In addition, the Department must be much more aggressive in seeking substantial penalties against employers who willfully break the law.

• The Department of Labor should prioritize enforcement of labor laws in states with no functioning wage and hour enforcement operations.

• Congress should enact legislation to overturn *Hoffman Plastic Compounds, Inc. v. NLRB* 535 U.S. 137 (2002). That decision has created a perverse incentive for employers to prefer undocumented workers, because they believe those exploited workers will not complain and will not have any legal remedy.

• Congress should remove restrictions on assistance funded by the Legal Services Corporation that prohibit Legal Services offices from representing undocumented immigrants and handling class action lawsuits.

• The EEOC should re-issue the guidance, rescinded in 2002, clarifying that, in most instances, undocumented immigrants are entitled to the same relief as other employees under Title VII of the Civil Rights Act of 1964.[1]

• The EEOC should reinvigorate and dedicate adequate resources to its Systemic Task Force and engage in class action and other high-impact litigation aimed at combating systemic discrimination.[2]

• The Employment Litigation Section of the Department of Justice's Civil Rights Division should pursue more litigation to address systemic discrimination cases.

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1 Directive Transmittal 915.022, first issued in 1999.
2 The EEOC's Systemic Task Force was created in 2005 to recommend new strategies to combat systemic discrimination.

II. Congress and the president must act to end racial profiling

• Congress should enact a federal statute to effectively prohibit racial profiling, such as the *End Racial Profiling Act* (ERPA), which was introduced in the House of Representatives in 2007.[3]

• The Civil Rights Division of the Justice Department should strengthen its "pattern and practice" law enforcement misconduct docket by focusing on local law enforcement agencies that lack strong prohibitions against racial profiling and by bringing more lawsuits.

• The Obama administration should issue an executive order prohibiting racial profiling by federal officers and banning law enforcement practices, including those by U.S. Immigration and Customs Enforcement (ICE), that disproportionately target people based on race and ethnicity.

• The administration should create a civilian oversight body to review the actions of ICE. This review should examine the recent militarized enforcement, which has included raids that rely on racial profiling and systematic violations of the Fourth Amendment.

• The 287(g) program should be terminated, because it undermines trust in law enforcement and does not make communities safer. The administration has the authority to terminate this program and return all federal law enforcement powers to the Department of Homeland Security.

3 ERPA would prohibit any local, state or federal law enforcement agency or officer from engaging in racial profiling. It would make efforts to eliminate the practice a condition of law enforcement.

III. Congress must act to ensure language access

- Congress should provide the necessary funding and resources to allow federal agencies to fully enforce Title VI of the Civil Rights Act of 1964.

- The administration should increase the resources available to the Coordination and Review Section of the Department of Justice, which is responsible for enforcing Title VI obligations of federally funded state entities, including state courts.

- Congress should take action to correct the Supreme Court's decision in *Alexander v. Sandoval*.

Methodology

SPLC researchers visited five locations in the South for this report: Nashville, Charlotte, New Orleans, rural southern Georgia and several towns and cities in northern Alabama. More than 500 Latinos – approximately 100 in each location – were interviewed. The author also drew on years of experience working with immigrants in the South and litigating civil rights lawsuits on their behalf.

The SPLC chose to survey low-income Latino immigrants because mounting evidence suggests that this population has been subjected to widespread racial profiling, workplace abuses and other forms of discrimination. This survey was designed to take the pulse of the Latino community in the South, to gain further insight into the impacts of the immigration debate and the punitive, anti-immigrant measures enacted by cities and states in the region.

Numerous previous surveys have been conducted about the demographics and attitudes of Latinos in the United States, particularly by the Pew Hispanic Center. We are not aware, however, of any previous studies assessing the experiences and attitudes of Latinos in the South on matters involving bigotry, exploitation and discrimination.

Because the targeted population is difficult to identify and contact, we used the snowball sampling method, in which study subjects refer researchers to additional subjects. Because study subjects were not chosen randomly, estimates from the survey may be biased.

Respondents were asked questions from a standard survey. Based on their answers, some respondents were asked by a Spanish-speaking researcher to elaborate on their experiences.

In most cases, the survey respondents quoted in this report are identified by their first names only, to protect their identities. In other cases, in which the respondent did not want to be identified in any way, a fictional first name is used. Those names appear in quotes on first reference. Some of the stories told in the report come from plaintiffs in lawsuits filed by the SPLC.

Subjects were not explicitly asked about their immigration status, though a small number, 38, volunteered this information. Of those, roughly one-third were undocumented. Others were U.S. citizens or legal residents. The respondents were not asked specifically whether they were immigrants, but 62 percent (out of 367 respondents who answered this question) said they had arrived in the United States in 2001 or later.

APPENDIX A

Immigration Law: There is No "Line"

It's a refrain often repeated on talk radio and TV talk shows when immigration is debated: *Why don't they just get in line to become legal?*

As one Latina interviewed for this report noted, "They don't understand that it's not that easy." In fact, for many people in the United States — including undocumented immigrants — there is no line.

Immigration law is enormously complex, with dozens of potential immigration statuses. Currently, there are four major ways a person can obtain a green card for lawful permanent residency:

- A specified family relationship with a U.S. citizen or legal permanent resident.
- An employer petition for lawful permanent residency.
- Adjustment from refugee or asylee status.
- Obtaining a diversity visa, a process commonly known as "the lottery."

Most undocumented immigrants in the U.S. find none of these options are available to them.

FAMILY RELATIONSHIPS AND THE "ANCHOR BABY" MYTH

Despite the widespread myth of the "anchor baby" born to undocumented immigrants who use a child to quickly gain citizenship, the law does not allow such a path. Children born in the United States cannot petition for the permanent residency of their parents until age 21. Further, there is no data supporting the theory that families have babies as part of a 21-year plan to achieve citizenship. In fact, absent changes to U.S. law, the parents would likely be ineligible to migrate to the United States.

The other family relationships specified as a path to lawful permanent residency include spouses, parents and siblings. The process of gaining residency status through a family relationship can take more than 20 years. Some of these family relationship categories are so backlogged with immigrants seeking legal permanent resident status that federal officials have declared those categories unavailable. Immigrants who don't have these relationships will find that this path to citizenship is non-existent.

EMPLOYER PETITION

Employment-based visas are not available to most low-income workers, even for the most exemplary employees. Of the more than 1 million legal permanent resident visas given out each year, only 10,000 are allocated for workers who are not highly educated or trained. There are so many individuals waiting for these visas, the category has been designated as unavailable by immigration officials.

REFUGEE/ASYLEE STATUS

Refugee or asylee status is a rare commodity for Mexican or Central American residents. Few people from these areas have been granted either status in recent years. In order to qualify, individuals must face a "well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." Asylum is not an option for those seeking to escape crushing poverty.

"THE LOTTERY"

The odds are long in the diversity visa "lottery." In this lottery, about 50,000 visas are awarded each year to eligible individuals. Yet more than 6 million people from around the world applied in 2007. Individuals from Mexico and most Central American countries are flatly ineligible for these visas because they are reserved for countries with small numbers of immigrants to the United States.

A PAINFUL CHOICE

Even for people otherwise eligible to become permanent residents — such as those married to a U.S. citizen — recent changes to immigration law make it impossible for many of them to adjust their status.

From 1994 until 2001, Section 245(i) of the Immigration and Nationality Act allowed certain individuals who were otherwise eligible for immigrant visas, but entered the United States without inspection or fell out of lawful status, to become lawful permanent residents without traveling to a U.S. consulate outside the country to obtain this status.

Section 245(i) grew in significance after 1996, when Congress enacted a law with a provision known as the "3 and 10 year bars." Under this provision, an immigrant who is unlawfully in the United States for more than 180 days and then leaves the country is barred from re-entry for three or 10 years. The length of the re-entry ban depends on the length of the illegal stay.

Until 2001, Section 245(i) provided a path to legal permanent residence that didn't require eligible aliens to leave the country — a requirement that would subject them to the re-entry ban.

Because of more recent changes to immigration law, however, countless people who are otherwise eligible to adjust their status — including thousands of people married to U.S. citizens — are subject to that ban.

Many people now face the painful choice of either leaving the country and their family for 10 years for the chance to become a legal permanent resident or remaining in the United States with their family and giving up the hope of ever achieving legal status.

APPENDIX B

Immigration Myths

Despite economic evidence and other data demonstrating the positive economic impact of immigrant labor, one of the most strongly held myths is the belief that immigrants "steal" the jobs of native workers or shrink their wages.

It persists despite former President Bush's economic advisers reporting in 2007 that, "On average, U.S. natives benefit from immigration. Immigrants tend to complement (not substitute for) natives, raising natives' productivity and income."[1]

They also noted that estimates put the total wage gains from immigration by natives at more than $30 billion per year, concluding that, "Sharply reducing immigration would be a poorly-targeted and inefficient way to assist low-wage Americans."[2]

However, policy papers and research are often no match for the hysteria drummed up by radio and television pundits parroting myths as fact. They have helped entrench beliefs that blame immigrants for economic woes, crime and disease when even the most cursory research often debunks these myths.

Despite pundits arguing that Latino immigrants refuse to assimilate and learn English, almost 57 percent of Latinos questioned in a survey believe immigrants must speak English to say they are part of American society. An overwhelming 92 percent of all Latinos surveyed said it is "very important" to teach English to the children of immigrant families. The number was even greater for foreign-born Latinos, where 96 percent of those surveyed said it was a "very important" goal.[3]

LONG LINES FOR ENGLISH CLASSES

Even more telling are the long waiting lists for English as a Second Language (ESL) classes. One report found that out of 176 providers offering classes, 57 percent reported waiting lists ranging from a few weeks to more than three years.[4]

Another popular myth blames immigrants for higher levels of crime, though several studies conducted over the past 100 years have shown that immigrants are less likely to commit crimes or be incarcerated than natives.[5]

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1 Executive Office of the President, Council of Economic Advisers, *Immigration's Economic Impact*, Washington, DC, June 20, 2007, p. 1.
2 Id, *p. 4.*
3 "Hispanic Attitudes Toward Learning English," Pew Hispanic Center fact sheet, June 7, 2006.
4 James Thomas Tucker,"The ESL Logjam: Waiting Times for Adult ESL Classes and the Impact on English Learners," National Association of Latino Elected and Appointed Officials, September 2006, p.1, www.naleo.org/downloads/ESLReportLoRes.pdf.
5 "Immigrants and Crime: Are They Connected?," Immigration Policy Center fact sheet, December 2007, p. 1.

The incarceration rate for native-born men age 18–39, a group that comprises much of the prison population, was 3.5 percent in 2000 — five times greater than the foreign-born incarceration rate of 0.7 percent. Since 1994 the nation's undocumented immigrant population has doubled to 12 million, while the violent crime rate dropped 34 percent and property crime dropped 26 percent. The crime rate also declined in cities with large immigrant populations, such as Miami, New York, Chicago and Los Angeles.[6]

Because they risk deportation, undocumented immigrants have a strong motivation to avoid any brushes with the law.

CRIME MYTH PERSISTS

The crime myth persists despite evidence to the contrary, a problem the Immigration Policy Center highlighted by noting that, "The problem of crime in the United States is not 'caused' or even aggravated by immigrants, regardless of their legal status. But the misperception that the opposite is true persists among policymakers, the media, and the general public, thereby undermining the development of reasoned public responses to both crime and immigration."[7]

A particularly insidious myth is the belief that immigrants, particularly undocumented immigrants, are spreading diseases such as leprosy. CNN news anchor Lou Dobbs helped spread the false claim that 7,000 new cases of leprosy were reported in the United States during a recent three-year period. Government health statistics show that the number of reported cases in the United States "peaked at 361 in 1985 and has declined since 1988."[8]

Immigrants also have been blamed for spreading diseases such as malaria, a claim that ignores the fact the disease is transmitted by mosquitoes, not immigrants or any human for that matter. The resurgence of another health concern — bedbugs — has also been blamed on immigrants. Although the reemergence of bedbugs is real, immigrants are not the culprit. Research has attributed the phenomenon to the pervasive use of baits over insecticide sprays previously used to control cockroaches and ants.[9]

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6 Rubén G. Rumbaut and Walter A. Ewing, "The Myth of Immigrant Criminality and the Paradox of Assimilation: Incarceration Rates among Native and Foreign-Born Men," Immigration Policy Center, American Immigration Law Foundation, Spring 2007, p. 1.
7 Id, *p. 1.*
8 Ruth Ann Jajosky, et al., "Summary of Notifiable Diseases — United States," 2004, U.S. Centers for Disease Control and Prevention, June 16, 2006.
9 Heidi Beirich, "Immigration: Getting The Facts Straight," *Intelligence Report*, Summer 2007, p. 38.

APPENDIX C

Anti-Immigrant Propaganda has Real-Life Consequences

The belief that immigrants are disease-carrying criminals bent on destroying the United States economy for their own selfish purposes would have previously been written off as the ranting of a xenophobe who needs to be kept away from any legitimate discussion of immigration policy.

Today, however, immigration myths and wild conspiracy theories are frequently repeated in the mainstream media and in the corridors of power from Congress to statehouses to town halls across the country.

These ideas have gained currency in large part because talk radio and television news programs trusted by the public have provided a platform for racist extremist groups to spread their propaganda — fueling anger and hate against Latinos.

This vilification has dramatic consequences for Latinos, regardless of their immigration status.

SPLC researchers in Charlotte, N.C., for example, were told how the toxic immigration debate — particularly the crude discourse on talk radio — transformed the perception of Latino immigrants from that of valuable workers eager to help transform the city into a major financial center to a destructive force that has infiltrated the city.

Eventually, the Mecklenburg County Sheriff's Office in North Carolina implemented a 287(g) program, an agreement that allows the department to enforce federal immigration law. Latinos say that such 287(g) agreements lead to widespread racial profiling and discrimination.

POLITICIANS ADOPT FALSEHOODS AS FACT

The bogus information that encourages discrimination and harassment is given even more credence by politicians who co-opt it for legislative efforts and campaign speeches.

Former U.S. Rep. Tom Tancredo, R-Colo., helped push the North American Union conspiracy theory — the belief in a secret plot to merge the United States, Canada and Mexico — as a legitimate concern tied to illegal immigration. Other congressional conservatives joined a group to block such an improbable merger.

Even more remarkable, the houses of representatives of at least 18 states have passed resolutions opposing the union — an entity that doesn't exist. The state senates of Idaho and Montana have also offered legislative resolutions.[10]

10 Heidi Beirich, "The Paranoid Style Redux," *Intelligence Report*, Summer 2007, p.36.

"The immigration issue has affected all Latinos. Any person of brown color. They're looked at as immigrants."

U.S. Rep. Steve King, R-Iowa, promoted on his website in 2006 a claim that undocumented immigrants kill 25 Americans a day either by murder or drunk driving, a figure that has no basis in reality but has been repeated by talk radio hosts nonetheless.

Radio host Peter Boyles of Denver stoked the fear of deadly immigrants by claiming undocumented immigrants have murdered 45,000 U.S. citizens since Sept. 11, 2001. This outlandish figure would mean that undocumented immigrants, who make up less than 4 percent of the U.S. population, were responsible for 53 percent of all murders by 2006.[11]

This drumbeat heralding a murderous Latino invasion has distressing and even tragic consequences.

NATIVIST EXTREMIST GROUPS RISING

Some 300 anti-immigration groups have been formed since 2005. About half of these groups are characterized as "nativist extremists" by the SPLC. Even more disturbing is the 54 percent increase in the number of hate groups in the United States since 2000. This rise — from 602 groups to 926 in 2008 — is largely the result of the vitriol surrounding the immigration debate.

At the same time, hate crimes against Latinos are increasing. FBI statistics show a 40 percent jump in hate crimes against Latinos from 2003 to 2007.[12]

One recent hate crime illustrated the callous attitude of the attackers. In November 2008, Ecuadorian immigrant Marcelo Lucero, 37, was stabbed to death in Patchogue, N.Y., during an attack by seven teens.[13] The teens, who were also charged in connection with attacks on eight other Latinos over 14 months, reportedly told authorities that assaulting Latinos was a regular pastime. "I don't go out doing this very often, maybe once a week," one of the teens told police.[14]

Immigrants in the area have said they have been harassed but don't report it to police due to their fears of deportation.[15]

Tragically, such crimes shouldn't be surprising given the ubiquitous immigrant-bashing in the media.

One organization listed by the SPLC as a hate group because of its longstanding ties to white supremacists, the Federation for American Immigration Reform (FAIR), has not only been given airtime but has repeatedly testified about immigration before Congress.

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11 Heidi Beirich, "Immigration: Getting The Facts Straight," *Intelligence Report*, Summer 2007, p.38.
12 See *Hate Crime Statistics*, 2003–2007, Federal Bureau of Investigation.
13 Frank Eltman, "NY Teens Accused of Hate Crime Face New Charges," The Associated Press, Jan. 29, 2009.
14 Id.
15 Id.

FAIR's past has been largely ignored by the media despite the group's acceptance of more than $1 million from the Pioneer Fund, a racist foundation devoted to eugenics and proving a connection between race and intelligence. The group's founder, John Tanton, also has compared immigrants to bacteria and operates The Social Contract Press, a company that has published anti-Latino and white supremacist writings.[16]

IMMIGRANT-BASHING COMMON IN THE MEDIA

Meanwhile, cable news personalities like CNN's Lou Dobbs inflame nativist passions with extremist-inspired propaganda — like the ridiculously false charge that immigrants were responsible for 7,000 new cases of leprosy in the United States during a recent three-year period.[17]

The questionable claims peddled in the media have tangible effects on local laws as lawmakers scramble to see who can be toughest on "illegals." State legislatures have been inundated with immigration bills. In 2008, approximately 1,300 bills related to immigration were considered across the country. At least one law or resolution was enacted in each of 41 states, and a total of 206 laws and resolutions were enacted nationwide.

This is comparable to 2007, when 1,562 bills and resolutions were introduced in state legislatures and 240 laws were enacted.[18]

Not surprisingly, this atmosphere has chilled America's Latino community. Half of all Latinos questioned in a 2008 Pew survey said the situation of Latinos in the United States is worse than it was a year ago. That was up from the 33 percent of Latino adults who expressed the same opinion a year earlier.

"The immigration issue has affected all Latinos. Any person of brown color. They're looked at as immigrants," Balvino Irizarry, president of the Hispanic Leadership Council of Stanislaus County, Calif., said of the study's 2007 findings.[19]

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16 Heidi Beirich, "The Teflon Nativists,", *Intelligence Report*, Winter 2007, http://www.splcenter.org/intel/intelreport/article.jsp?aid=846&printable=1

17 "Errors and Extremist Sources on Lou Dobbs Tonight," Southern Poverty Law Center, May 1, 2008, http://www.splcenter.org/news/item.jsp?sid=94

18 Dirk Hegen, State Laws Related to Immigrants and Immigration in 2008, National Conference of State Legislatures, Jun. 27, 2007, p. 1.

19 Eve Hightower, "Report: Immigration Issue Makes Life Tough, Latinos Say," *Modesto* (Calif.) *Bee*, Dec. 14, 2007.

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UNDER SIEGE

Life for Low-Income Latinos in the South

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