

**THE ILLEGAL ALIEN THREAT TO
AMERICA'S SENIOR CITIZENS**

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[Inside Front Cover]

TREA SENIOR CITIZENS LEAGUE

Mission Statement. TREA Senior Citizen's League (TSCL) is dedicated to serving our members by defending and protecting their earned retirement benefits by working with the U.S. Congress, the executive branch, and federal government agencies and departments.

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AUTHORS' BACKGROUND

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PREFACE

Every day since 9/11, it seems we Americans are told how illegal aliens threaten our way of life. Taking jobs away from American citizens. Taking advantage of our generous health and welfare benefits. Breaking our laws. Even voting in our elections.

And every day we senior citizens are being told that our Social Security and Medicare benefits — for which we have worked so long — are at risk. That there may not be enough money in our trust fund to pay the benefits to which we are entitled.

What we have not been told, however, is that the benefits that we have worked hard to secure are being put at risk by our uncontrolled borders — That one of the greatest threats to everything that we have counted on in our senior years are illegal aliens.

But you would not know this by reading your local newspaper. Or watching the evening news on television. Or even listening to your favorite talk show or visiting your favorite Internet blog.

That is why TREA Senior Citizens League commissioned a study to determine the extent of the threat to Social Security and Medicare funding posed by uncontrolled illegal immigration.

What this study revealed startled the TSCL Board. Not only did we learn that illegal aliens put Social Security and Medicare at risk, but we found out that illegal aliens threaten our very way of life — increasing the risks of identity theft, incurable disease and serious crime — just to name a few.

Because we discovered how serious the threat of illegal alienage is to senior Americans, we decided to make this study available to our supporters and friends — not just to warn, but to inform you of a strategy and action agenda that can be implemented to meet this new danger.

The findings in this study take the reader up to September of 2005. Because the topic covered is subject to almost daily changes, we have created on our website a special category on the illegal alien threat in order to keep you current.

The website is www.tscl.org. Just click on the icon Illegal Alien Threat.

*Ralph McCutcheon
TSCL Chairman*

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CHAPTER I

AMERICA: THE ILLEGAL IMMIGRANT PROBLEM

At the foot of the Statue of Liberty in New York harbor are etched these words: “Give me your tired, your poor, Your huddled masses yearning to breathe free, The wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me, I lift my lamp beside the golden door.” And so it has been in these United States of America, for over two centuries her door has been opened to every nationality and every faith. But in the last several decades, more and more immigrants are not coming through the open door and they have not come to be free. Rather, they have been scaling the walls, breaking down the doors, and sneaking across the borders, not for freedom-sake, but for the economic benefits that law-abiding Americans, immigrants all, have worked so hard to secure.

A. America: A Nation of Immigrants in Transition

The United States of America is, and has always been, a nation of immigrants. In the first 200 years of her history, the nation chose — at first by a liberal open-door immigration policy, and later by a more restrictive one — those who would be allowed to immigrate and become American citizens.

In the past 30 years, however, people from all over the world, and especially from Mexico, have been entering this country illegally, in defiance of our immigration laws. Because of this illegal activity, the United States already is under severe economic pressure, as illegal aliens take full advantage of the nation's generous benefits, including Social Security and Disability Insurance, Supplemental Security Income, Medicare, Medicaid, public education and various other government-provided safety nets. By availing themselves of these generous programs, these illegal invaders have already caused economic crises in many of our southern border states. These crises threaten the continued economic vitality of the programs by causing either significant reductions in, or even closures of, the programs, thereby depriving the American citizenry — whose tax dollars pay for them — of such benefits.

The vanguard of this modern invasion has largely consisted of people who — desperate to escape their native lands plagued with poverty and joblessness, disease and hopelessness — have come to America to make a new life here.

In recent years, however, this invasion has come primarily from our neighbor to the South, as Mexican workers have migrated northward in truly astounding numbers. Partially motivated by a desire to stem this outbreak of illegal movement, the United States and Mexico entered into the North American Free Trade Agreement (“NAFTA”) in 1993, hoping thereby to encourage job growth in Mexico and to reduce the incentive for illegal immigration. Instead, such unauthorized entry into the United States has risen sharply in the following decade.ⁱ While some deny that NAFTA, itself, contributed to this sharp rise,ⁱⁱ others maintain that NAFTA and other free trade agreements, both those already existing and those proposed, are exacerbating the problem of illegal immigration to the United States.ⁱⁱⁱ

However, our elected officials — at the national, state and local levels — have done precious little to protect Social Security and Medicare, and other benefits and freedoms, from this invading threat.

B. America: A Nation in Trouble

Evidence is mounting that illegal aliens, primarily from Mexico and various Central and South American countries, have had innumerable negative cumulative effects which adversely affect American seniors. They have introduced exotic, communicable and infectious diseases to the United States population. These diseases, which are resistant to drugs, had been long absent in the United States and are now threatening the public health,^{iv} including the senior population. Employment of these illegal aliens has pulled down the level of wages for all Americans, while at the same time increasing the burden on taxpayers and the economy to provide “services to a much larger poor and low-income population,”^v threatening the economic viability of Social Security and Medicare, the financing of which is heavily dependent upon the taxes paid by Americans who are working.

Behind this modern wave of immigrants has come a new threat, including a cadre of persons who can reasonably be described as outlaws. These people seek to change America, not to become a part of her. This new type of illegal alien increasingly includes religious terrorists,^{vi} drug dealers,^{vii} criminals not wanted in their own countries^{viii} and political revolutionaries.^{ix} Some go so far as to actively promote alien agendas, including gaining control over portions of the southwest for the government of Mexico and subjugation of the nation to radical Islam, thereby undermining the political stability of the country upon which Social Security and Medicare depend. Certainly only a fraction illegal immigrants fall into one of these categories, but all share one feature — their willingness to defy our laws by jumping ahead of those waiting in line to enter the country lawfully.^x

C. America: A Nation out of Control

It is said that a nation that loses control over its own borders ceases to be a nation. America has lost *de facto* control of its borders. Now it may be taking steps to change its laws to weaken its ability to even reclaim its borders. Indeed, there are some in Congress who believe that the recently negotiated Central American Free Trade Agreement (“CAFTA”) essentially has divested Congress of its constitutional authority to regulate immigration, by subordinating American immigration policy “to the whim of international tribunals and trade panels.”^{xi} And if this happens, it is not far-fetched to envision similar international intervention into matters such as Social Security and Medicare.

If illegal immigration remains uncontrolled, how can the flow of foreign-produced illegal drugs be controlled? When our borders are porous, how can the U.S. crime epidemic be solved while other nations export their criminals to the United States? How can America’s healthcare system survive the importation of new, drug-resistant diseases by illegal aliens? How can our

educational system survive when, in just one county (Fairfax County, Virginia), teachers are required to teach 20,000 students speaking over 100 “home” languages — none of them English?^{xii} How can our federal budgetary deficits be solved as more and more of our businesses pay illegal alien workers off-the-books in a growing, underground economy where taxes go unpaid? Finally, as this paper specifically addresses — perhaps for the first time — how can Social Security, Medicare and other governmental programs of importance to seniors be relied on to care for those who have earned their benefits by lawful work and payment of their taxes, if those programs are drained to take care of a potentially-unlimited number of non-citizen beneficiaries?

D. America: The Hopeful Road Ahead

There is hope that this sad state of affairs can be turned around. Already, the American people are rising up to assume the responsibilities abandoned by their government. For example, the governors of New Mexico and Arizona declared states of emergency on August 12 and 15, respectively, in response to the illegal alien crisis in their states.^{xiii} Also, beginning in April, 2005, citizens from all over the country deployed themselves as modern-day Minutemen,^{xiv} to defend America’s border with Mexico, only to be rewarded with a Border Patrol order to “stand-down,” in opposition to their efforts.^{xv} Rather than assist these efforts to control the borders in Arizona, the Border Patrol hierarchy has ordered agents “not to arrest illegal aliens” “because an increase in apprehensions there would prove the effectiveness of Minuteman volunteers.”^{xvi}

In the fall election of 2004, the people of Arizona voted overwhelmingly for Proposition 200, giving teeth to existing laws that deny illegal aliens access to the ballot box and to many state tax-supported benefits, only to be forced to go into state court to combat the state attorney general’s ruling that the measure only applied to a small number of welfare programs.^{xvii} Additionally, Arizona voters were rewarded with a federal lawsuit challenging the constitutionality of their hard-fought, but successful, measure.^{xviii} On August 9, 2005, that lawsuit was dismissed. However, the dismissal was not on the merits, but on the ground that the particular plaintiffs had not demonstrated that they had been “legally” hurt, so the ruling does not guarantee what will happen if other plaintiffs should file suit.^{xix}

Even yet, there is a strong and growing contingent of Congressmen in the U.S. House of Representatives who are making every effort to secure America’s borders and to deport those who have illegally entered, and those who illegally stay in, this country.^{xx} It would appear that this contingent of the people’s elected representatives would be even more concerned about the illegal immigration problem if reinforced by information demonstrating the adverse impact that illegal aliens are having — and will increasingly have — on Social Security, Medicare, and other government benefit programs.

Endnotes to Chapter I

CHAPTER II

THE PROBLEM ILLUSTRATED: ILLEGAL ALIENS ON THE LOOSE

In America, if a person is charged with a crime, he is set free on bail, unless the prosecutor can show that he is a danger to the community or an unreasonable risk not to appear for his trial. When an alien from a country other than Mexico or Canada illegally enters the United States, he is automatically set free to roam the country at will, whether or not he is a danger to the community or unlikely to show up at his deportation hearing. This is just one example of the lax enforcement of America's immigration laws, but it illustrates the failure of our government officials to protect us from the illegal alien threat.

Every day, the United States government grants hundreds of illegal aliens entering our Southern Border “legal” permission to “roam freely anywhere in the country,”¹ not because that is our government’s policy, but because persons from countries other than Mexico who enter the United States illegally through the Mexico border cannot — under international law — be returned to Mexican soil. Instead, they must be returned to the countries from which they have come. Such illegal aliens, popularly known as OTM’s (Other than Mexican), are brought before a federal immigration judge who is forced to release them due to a lack of detention facilities. They are given an order to report to court at a later date for a deportation hearing.² These OTM’s are given a special federal document — called a “permiso” — which authorizes their presence in the United States until the date of that hearing. In reality, the *permiso* allows them to remain in the country, despite their violation of the laws of the United States, with the sole condition that they agree to appear in court at a later date.

Most of these OTM’s come from Central and South American countries such as Brazil, Honduras and Guatemala. Many others, though, have made their way here from countries such as Iran, Pakistan, Afghanistan, Yemen — or any of 31 other “special interest” countries, known for their “sponsorship or support of terrorism.”³ Since the September 11, 2001 bombings, roughly 118,000 such *permiso* passes have been issued.⁴ Between their release from custody and their scheduled court date, these aliens move freely about the country, off the Border Patrol’s radar screen. They may legally travel anywhere in the country, by any means of available transportation.⁵

Not at all surprisingly, a large portion of these persons fail to show up for their scheduled day in court. The “failure-to-appear” rate is 22 percent nationally and, in some areas, is as high as 87 percent. Indeed, the federal immigration court at Harlingen, Texas reported that 98 percent of those on *permiso* fail to show up for their court dates.⁶ The court’s only recourse is to note the alien absence and to order the alien removed from the United States. It is estimated that over 465,000 such aliens today remain “at-large” in the United States.⁷

Theoretically, a Middle-Eastern terrorist not on any watch list could fly to Mexico and then unlawfully enter the United States. Even if law enforcement officers were so fortunate as to pick him up at the border, they would follow established national policy and let him loose,

providing him a *permiso* giving him lawful access to the rest of the country. This same person could board a plane at the nearest airport and fly to the place of his choosing. This illegal alien, without ever having gone through normal immigrant screening, would then be completely free to commit any sort of terrorist action against the citizens of the United States. The documents granting his freedom and free-access would have been signed and sponsored by the United States government — the same government that is sworn to protect American citizens. This was the situation prior to September 11, 2001, when the group of terrorists who hijacked commercial airliners included several in the country illegally under our nation's lax policies.⁸ Unfortunately, this *permiso* system continues to be the sad state of affairs today.

This problem is only the tip of the iceberg of a much more serious problem that illegal aliens pose to the American way of life, including a significant threat to our Social Security and Medicare systems and other government benefits programs. The challenge is to develop a strategic plan that will **actually** preserve Social Security and Medicare from the **real threat** of illegal immigration, not simply produce empty slogans and unfulfilled commitments.

Endnotes to Chapter II

CHAPTER III

THE CRISIS OF ILLEGAL IMMIGRATION

Illegal immigration into the United States has reached a crisis. The Census Bureau forecasts that in the next 50 years the population in America will soar from 282 million people to 420 million, even though birthrates of Americans will continue to fall. The increase will come predominately through immigration, largely illegal. Even though Congress has been aware of this burgeoning illegal alien population, it has failed to enact effective legislation to close the doors to illegal entry. And the White House likewise has failed to insist upon vigorous enforcement of the laws that have been passed. America is, indeed, in danger of being overrun by illegal aliens. While the new head of the Department of Homeland Security has recently called for stricter control of America's borders and more effective deportation of illegal aliens, many question whether these latest promises will be fulfilled.

During the last quarter of the 20th century and continuing into the first decade of the 21st, “one of the most hotly debated and polarizing political topics” has been that of immigration.¹ Indeed, in 2005, the debate has sharply intensified, particularly after April 1, 2005, when thousands of aroused citizens volunteered to serve as modern-day “Minutemen” and to help United States officials police the border with Mexico.² President Bush faces vigorous dissent from those within the Republican Party who have questioned his policies and practices concerning illegal immigration.³ Moreover, the immigration issue has become divisive among Republican elected officials, at both the state and federal levels.⁴ Surprisingly, liberal Democrats such as Hillary Clinton (D-NY)⁵ have joined with conservative Republicans such as Tom Tancredo (R-CO)⁶ to express concern about the problem. Even CNN (Cable News Network LLP) regularly devotes substantial air time on its prime-time nightly news show, *Lou Dobbs Tonight*, to the coverage of the adverse national effects of illegal immigration.⁷

The Census Bureau estimates that in only 50 years, from 2000 to 2050, the **population of the United States is expected to rise from 282 million to 420 million**, an increase of approximately 50 percent, even though birthrates among Americans are projected to continue to fall.⁸ The Census Bureau estimates that **this huge increase will largely take the form of Hispanic immigration, mostly illegal**. From 2000 to 2050, **almost 67 million persons of Hispanic origin** are expected to account for about half of the total estimated increase in the U.S. population.⁹

A. Historical Background: Immigration Laws

The current debate over federal immigration policy is not unprecedented. As one observer has put it, although the United States is an “undeniably eclectic ‘nation of immigrants’ ... the admissibility of immigrants has long been a thorny issue in American society.”¹⁰ In the nation’s first 100 years, there was “virtually no federal regulation of immigration,” leaving the issue primarily to the States.¹¹ During this period, the United States pursued “a relatively

barrier-free immigration policy,” largely because of the “dire need for immigrant labor” to fuel America’s economic growth.¹²

In the late 19th and early 20th centuries, however, this *laissez faire* attitude towards immigration changed dramatically, as millions of immigrants poured into the country from nations outside of Northern and Western Europe. Congress stepped in, concerned that such a large influx of such immigrants could not be assimilated because of vast differences in culture, language and religion. Congress enacted the **Immigration Act of 1875**, the “first official federal legislative act restricting immigration.”¹³ Congress followed up in 1882 with two major bills, the **Chinese Exclusion Act**¹⁴ and the **Immigration Act of August 3, 1882.**¹⁵ While there was opposition to such restrictions — primarily from American businesses seeking cheap labor — proponents overcame these economic concerns by using social, moral, political and religious arguments.¹⁶

Having effectively shut off Asian immigration and having severely curtailed European immigration, beginning with World War I the United States turned to Mexico to meet the labor needs of American industry and agriculture, creating special exemptions from laws that would otherwise have kept Mexican laborers out of the country. Thus, “Mexicans were allowed to enter the United States as guest workers on a temporary basis, six months at a time.”¹⁷ After a brief respite from the need for such workers during the Great Depression, beginning with World War II the door was reopened to Mexican laborers to replace American agricultural workers who had found “higher-paying industrial jobs generated by the war.”¹⁸

This open-door practice continued into the Cold War period, during which time Congress focused on the problems of internal Communist subversion. This fear of subversion, in turn, expanded the grounds for deportation and spawned the **Immigration and Nationality Act of 1952** (“INA”) — the law “that still constitutes the backbone for immigration law in the United States.”¹⁹ The INA, in turn, was amended in 1965, eliminating the “strict national-origins quota system” and thereby facilitating a relatively-liberal immigration policy.²⁰

B. Current Issues: Illegal Immigration Primarily from Mexico.

In the 1970's, however, Congress discovered that it had failed to anticipate what had become an entirely new immigration problem — that of “illegal, undocumented Latin American workers — mostly Mexican.”²¹ In 1978, Congress finally responded by forming the **Select Commission on Immigration and Refugee Policy**, from which emerged the recommendation that sanctions be imposed on employers who knowingly hired illegal aliens. Eight years later, that recommendation was incorporated into the **Immigration Reform and Control Act of 1986** (“IRCA”), which not only authorized sanctions against those who employed undocumented workers, but also granted amnesty to certain agricultural workers illegally in the United States.²²

IRCA quickly proved inadequate, prompting Congress to enact the **Immigration Act of 1990** (“IA”), which contained two provisions that addressed illegal immigration:²³ (i) IA made

it easier to deport illegal aliens, and (ii) IA fortified the U.S.-Mexico border, by increasing the size of the United States Border Patrol. But these measures, like those adopted four years before, did “virtually nothing to lower levels of *illegal* immigration.”²⁴ In 1993, the Clinton Administration claimed that the adoption of **NAFTA** would “lead to a significant decrease in the unauthorized movement of people across the U.S.-Mexican border,” only to see an increase in such movement as the expected increase in Mexican employment opportunities failed to materialize.²⁵

As a direct consequence of continuing, vocal public concern about such unauthorized entries, Congress enacted the **Illegal Immigration Reform and Immigration Responsibility Act** (“IIRIRA”) in 1996.²⁶ However, this Act, too, has failed to “reverse the unprecedented increases in illegal immigration,” even though it provided for the hiring of 1,000 new Border Patrol agents annually, the imposition of stiffer penalties on smugglers and the improvement of fencing along the border with Mexico.²⁷

C. Current Status: Immigration Policies and Practices

Not surprisingly, President Bush made immigration reform a major issue in the 2004 elections, by promoting his “guest-worker program” and developing a closer working relationship with Mexican President Vicente Fox.²⁸ These initiatives were brought to an abrupt halt by the terrorist attacks of September 11, 2001.²⁹ Since 9/11, however, the American people have expressed increased dissatisfaction with the failure of the Bush Administration to combat illegal immigration. This dissatisfaction has triggered the ire of Mexican President Fox and has pushed the illegal immigration issue again onto the front burner — despite the Bush Administration’s foot-dragging on the issue.³⁰

The White House is not alone in its reluctance to tackle the immigration crisis. Despite the obvious risk to the security of the nation, on July 14, 2005, the United States Senate voted against an amendment to the Department of Homeland Security spending bill. The Amendment would have funded 1,000 more border agents and 2,240 more detention beds in fiscal 2006, which — had it been enacted into law — would have fallen short of the 2,000 new agents and 6,000 new beds promised by Congress in a December 2004 intelligence overhaul bill.³¹ Explaining their opposition to the amendment, many senators expressed support for strengthening America’s borders, but not at the expense of federal grants to local communities in their own states for firefighters and police officers.³²

This vote, like so many on illegal immigration, reveals a Congress long on promises and strong on rhetoric, but short on fulfilling those promises and acting on those words to the American people.

Endnotes to Chapter III

CHAPTER IV

HOW ILLEGAL ALIENS THREATEN SOCIAL SECURITY AND MEDICARE

Americans are being told that both Social Security and Medicare face serious financial shortfalls in the years ahead, necessitating significant internal reforms. But what the American people are not being told about is the external threat posed by illegal aliens to both the Social Security Trust Funds and the Medicare program. A proposed U.S.-Mexico Totalization Agreement, alone, would put the Social Security program at unnecessary financial risk. And the drain of illegal aliens upon numerous benefit programs takes away dollars that could otherwise be allocated to Medicare. In light of these twin threats, there are serious questions whether amnesty for illegal aliens and birthright citizenship for children of illegal aliens can be tolerated in light of the adverse impact that illegal alienage has, and will continue to have, on the economic vitality of Social Security and Medicare, two benefit programs to which Americans have contributed their hard-earned dollars over the years.

For years Americans have been warned that the Social Security retirement system is in trouble, necessitating serious internal reforms. Presidential administrations have come and gone without any long-term solution. The Bush Administration's proposal to privatize benefits for younger workers is just one more reform measure designed to solidify retirement funds for the future without having to raise taxes.¹ On the other side, Congressmen such as Robert Wexler (D-FL) have proposed raising Social Security taxes on higher incomes by as much as half.²

None of these reform proposals, however, address the threat that illegal immigration poses to the economic health of the Social Security system.

A. The Illegal Alien Threat to Social Security

One of the greatest threats to the Social Security system comes in the form of the proposed **U.S.-Mexico Totalization Agreement**. TSCL has prepared a petition and constitutional brief opposing this totalization agreement, which is being submitted to Congress. This totalization agreement was signed by U.S. Social Security Commissioner Barnhart and the Director of the Mexico Social Security Institute on June 29, 2004, currently is being reviewed by the United States Department of State and the White House and is being readied for submission to Congress.³ While the Social Security Administration has estimated the cost of the U.S.-Mexico Totalization Agreement to be (only) in the hundreds of millions of dollars, the Center for Immigration Studies ("CIS") has dismissed the estimate as one based upon flawed assumptions and upon lack of "rigor" of "analysis."⁴ CIS claims that a more realistic estimate of the U.S.-Mexico Totalization Agreement's impact "would be in the billions of dollars."⁵

NumbersUSA has noted that, under the Social Security Protection Act of 2004, Congress has prohibited "aliens (and their spouses and dependents) from claiming Social Security credit for work performed while in the United States illegally unless the alien obtains legal status at some point."⁶ Despite these prohibitions, the U.S.-Mexico Totalization Agreement would

“increas[e] the pool of foreign workers who can qualify for U.S. social security benefits on the basis of work performed while here illegally.”⁷ Currently, CIS estimates that “illegal households create a combined net benefit for [Social Security and Medicare] in excess of \$7 billion a year,” but that “if the Social Security totalization agreement … goes into effect, allowing illegals to collect Social Security, these calculations would change [for the worse].”⁸ To date, the Bush Administration has given no indication of any concern about the direct adverse economic impact that a U.S.-Mexico Totalization Agreement would have on Social Security.

B. The Illegal Alien Threat to Medicare

The current Administration also has ignored altogether the current adverse economic impact that illegal immigration has on other federal programs – an impact that will, in turn, make it more difficult to implement any Social Security and Medicare reform.⁹ Yet, CIS has documented that illegal immigration created a net fiscal deficit in 2002 of almost \$10.4 billion in the federal budget alone, including but not limited to:

- \$2.5 billion in Medicaid;
- \$2.2 billion in treatment for the uninsured;
- \$1.9 billion in food assistance programs;
- \$1.6 billion in federal prison and court systems; and
- \$1.4 billion in federal aid to schools.¹⁰

Current government officials in Washington also ignore the even greater additional costs which illegal immigrants have imposed on the states, especially those states along the U.S. southern border. The Federation for American Immigration Reform (“FAIR”) estimated that, in California alone, illegal immigration creates a net fiscal drain of approximately **\$9 billion per year**, or “\$1,183 per household headed by a native-born resident.”¹¹ In fact, the benefit (paid in taxes) to California from illegal immigrants was so slight that it offset only the cost of incarcerating other illegal aliens who had committed crimes.¹²

This effect on the states, in turn, oftentimes puts a drain on the federal budget to compensate those states for expenditures incurred due to the failure of the United States government to police its borders. In the **2003 law expanding Medicare**¹³ to cover prescription drugs, Congress expressly provided **\$1 billion** to pay hospitals for emergency care extended to **illegal aliens** — care mandated, but unfunded, by federal law.¹⁴ Funds necessary to fix Medicare for those here legally are instead being directed to pay for emergency care for those here illegally.

There is a serious financial crisis in Medicare that is not being addressed by either the White House or Congress. According to Congress’ Government Accountability Office (“GAO”), “Medicare’s financial difficulties are much more severe than those confronting Social Security.”¹⁵ Indeed, in a *Los Angeles Times* report, GAO’s Comptroller General is quoted to have said that the “government’s unfunded promises to future retirees under Medicare amount to

a staggering **\$27.7 trillion** over the next 75 years, [d]warfing the \$3.7-trillion liability over the same period for Social Security”¹⁶:

The Medicare problem is about seven times greater than the Social Security problem, and it has gotten worse,” said Comptroller General David M. Walker, head of the GAO. “It is much bigger, it is much more immediate, and it is going to be much more difficult to effectively address.¹⁷

Additionally, the American Academy of Actuaries’ analysis of the “2004 Report of the Boards of Trustees of the Federal Hospital Insurance (Medicare Part A) and Supplementary Medicare Insurance (Medicare Part B)” finds that, “the Medicare program faces serious short-term and long-term financing problems.”¹⁸

As for Medicare Part A, the Medicare Trustee Report revealed that “trust fund assets will fall below annual expenditures within the next 10 years” and that annual expenditures had already exceeded “non-interest income in 2004.”¹⁹ The report predicted that “by 2020, when the trust fund assets are projected to be depleted, tax revenues will cover only 79 percent of program costs, and this share will decrease rapidly thereafter.”²⁰ As for Medicare Part B, the “trust fund is expected to remain solvent, but only because its financing is reset each year to meet projected future costs.”²¹ The Academy predicted that, over time, Medicare Part B will remain solvent only because of increases in “beneficiary premiums” and “general revenue contributions.”²² Therefore, the Academy concluded:

Medicare’s demand on the federal budget … will increase rapidly [and] Medicare expenditures as a share of GDP and of total federal revenues will also increase rapidly, thereby threatening Medicare’s long-term sustainability.²³

Those illegal households not in the underground economy currently provide some net benefit to Medicare, because they pay the Medicare Part A tax.²⁴ Moreover, unlike the benefit such households are to Social Security, the benefit conferred upon the Medicare system by illegal aliens’ payment of the Medicare tax would not be affected by the U.S.-Mexico Totalization Agreement, since that agreement is limited to payment of Social Security retirement benefits to those Mexicans who reside in Mexico.

However, any current net benefit is anticipated to be short-lived. Illegal aliens who remain in the United States, under the **1986 IRCA amnesty program** and any future similar amnesty legislation, receive Medicare and other benefits. According to CIS, the “total 10-year” direct and indirect costs of the IRCA amnesty haveeen **\$78.7 billion** — “with indirect and downstream costs still accumulating.”²⁵ Should Congress enact legislation again granting amnesty to illegal aliens, such as the bill sponsored by Senators John McCain and Edward Kennedy,²⁶ an even greater burden will be placed upon the Medicare system as the pool of illegal

immigrants in American has continued to grow. Today, the number of illegal immigrants may **be as high as 20 million and may be increasing by as much as 3 million per year.**²⁷

Endnotes to Chapter IV

CHAPTER V

HOW ILLEGAL ALIENS THREATEN OTHER BENEFIT PROGRAMS

Few Americans realize that, under current law, a baby born to a mother who is illegally in the country is automatically an American citizen. At birth, then, the baby is entitled to all of the benefits of an American citizen. Not only does this mean that the baby may receive medical care under a state's Medicaid program, but the mother may receive welfare payments for a dependent child, food stamps, and free public education for the baby. And, in the long-run, after the baby grows up, his or her spouse, children and parents now qualify for automatic citizenship, making all of them eligible for government benefits, including Social Security and Medicare. Even without an "anchor baby," however, illegal aliens are entitled to emergency medical treatment in U.S. hospitals and other hardship benefits, putting a special financial strain upon the nation's southern border states.

Even if Congress does not pass a further illegal alien amnesty bill, there is another overlooked threat that illegal aliens pose to Social Security and Medicare. That threat is the economic burden imposed by the long-standing assumption that citizenship is to be conferred upon any child born within the geographic boundaries of the United States, even when that child has been born to parents who have entered or remained illegally in the country.¹

A. Automatic Citizenship Conferred upon Babies Born on American Soil

One case study helps illustrate the foolishness of the current policy:

Elva Hernandez never imagined she'd give birth to a son in a medical helicopter flying over the Arizona desert. The 29-year old woman, who was seven months' pregnant ... went into labor after walking in the heat, rain and in the cold of the night for nearly 20 hours as she and her family tried to illegally enter the United States. Hernandez, her children and her husband were abandoned by a smuggler soon after she went into labor. Last Sunday, she gave birth in the helicopter minutes after being rescued by U.S. Border Patrol agents. She and the premature baby, Christian ... were taken to Tucson's University Medical Center.... William M. Johnstone, who heads the Department of Homeland Security's Office of Citizenship and Immigration Services in Tucson, said Christian's **birth on U.S. soil makes him a U.S. citizen under the 14th Amendment to the U.S. Constitution.**²

Conferring automatic birthright citizenship on these so-called "anchor babies,"³ the number of which has been estimated currently to be between 300,000 and 350,000 annually,⁴ opens the door for parents and other family members to obtain permanent residency and ultimately citizenship — citizenship that qualifies them for all government benefits, both state

and federal.⁵ The full economic impact of such birthright citizenship has never been measured, but there is no question that the huge, negative impact caused by the nation's current policy — to reward illegal aliens with citizenship, creating this "Trojan Horse" — can be readily inferred from an examination of the immediate impact that such anchor babies have on the benefit programs to which they become entitled upon birth.

It is well-documented that, from birth, anchor babies impose significant costs on the American taxpayer. According to Madeleine Cosman, writing in the Spring 2005 issue of the highly-regarded *Journal of American Physicians and Surgeons*:

In 2003 in Stockton, California, 70 percent of the 2,300 babies born in San Joaquin General Hospital's maternity ward were anchor babies.... In 1994, 74,987 anchor babies in California hospital maternity units cost \$215 million and constituted 36 percent of all Medi-Cal births. Now they account for **more than half.**⁶

To illustrate that such costs do not end with the costs of the hospital's delivery room, Dr. Cosman recounted the story of one illegal alien household, composed of a father, a mother and five children (two of whom are anchor babies). One of the babies, born premature, spent three months in a neonatal incubator at the cost of more than \$300,000. What's more, the two babies, combined, "generate \$1,000 per month in public welfare funding."⁷

In a USA Today/CNN poll taken in January, 2004, 74 percent of Americans think that "the government shouldn't make it easier for illegal aliens to become citizens."⁸ There is little doubt that the average person, using common sense, would throw up his hands if he was told that the baby of a woman giving birth while under arrest for illegal entry into the United States is, by law, automatically an American citizen. To the ordinary American, this simply does not make sense. Yet, the Urban Institute Immigration Studies Program estimated in January, 2004 that there are at least 3 million such "birthright citizens" in the United States.⁹

B. Other Welfare Costs of Illegal Aliens

Illegal alien access to public welfare, including Medicaid, does not turn on the presence of an anchor baby in the household. The **Emergency Medical Treatment and Active Labor Act** (EMTALA) "requires every [hospital emergency department] to treat anyone who enters with an 'emergency,' including cough, headache, hangnail, cardiac arrest, herniated lumbar disc, drug addiction, alcohol overdose, gunshot wound, automobile trauma, ... HIV-positive infection, mental problem, or personality disorder."¹⁰ This federal mandate applies regardless of a patient's status (legal or illegal) and its cost is unfunded, leaving hospitals to foot the bill — even hospitals located in areas with large illegal alienage populations. This has created a crisis of significant proportion, resulting in the inclusion of \$1 billion in the 2003 Medicare prescription drug bill being appropriated for payment to hospitals, discussed above. The largest allocations

are going to the States of California, Texas, Arizona, New York, Illinois, Florida, and New Mexico.¹¹

Even though this \$1 billion payment apparently will resolve the immediate crisis that has threatened to shut down a number of hospitals, the payment will not cover the continuing economic burdens upon state Medicaid programs. Indeed, the 2006 federal budget contains a **\$10 billion dollar cut** in federal contributions to state-administered Medicaid programs.¹² Such entitlement cuts will add to an already exacerbated state and local government budget crisis in which increasing Medicaid costs are “pit[ting] education for children against health care for the poor.”¹³ Ironically, part of the reason for this cost crunch is the fact that illegal aliens account for **significant increases in the costs of public education**, said to be constitutionally guaranteed to illegal aliens by the United States Supreme Court in Plyler v. Doe, 457 U.S. 202 (1982).¹⁴

Uninsured illegal aliens who do not have primary care physicians and who, under EMTALA, are not required to pay for medical services they receive at hospitals, have flooded emergency rooms, causing an unprecedented financial strain on these private institutions. Even with federal appropriations reimbursing hospitals for a portion of the expense of treating illegal aliens, many hospitals are simply unable to continue to operate. “Since the mid-1980s, 18 [Los Angeles county] emergency rooms have closed. Ten trauma centers — which treat the most critically injured patients — also have shut their doors.”¹⁵ These closings represent more than 25 percent of all LA county emergency rooms and trauma centers. In total, California is losing 24 hospitals.¹⁶ The State has already lost 60 hospitals between 1993 and 2003.¹⁷

As hospitals close, due to overload caused by illegal aliens, ambulances must drive longer distances in order to get to emergency rooms. Many critically ill patients — including American citizens — may die in transport to more distant emergency rooms, as they wait for ambulances to deliver the previous patient, or as they wait in line for treatment upon arrival to an emergency room overcrowded by scores of illegal aliens.¹⁸ Moreover, the cost of what care these American citizens do receive will be artificially increased, in order to cover the care that illegal aliens receive, but for which they do not pay.

But the costs imposed on medical care and education programs administered by state and local governments are not the only costs imposed upon government benefit programs other than Social Security and Medicare. In 1996, Congress enacted the **Personal Responsibility and Work Reconciliation Act of 1996**, which “barred most legal immigrants from receiving Supplemental Security Income (“SSI”), a cash assistance program for the elderly, blind and disabled.”¹⁹ However, one year later, Congress **reversed** course, restoring such benefits.²⁰ While the current law does not expressly make illegal aliens eligible for SSI payments, that barrier has been circumvented (i) through fraudulently-obtained and stolen Social Security cards²¹ and (ii) through the Immigration and Naturalization Service’s so-called **“hardship” exception**, “that permits any immigration judge to indefinitely withhold an order of removal of any alien whose removal from the U.S. would create a great hardship.”²²

Although there apparently are no official estimates of the number of illegal aliens obtaining SSI and other Disability Income from the Social Security system, it has been estimated that the combined number of legal aliens, refugees and illegals receiving such benefits totals **several million**, or about 25 percent of total recipients.²³ Also, there is no question that the availability of SSI and other benefits is attracting people from numerous foreign nations to come to America, often on a tourist visa, and to remain here illegally, in order to “materially improve their lives without work.”²⁴ Yet, “it continues to be the immigration policy of the United States that ... **the availability of public benefits not constitute an incentive for immigration to the United States**”²⁵ Further, it is federal policy that there “**is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits**”²⁶ But Congress and the President, as well as many state and local government officials, have failed to fulfill these promises to the American people.

Endnotes to Chapter V

CHAPTER VI

HOW ILLEGAL ALIENS THREATEN AMERICAN LIBERTY

In order to enforce the laws against illegal aliens, including the laws designed to deport aliens who either entered the country illegally or who remain in the country illegally, the federal government has enacted laws that (a) intrude upon the privacy of all Americans and (b) impede the freedom of travel of all Americans. Additionally, the steps taken by illegal aliens to avoid detection and deportation has increased (a) the risks of identity theft for all Americans and (b) the tax burden on all Americans.

The adverse impact of illegal immigration upon government benefit programs has led elected officials to adopt a number of programs designed to limit access to such benefits. In the process, such limitations have come at **great cost to traditional liberties** enjoyed by American citizens. Other liberties are being lost directly because of the illegal immigration problem.

A. Privacy

As Congressman Ron Paul (R-TX) has warned, the REAL ID Act (recently enacted into law by the United States Congress, “mandating that states include minimum identification standards on driver’s licenses”), has, in effect, “establishe[d] a massive, centrally-coordinated database of highly personal information about American citizens” that will even “be shared with Canada and Mexico”:

H.R. 418 does nothing to solve the growing threat to national security posed by people who are already in the U.S. illegally. Instead H.R. 418 states what we already know: that certain people here illegally are “deportable.” But it does nothing to mandate deportation.

Although Congress funded an additional 2,000 border guards last year, the administration has announced that it will only ask for an additional 210 guards. Why are we not pursuing these avenues as a way of safeguarding our country? Why are we punishing Americans by taking away their freedoms instead of making life more difficult for those who would enter our country illegally?

H.R. 418 does what legislation restricting firearm ownership does. It **punishes law-abiding citizens**. Criminals will ignore it. H.R. 418 offers a false sense of greater security at the cost of taking a gigantic step toward making America a police state.¹

Such intrusions on the privacy of Americans make it easier for telemarketers and others who target seniors to invade their privacy with unwelcome telephone calls and other solicitations.

B. Freedom of Travel

Aside from invading privacy, the REAL ID Act requires all “Americans to provide a copy of their birth certificate to apply for a new driver’s license or renew an old one ... along with other identification, such as Social Security numbers and utility bills,” leading to longer lines at DMV offices.² To be sure, the Act permits states to opt out, but such a state’s residents would “pay a price,” such as having to produce proof of identity (other than a driver’s license) to board a plane, impacting significantly upon seniors traveling to visit family or to enjoy a vacation at their time-share. Although it is expected, then, that all 50 States will comply with the REAL ID Act, the National Conference of State Legislatures estimates that the cost of compliance ranges from **\$500 to \$700 million** — a cost that will be borne by state taxpayers. This will again place a burden on seniors who find themselves paying increased taxes as the appraisal values of their homes increase in response to the ever-increasing price of homes on the open market.

C. Identity Integrity

The influx of illegal aliens has created an active market for illegal identity documents,³ making it very difficult to trust documents like driver’s licenses and Social Security cards as trustworthy documents of a person’s identity. Indeed, older Americans are habituated to an America in which proofs of identity were required only rarely once one reached visible adulthood. Nowadays, however, all Americans are threatened with identity theft, necessitating precautions unheard of just a decade or two ago. As the nation moves toward a uniform national identity card to combat the problem of illegal aliens, the risk of identity theft rises, thereby further restricting the liberties that Americans have enjoyed since the founding era.

Only recently, the *Washington Times* reported that Pedro Castorena-Ibarra, a Mexican national, was indicted in Colorado, charged with counterfeiting “millions and millions” of United States and Mexican identification documents.⁴ That same story claimed that “3 million phony papers and cards worth more than \$20 million are thought to have been shipped to Los Angeles alone.”⁵ What’s more, in the past few months, Immigration and Customs Enforcement (ICE) has conducted several raids and arrested many of Ibarra’s associates, not only in the southwest, but also across the entire country. Ibarra himself, though, remains at large. The Times also reported that Marcy Forman, head of ICE investigations, said that “Fraudulent documents can be provided to terrorists and other criminals, posing a major homeland security vulnerability.”⁶

D. Economic Liberty

Instead of improving both border control (to keep illegal aliens out of the country altogether) and the internal federal enforcement deportation system (to remove those aliens who remain in the country illegally),⁷ Congress has imposed significant **economic burdens upon employers** to ferret out illegal aliens. Employers who want to cooperate are torn between violating the rights of a job applicant and complying with the burdens of federal and state law. If any mistakes are made, an employer can be sued by a job applicant for discrimination, or fined by the government for noncompliance. Instead of investigating and reporting illegal aliens,

many employers “have taken to using unrecorded revenue receipts,” thereby contributing to an “**underground economy**,” estimated to include “approximately 5 million illegal workers ... collecting wages on a cash basis and ... **avoiding income taxes.**”⁸ Additionally, because of employers “tak[ing] advantage of the vulnerability of illegal residents,” it is estimated that “four to six million jobs have shifted to the underground market,” so that “undocumented immigrants’ ... share of the job market has reached 8%.”⁹ As a consequence, American citizens are losing job opportunities as employers “capitalize on sources of cheaper labor to stay competitive” in a global economy.¹⁰ While many senior Americans do not experience the direct competition of such low-wage workers, their children and grandchildren do and, as they grow older, they may experience such competition as pension plans and government benefit levels are reduced, in view of lower taxes being paid by American workers who simply are not making as much as they used to.

Endnotes to Chapter VI

CHAPTER VII

HOW ILLEGAL ALIENS THREATEN AMERICAN FREEDOMS

Aliens who seek entry into America legally must meet minimum health and moral standards. Those standards are completely ignored by the illegal entrant. Not surprisingly, illegal aliens pose significant threats to Americans long accustomed to be free from many incurable contagious and infectious diseases that plague people in other countries. Further, not surprisingly, illegal aliens who defy a country's immigration laws are prone to violate that nation's criminal code. And they do. Not only have they committed acts of terrorism upon American soil, but illegal aliens enjoy special privileges insulating them from ordinary law enforcement personnel. The crime problem has escalated to such a level that two governors have declared a state of emergency. In short, the picture of increased disease and crime attributable to illegal aliens in this country is not a pretty one, and poses a special threat to senior Americans who are more vulnerable than the general population to these twin threats to traditional American freedom.

Applicants for permanent residency status in America must furnish information to the United States Immigration and Naturalization Service that enables the Service to determine the applicant's moral character and physical health. This process is completely bypassed by those who enter the country illegally. Notsurprisingly, illegal aliens pose new threats of disease and crime affecting all Americans, especially the more vulnerable seniors.

A. The Increased Threat of Incurable Infectious and Contagious Diseases

Americans are being exposed to new and serious threats to their health, a special concern for seniors who may be susceptible to contagious and infectious diseases that were eradicated in the United States many years ago. Tuberculosis, leprosy, smallpox, polio, hepatitis A, B and C, dengue fever, chagas and even malaria today are all on the rise in the United States. In each case, the increase has been traced to illegal aliens. Even less severe inflictions, such as whooping cough, head lice, intestinal parasites and measles, are spread to Americans by illegal aliens.

Tuberculosis ("TB"), for example, "shows up in high rates in Mexico."¹ As a consequence of illegal immigration, there is a high incidence of TB in places along the Arizona border.² The disease has reached as far east as Virginia and as far north as New York.³ Indeed, the strain of TB being brought into the United States not only is highly resistant to treatment but also poses a serious threat to public health.⁴ This new type of TB is known as multi-drug resistant TB, or MDR. Instead of a cure taking a few months and a few thousand dollars, each case of MDR TB takes up to two years and hundreds of thousands of dollars. Moreover, each illegal alien infected with this disease could spread contagion to 10-50 people or more.⁵ In only five years in the United States, 16,000 cases of MDR TB were diagnosed in illegal aliens.⁶ Fully 53 percent of United States TB cases are diagnosed in "foreign born" persons (mostly illegal aliens, since legal immigrants pass through vigorous health screening), up from just 29 percent in 1993.⁷

“Chagas — a potentially fatal illness ... prevalent in South and Central America,” but previously unknown in the United States — is being brought into the country “every day from Mexico alone.”⁸ The disease is incurable, is transmitted easily through the blood supply and is a latent killer, oftentimes lurking in the body for 10 to 20 years before the heart or intestines — enlarged and weakened by Chagas — burst.⁹ Each year in Latin America, “18 million people [or about 4 percent of the population] are infected and 50,000 deaths occur...”¹⁰ Meanwhile, “Federal data suggest that as many as 10 percent ... [of] Mexicans who emigrate to the United States ... are infected with Chagas.”¹¹

The list of outbreaks of disease traced to illegal aliens is lengthy and growing:

- In a single outbreak, Hepatitis was spread to more than 500 people (3 of whom died) in a Pennsylvania restaurant.¹² Health officials found that the illegal aliens working at the restaurant “may have contaminated food by failure to follow basic hygiene in cleaning hands after using the bathroom.”¹³ These and other illegal workers are likely hired because, in many states, employers are prohibited from “asking about medical conditions as a condition for employment...”¹⁴
- In Portland, Maine, 28 police officers were diagnosed with tuberculosis, after an illegal alien being transported coughed in the face of one officer.¹⁵
- “The Maricopa County Health Department reported earlier this month a 100 percent increase in the number of cases of whooping cough (pertussis) over the past year.”¹⁶
- Prince William County, VA, reported a 188 percent increase in TB cases, linked directly to illegal immigration.¹⁷
- Congressman J.D. Hayworth (R-AZ) said that “in 40 years, only 900 persons were afflicted by leprosy in the U.S.; in the past three years, more than 7,000 cases have been presented.”¹⁸

As a class, senior Americans should be especially concerned by such threats, not only because they may be inadvertently exposed to them by more regular visits to the doctor or to the hospital, but also because they may be more susceptible to infection as their bodies age and weaken.

The Center for Disease Control’s website claims that “If an immigrant or refugee has an inadmissible health-related condition, a waiver is required for the applicant to come to the United States. This is also the case for an applicant who is in the United States applying for adjustment of status to permanent residence.”¹⁹ These rules do not affect illegal aliens.

Even more disturbing is the fact that, because of the quality of medical service in the United States and the fact that such service can be obtained for free, many illegal aliens are

specifically coming to the United States in order to receive treatment for their afflictions. One Houston, Texas doctor claims that “We've had even a couple of patients from Cuba who were put on a boat by Castro just to get them out of the country...”²⁰ While healthy illegal aliens caught in the United States at least stand a chance of being deported, the United States government gives special treatment to diseased illegal aliens. Often, it appears, this country keeps the sick while sending the healthy home.

B. The Increased Threat of Crime

Perhaps one of the greatest costs imposed upon American society by illegal aliens is crime, particularly violent crime. Not only are certain Americans victimized physically, emotionally and economically by the crime committed by illegal aliens, but also all Americans, including victims, must pay the costs associated with the incarceration of illegal alien criminals (It is important to remember that **all illegal aliens have violated federal immigration laws and are unapprehended criminals**). While here, illegal aliens have demonstrated a high propensity to commit additional crimes — as a result, tens of thousands are incarcerated in federal and state prisons and jails. The following statistics paint a vivid picture about the costs imposed by criminal illegal aliens in recent years:

- Foreign-born persons represent 8 percent of the total U.S. population, but they comprise fully **30 percent** of federal prisoners.²¹
- Illegal aliens comprise 3 percent of the total U.S. population; however, they comprise fully **17 percent**²² of the 2.1 million prisoners nationwide (1.25 million state, 0.83 million federal).²³
- The cost of incarcerating illegal aliens at the federal level was \$1.6 billion in 2002.²⁴ If it is assumed that state prisons and jails hold roughly the same percentage of illegal aliens, then the cost to individual states was slightly over \$2 billion. If so, the **combined cost to the American taxpayer of incarcerating illegal aliens at the federal and state levels was about \$3.65 billion in 2002.**²⁵
- In Los Angeles, “Up to two-thirds of all fugitive felony warrants (17,000) are for illegal aliens.”²⁶
- In Los Angeles, “95 percent of all outstanding warrants for homicide (which total 1,200 to 1,500) target illegal aliens.”²⁷
- “60 percent of the 20,000-strong 18th Street Gang in southern California is illegal....”²⁸ In other U.S. cities, as well, illegal aliens comprise a disproportionately-high segment of other dangerous, illegal gangs.
- It is no coincidence that New Mexico is the deadliest State for hit-and-run accidents.²⁹ *The Wall Street Journal* reports that, in some areas, illegal aliens account for as much as “44 percent of all ‘hit and runs....’”³⁰

- In order to “hinder investigations” and avoid prosecution following arrest, many criminal illegal aliens pretend that they do not speak English; others fabricate false names, knowing that they must present no documentation proving their identity; many obtain drivers’ licenses by giving someone else’s address as their place of residence.³¹
- Gangs of illegal aliens take part in organized shoplifting, costing American businesses a large but unknown part of that \$10 billion per year crime wave.³²
- In one year, Immigration and Customs Enforcement (“ICE”) agents arrested 2,600 illegal aliens on sexual predator charges.³³

Many illegal aliens have been found responsible for serious offenses, including murder, committed on American soil:

- In 2002, Armando Garcia, a Mexican national illegal immigrant dealing drugs in the United States, shot and killed a sheriff’s deputy “execution-style during a traffic stop.”³⁴ He has since fled to Mexico, where he is immune from extradition because of Mexico’s policies against both the death penalty and life imprisonment.
- In 1988, Mexican national Rudolph Romero shot and killed a Phoenix police officer. Eleven years later, after U.S. prosecutors promised not to seek the death penalty, Mexico extradited Romero to stand trial.³⁵
- Before his death, famed drug lord Pablo Acosta was notorious for smuggling as much as 60 tons of cocaine per year into the United States.³⁶ He was implicated in two killings in New Mexico and at least four in Mexico. He is thought to have sanctioned at many as 40 more.³⁷
- “In February 1993, a gang of Middle Easterner[n] [illegal aliens] ... bl[ew] up New York’s World Trade capital center, killing six and injuring more than 1,000.”³⁸
- At least three and as many as 10 of the September 11, 2001 hijackers were illegal aliens.³⁹ The FBI’s list of the hijackers does not list their immigration status.⁴⁰ The 19 terrorists had 63 drivers’ licenses between them.⁴¹

C. Special Enforcement Barriers Protecting Illegal Aliens

Illegal aliens not only account for disproportionately high levels of property crime and violent crime, but they also are protected from the consequences of their illegal behavior. Many cities and/or states have adopted “sanctuary policies” that specially grant safe harbor to illegal aliens. Under these special provisions, law enforcement personnel are prohibited from enforcing

United States immigration policies. For example, Hollywood's "Special Order 40" "prohibits officers from 'initiating police action where the objective is to discover the alien status of a person.'" Thus, a police officer may recognize an illegal alien who has already been convicted of a felony and deported and the illegal alien's "mere presence back in the country following deportation is a federal felony."⁴² The police officer, however, **may not approach or detain the illegal alien, even though the person, by his presence, is committing a felony.** Even when an illegal alien has been arrested on a separate charge, "many police agencies are prohibited by local law or regulation from even ascertaining the nationality of [the] criminal suspect...."⁴³

Instead of simply arresting known illegal aliens, police are forced to wait for them to commit other crimes before an arrest can be made. Many go on to commit violent crimes, such as the reported case of two illegal alien cousins who were sighted, but not arrested, by police and who later committed a car-jacking and a murder.⁴⁴ Los Angeles, New York, Chicago, Austin, Houston and San Francisco, among other cities, have laws similar to Special Order 40.⁴⁵

CIS reports that "Former New York Mayor Rudolph Giuliani litigated all the way up to the Supreme Court to defend the city's sanctuary policy against Congressional override."⁴⁶ After his petition was overturned by the Supreme Court, Mayor Giuliani decided that the city would simply violate the Court's ruling and continue to prohibit law enforcement from coordinating with immigration officials. On September 11, 2001, six days after that decision, "several former visa-overstayers conducted the most devastating attack on the city and the country in history."⁴⁷

In order for a previously-deported illegal alien felon to be arrested in Los Angeles, a federal judge must issue an arrest warrant. This fact is even more striking when compared to the arrest procedure used for American citizens suspected of lesser crimes: "To arrest an American citizen for a crime, arrest warrants are rarely required; about 95% of arrests of citizens are warrantless."⁴⁸ In Los Angeles, however, "illegal criminals will have due process rights that citizens can only dream of: not just judicial review before they can be taken off the streets, but federal judicial review — the gold standard of all constitutional protections."⁴⁹

D. Emergency Measures Are Required

In order to address this large and growing epidemic of crime and violent crime, the Democratic governors of Arizona and New Mexico have taken groundbreaking steps by declaring states of emergency in the counties that lie on the U.S.-Mexico border which have "the highest rate of illegal immigration in the country."⁵⁰ On August 12, 2005, Governor Bill Richardson declared a state of emergency in four New Mexico counties, and appropriated \$1.75 million to combat illegal immigration and the crime it brings.⁵¹ On August 15, 2005, Arizona Governor Janet Napolitano declared a state of emergency and appropriated \$1.5 million to fight border crime.⁵² This view, however, is not universally shared by the nation's governors.

For example, California Governor Arnold Schwarzenegger initially praised Governors Richardson and Napolitano for their action and promised to consider declaring a similar state of emergency in California, but later claimed that he planned to take no action in California because of “his belief that the problem had not reached a comparable level of threat in California.”⁵³ Meanwhile, California’s prisons hold an estimated 30,000 undocumented prisoners and the state is home to an underestimated 3,000,000 illegal aliens.⁵⁴ Interestingly, Governor Schwarzenegger’s job approval rating in a poll released on August 25, 2005 was just 34 percent.⁵⁵

Endnotes to Chapter VII

CHAPTER VIII

WHAT CAN BE DONE ABOUT ILLEGAL ALIEN ENTRY AND OVERSTAY

The American people want “well-enforced, sensible, and sustainable immigration laws.” While they want America to continue to be open to people from other countries, especially those who live under oppressive and corrupt regimes, the American people do not want people to self-select their coming to this country. Rather, they want them to come here legally, just like many of them or many of their forebears did. Not only do they want protection from illegal entry into the country, they want people who have entered illegally, or who have illegally overstayed, deported. They do not favor any form amnesty for illegal aliens because they believe that amnesty simply encourages more and more people to break our immigration laws. TSCL agrees and for that reason supports a two-fold agenda, one to keep illegal aliens out and another to send them home.

A. What The American People Want

According to recent public opinion polls, the American people overwhelmingly “want well-enforced, sensible, and sustainable immigration laws.”¹ A March, 2003 poll revealed that 55 percent of Americans believe that illegal immigration into the U.S. is a “very serious problem.”² A November, 2003 poll found that more than three-quarters of Americans want stricter immigration controls.³ Yet, many of America’s elected leaders at the national, state and local levels show much less concern about the growing number of illegal aliens in the country than do their constituents. For example, on November 2, 2004, Arizona voters approved **Proposition 200** by a 12-point margin. The proposition strengthens the enforcement of existing laws that are designed to limit the voting franchise only to citizens and to deny certain state and local benefits only to lawful residents. The proposition was passed, notwithstanding the strong opposition of both Jane Napolitano, the State’s Democratic governor, and John McCain, the State’s senior Republican Senator.⁴

At the national level, the position of the American people on illegal immigration appears to correlate with neither of the two major political parties. Instead, the leadership of both the Republican and Democratic Parties appears to be vying for the growing Hispanic vote, thus moving away from the strong mainstream support for stricter immigration controls and instead to a position more compatible with the polls that show the Latino community favors a more lenient policy concerning illegal aliens.⁵ In their drive for votes, the leadership of both parties overlooks the adverse impact that illegal aliens are having, and will continue to have, upon government benefit programs such as Social Security and Medicare. Indeed, none of the recent polls concerning illegal immigration focuses upon the connection between a sound immigration policy and a fiscally sound Social Security system and Medicare program. Yet, as noted above, the two are inextricably related and need to be addressed together, in order to bring effective resolution to the crises that each independently poses to the vitality of the American way of life.

There are, however, strong voices in both the Republican and Democratic parties who favor more effective enforcement of the nation's immigration laws. Indeed, there is a plethora of bills addressing numerous immigration issues (some of which would strengthen the nation's policies and practices related to illegal aliens) that have already been introduced in both the Senate and the House.⁶ At the same time, there are strong voices in both parties that seek to fulfill the government's promises concerning Social Security retirement benefits and Medicare. A strategy that meets both goals is presently lacking. Such a strategy must restrict payment of Social Security retirement and Medicare benefits to American citizens and lawful residents only. Such a move would reduce the drain on those programs created by the current failure (i) to enforce the nation's existing immigration laws, (ii) the ongoing failure to reject laws that would exacerbate the danger of lost benefits and (iii) the failure to pass new laws that would preserve and enhance Social Security retirement benefits and Medicare.

There are two strategies with the capability of stopping illegal entry at the borders and sending illegal aliens back home, thereby protecting government benefit programs such as Social Security and Medicare which are threatened by underenforcement of existing laws.

B. Deny Entry to Illegal Aliens at the Borders

Some recent reports claim that any effort to gain control of America's border with Mexico is an exercise in futility.⁷ But is it? An abundance of press reports reveals a lax and ambivalent federal policy of policing America's border with Mexico.⁸ Also, public opinion polls show that a high percentage of Americans think the federal government is not doing enough "to control the border and screen people allowed into the country."⁹ With such polls reporting dissatisfaction as high as 85 percent, it is not surprising that people have begun to organize volunteer groups like the Minutemen to fill in the gaps.¹⁰ Additionally, efforts are being made to secure the services of state and local police in order to reinforce the United States Border Patrol.¹¹ Some are even calling for the deployment of military force, to stem not only the flow of illegal aliens, but also the illicit drugs that come with them.¹² However, efforts in Congress to authorize such deployments have passed the House, only to fail to pass in the Senate.¹³

According to CIS, the fiscal costs of illegal immigration — including the financial drain on the Social Security retirement and Medicare "trust funds" — will not be solved until the United States government "gets serious" about enforcing the law and reducing the number of illegal aliens coming into the country.¹⁴ Yet, neither the White House nor the Congress appears to have the political will to stop the fiscal hemorrhaging. Indeed, as NumbersUSA has astutely observed, the Congress appears deeply divided between:

"national community Americans" — those who continue to believe in the idea of a separate, self-governed nation — and those who have a "post-American" vision ... for (1) America's workers to be allowed to compete directly with every worker in the world who makes the effort to move to this country and for (2) the quality of

life of a local community to be determined by global forces rather than by democratic self-determination.”¹⁵

C. Deny Permanent Residency to Illegal Aliens

Unlike earlier periods in American history, when most Mexicans annually migrated to this country in search of temporary work but then returned home, today there is a “growing number of Mexicans who are settling permanently in the United States.”¹⁶ This change has occurred for a number of reasons including, ironically, tighter border controls, that have made it difficult for a person to get back into the United States legally. In order that such workers not be cut off from their families, the men arrange for their wives and children to join them. Then, instead of one illegal alien on American soil, there are often four or more, as wives and children of illegal immigrants make their home in the United States.¹⁷

1. Grants of Amnesty Are Not the Right Solution

In an attempt to change this pattern of illegal immigration, the Bush administration has proposed a more lenient “guest worker” system that allows easier ingress into, and egress out of, the United States. But such a system would open the door for illegal aliens to obtain permanent residency and, ultimately, American citizenship. In a January 2004 CBS/New York Times poll, 65 percent of Americans expressed opposition to a program that would allow illegal aliens to obtain guest worker eligibility for three-year work permits.¹⁸ In an earlier poll, conducted by Zogby in 2002, the same percentage of Americans expressed opposition to granting a general amnesty to illegal aliens.¹⁹ Nevertheless, Senators John McCain (R-AZ) and Edward Kennedy (D-MA) have introduced legislation in the Senate that would grant a form of amnesty to illegal aliens by extending to them a six-year permit to work in America. This would provide access to legal immigration status for those illegal aliens who actually work for four years in America and their families.²⁰

As many observers have commented, a similar 1986 grant of amnesty to 2.7 million illegal aliens did nothing to stem the flow of illegal immigration. Instead, it sent a “message of tolerance for lawbreaking,” which **encouraged illegal immigration**, without bringing any significant increase in enforcement efforts at the nation’s border with Mexico.²¹ Moreover, the 1986 amnesty added persons at the lowest end of employee earnings to America’s permanent work force. This, in turn, imposed a greater burden on the Social Security retirement system, Medicare and other government benefit programs.²² Notwithstanding these adverse consequences, Congress has passed **six additional amnesties** since 1986, each of which has added to the burden²³ without having produced any real improvement in border security:²⁴

- Section 245(i) Amnesty, **1994**: A temporary rolling amnesty for 578,000 illegal aliens;
- Section 245(i) Extension Amnesty, **1997**: An extension of the rolling amnesty created in 1994;

- Nicaraguan Adjustment and Central American Relief Act (NACARA) Amnesty, **1997**: An amnesty for close to one million illegal aliens from Central America;
- Haitian Refugee Immigration Fairness Act Amnesty (HRIFA), **1998**: An amnesty for 125,000 illegal aliens from Haiti;
- Late Amnesty, **2000**: An amnesty for some illegal aliens who claimed they should have been amnestied under the 1986 IRCA amnesty, that granted amnesty to an estimated 400,000 illegal aliens; and
- LIFE Act Amnesty, **2000**: A reinstatement of the rolling Section 245(i) amnesty, to an estimated 900,000 illegal aliens.²⁵

2. Mexico's Ulterior Motives

Portions of the United States were once under the dominion of Mexico, and some in Mexico still seek return of those areas to Mexico:

Former Mexican President Ernesto Zedillo said in a 1997 speech in Chicago to the “National Council of La Raza, a Hispanic advocacy group, that he “proudly affirmed that the Mexican nation extends beyond the territory enclosed by its borders and that Mexican migrants are an important – a very important – part of this.”²⁶

Some view a 1998 change in Mexican immigration law as part of this plan to assert Mexican influence in the United States. Since 1998, Mexicans becoming United States citizens who **swear allegiance to the United States** during the naturalization process **do not lose their citizenship in Mexico.**²⁷ The website of the Mexican Counsel General Office in New York explains:

As of March 20, 1998, a change in Mexican legislation enables dual citizenship....

For those Mexicans who naturalized after 1998, it is not necessary to obtain this document, as their Mexican citizenship was preserved at the time of naturalization.

Mexicans born outside of Mexico and under the age of 18 will obtain their Mexican Citizenship with their Birth Registration...²⁸

3. Reduction of Aliens by Attrition is the Solution

Social Security and Medicare both are threatened by any program that increases the number of illegal aliens as permanent residents. Permanent residents have access not only to these government benefits, but to other benefits as well, which puts increased pressure on already over-burdened state and local government budgets.²⁹ Rather than granting guest worker status or some other form of permanency to illegal aliens, the Social Security retirement and Medicare benefits would be better protected by (i) a more effectual protection of the nation’s borders — a

protection that keeps illegal aliens from coming into the country — as well as (ii) a more effectual system of deportation of illegal aliens who have entered or stayed illegally.

Mark Krikorian, Executive Director of CIS, recommends that the federal government adopt a policy which he calls “attrition.”³⁰ This policy presents an alternative between “mass roundups to arrest and deport 9-million plus people, [and] defin[ing] away the problem through legalization.” The key to Krikorian’s attrition strategy is vigorous enforcement of existing laws with arrests, prosecutions, deportations and asset seizures, along with requirements of legal status verification at key check points (such as when opening a bank account, enrolling children in school or registering an automobile). According to Krikorian’s best estimate, such an improvement in enforcement would reduce the illegal alien population step by step, without significant intrusions upon the benefits available to, and liberties enjoyed by, American citizens and lawful permanent residents.³¹

Endnotes to Chapter VIII

CHAPTER IX

WHAT CAN BE DONE ABOUT ILLEGAL ALIEN ACCESS TO CITIZENSHIP

The current American policy granting automatic citizenship to babies born on American soil to an illegal alien mother should be changed. No one should be able to become an American citizen through the illegal act of another. While some think that such a change can only be made by constitutional amendment, there is good reason to believe that such change can come by congressional statute. Additionally, the current American policy to count illegal aliens in the dicennial census should be changed. Aliens should not be counted the same as citizens in the state apportionment of representatives in the House of Representatives. While some think that such a change can only come by constitutional amendment, there is good reason to believe that such change can come by congressional statute. Finally, states should be encouraged to ensure that illegal aliens do not vote. It is bad enough that illegal aliens have access to employment and government benefits. The right to vote, however, should be reserved only for those aliens who have lawfully become American citizens.

American citizenship is a privilege, not a universal right. And it is a special privilege that should be reserved only to those who are lawfully entitled to it — either by lawful birth or by lawful entry into the country after meeting all qualifications. Yet, today many acquire American citizenship even though they were neither lawfully born here nor lawfully entered the country. Indeed, some are counted as if they are citizens in the dicennial census, and thereby affect the allocation of representation in the United States House of Representatives. And some even vote because state and local officials do not have the wherewithal or the incentive to ascertain whether each person who seeks to register to vote is entitled to vote as an American citizen. These practices must end if our precious heritage of American citizenship is to be preserved.

A. Birthright Citizenship to Babies of Illegal Aliens Should be Denied

Given the peculiar circumstances under which such birthright citizenship is currently being acquired today, it appears reasonable to ask whether or not the 14th Amendment's citizenship provision is being correctly applied. So ingrained is the notion that the Constitution confers such citizenship, that even members of Congress who seek to restore a common-sense understanding to birthright citizenship seem to believe that the only available remedy is a constitutional amendment. Congressional leaders have introduced one congressional resolution after another, calling for an amendment that would deny birthright citizenship to any person born on American soil to a mother illegally in the country.¹ In the 107th Congress, however, GOP representative Bob Stump (R-AZ), with the support of 20 cosponsors,² introduced a bill (not a constitutional amendment) that, if enacted, would have declared that a person born to "a mother who is neither a citizen or national of the United States nor admitted to the United States as a permanent resident" is not a United States citizen.³ In support of the bill, Mr. Stump declared on the floor of the House:

Mr. Speaker, few can dispute that the practice of granting automatic-birthright citizenship to the children of illegal aliens is a great **incentive for illegal immigration**. Citizen children qualify for welfare and other social services, thus illegal parents receive benefits.... According to a 1997 General Accounting Office report, in FY95 about \$1.1 billion in Aid to Families with Dependent Children (AFDC) and Food Stamp benefits were provided to households with an illegal alien parent for the use of his or her citizen child. There can be no mistake that the citizenship grant has significantly contributed to our unprecedented levels of illegal immigration. According to some figures, an estimated 165,000 children are born to illegal aliens in the U.S. annually.⁴

In the same speech, though, Mr. Stump acknowledged that the current federal policy granting birthright-citizenship to children born in the United States to illegal alien parents is **based upon a flawed interpretation of the Fourteenth Amendment's citizenship provision**. This provision states that “all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States...”⁵ Believing this to be a “gross misinterpretation” of the constitutional text, Congressman Stump urged his fellow representatives to exercise their power under Section 5 of the Fourteenth Amendment, and to enact his bill, giving a more narrow and logical interpretation to the constitutional citizenship grant.⁶ With this bill, Congressman Stump broke new ground, contending that **it is within Congress's power to define the birthright-citizenship provision of the Fourteenth Amendment**. He also encountered opposition from some of his colleagues, who doubted that Congress had the constitutional power to change, by statute, the rules of citizenship.

In 2005, undeterred by such constitutional doubts, Congressman Nathan Deal (R-GA) and 16 co-sponsors introduced a bill, similar to that of Representative Stump’s, but in the form of an amendment to the Immigration and Nationality Act. Their bill would deny citizenship at birth to children born in the United States to parents who are not citizens or permanent resident aliens.⁷ By casting the bill in the form of an amendment to current law, H.R. 698 would operate only **prospectively**, denying automatic citizenship to persons born to illegal aliens **after** the effective date of the Act and, thereby, sealing the citizenship of illegal alien anchor babies born prior to the act. Even with a bill so limited, there remain members of Congress — even those who would otherwise support legislation denying birthright-citizenship to such anchor babies — who remain convinced that Congress does not have the constitutional power to enact such legislation, believing that Congress can only propose a constitutional amendment.

If Congress were not to remedy this problem by statute, then the current policy conferring citizenship on anchor babies is not likely to be changed by constitutional amendment. According to Article V of the Constitution, a congressional resolution proposing an amendment for ratification by the state legislatures must garner a two-thirds vote in both the House and the Senate. Thereafter, it must be ratified by three-fourths of the state legislatures.

In light of the strong opposition to immigration reform legislation voiced in both houses of Congress, the prospect of obtaining such super-majorities on an amendment denying birthright-citizenship to anchor babies is extremely low. Further, the opposition to enforcement of existing laws denying illegal aliens access to federal and state benefits indicates that state legislatures would most likely not ratify such an amendment. Moreover, a constitutional amendment would reaffirm the American citizenship conferred upon anchor babies born before the effective date of that amendment.

Thus, if anything effective is to be done about the anchor baby citizenship issue, it must come through legislation, not by constitutional amendment. In order to have a realistic chance to enact a law changing current policy to confer citizenship upon anchor babies, there must be a constitutional basis for such legislation. There also must be a statute that addresses all anchor baby citizenship claims — past, present and future — and that contains enforcement provisions (including deportation, denial of passports, and denial of other federal and state privileges and benefits).

There is ample authority demonstrating that children born in the United States to alien parents should not, by constitutional right, be United States citizens.⁸ United States Supreme Court decisions stating that the Fourteenth Amendment confers citizenship upon any person born in the United States, regardless of the citizenship status of the person's parent, irrationally discriminate against a person born outside the United States to parents who are United States citizens.⁹ Such a discriminatory rule is not only indefensible as a matter of constitutional interpretation, but also is inconsistent with both the specific language of the Fourteenth Amendment and the American view of the relationship between a citizen and the federal government.

Such a mistaken view of the Fourteenth Amendment citizenship clause will go unchallenged unless Congress enacts a statute denying birthright citizenship to children born to aliens illegally on American soil. Congress could justify such an exclusion, on the ground that such a denial is constitutionally authorized (i) by its Article I, Section 8 power to provide for a uniform rule of naturalization and immigration, as well as (ii) by its powers of enforcement embodied in Article I, Section 8's Necessary and Proper Clause and in Section 5 of the Fourteenth Amendment. Moreover, by enacting such a statute, Congress could challenge the Supreme Court's definition of birthright citizenship, which rests upon faulty reasoning in a case decided over a century ago.¹⁰

B. The Census Apportionment of Representatives Formula Must be Corrected

It appears that those who do **not** believe in maintaining the integrity of America's borders may be overrepresented in the United States House of Representatives. Currently, the number of representatives a state receives is based upon a census that includes not only citizens, but also counts aliens, both legal and illegal. According to Congressman Ernest Istook (R-OK), including illegal aliens in the census count has benefitted States like California, which "would

lose 6 seats in the House” if only U.S. citizens were counted, and deprived other States — like Oklahoma — of an additional representative. This has prompted Mr. Istook to support Congresswoman Candice Miller’s (R-MI) House Joint Resolution 53, which calls for a constitutional amendment excluding aliens, both legal and illegal, from the census numbers that determine apportionment of Representatives among the several States.¹¹

However, as is the case with the resolutions to amend the Constitution to prohibit “anchor baby” birthright citizenship introduced in the House, there appears to be no need to resort to a constitutional amendment. There is nothing in the Constitution that either mandates or authorizes the inclusion of aliens in the census counting to determine the apportionment of Representatives. Rather, in light of its text, context, history and structure, Article I, Section 2, Clause 3 of the Constitution, as amended by Section 2 of the Fourteenth Amendment, mandates that the census count for apportionment purposes be made of each State’s permanent, legal inhabitants constituting the “people” of that State, **not persons who owe their allegiance to a foreign state.**¹² Under Section 5 of the Fourteenth Amendment, Congress has authority to enforce the apportionment provision of that Amendment. Thus, Congress need only enact a bill directing that, for the purposes of apportionment of Representatives among the several States, only citizens of each state — those United States citizens residing therein — be counted in determining the number of Representatives for that state.¹³

Should Congress fail to take action, a citizen from any state which is underrepresented in Congress (because aliens have been included in the count for the purpose of apportionment of Representatives) would have standing to sue, claiming that his or her vote has been “diluted” by a violation of the constitutional apportionment formula that has resulted in a denial of due process of law.¹⁴ Such a lawsuit could even be brought, prior to any action by Congress, both to ensure that the House of Representatives is truly representative of the interests of American citizens, not illegal aliens, and to bring public attention to the adverse impact that including such aliens in the decennial census has on Social Security, Medicare and other government benefit programs.

C. Illegal Alien Access to Voting and State Benefits Must Be Denied

According to the first sentence of the first section of the Fourteenth Amendment, a person may not become a citizen of a state unless, and until, that person is a citizen of the United States.

Only after attaining United States citizenship may a person become a citizen of any state in which that person chooses to reside. Such citizenship would, then, entitle the person to register to vote (not only for state and local elections, but also for national ones), to secure a professional license and to qualify for various benefits including Medicaid, aid to dependent children, etc.

According to current federal and state laws, state-administered benefits may be denied undocumented aliens — with certain exceptions for emergency health care and education. It has come to light, however, that state and local officials have not done their duty, and instead permit illegal aliens access not only to Medicaid, professional licenses, and driving privileges, but also to the elective franchise as well. For example, a person seeking to register to vote may file a

registration card with a county registrar showing an address of residency. In response, the registrar may simply check to see if the address is within the county and, if it is, register the person to vote. This is done without requiring any identification — much less any proof of United States citizenship.

Such lax enforcement of the law in Arizona led to Proposition 200, a State-wide initiative requiring proof of citizenship before registering to vote and before establishing eligibility for state benefits and licenses. To effectuate these provisions, the measure makes it a crime for any government employee to fail to report anyone suspected of illegally applying for benefits.¹⁵ Even though Proposition 200 was approved by 56 percent of Arizona voters, its enforcement is in doubt because it has been challenged as unconstitutional in federal court.¹⁶ Its fate is currently in the hands of the United States Court of Appeals for the Ninth Circuit. In the meantime, the voting provisions of the initiative are being implemented.¹⁷

The success that Arizona's Proposition 200 had at the polls has generated interest in similar initiatives or referenda in some states, along with legislative action in others.¹⁸ But opposition from state and local elected officials in those states — such as that experienced in Arizona before the passage of Proposition 200 — persists. A "key supporter of Proposition 200 said that "[Arizonans have] got a governor and an attorney general here who are thumbing their noses at the will of the people of Arizona."¹⁹ For example, Arizona's Attorney General, Terry Goddard, released an opinion ten days after the vote on Proposition 200. His opinion, which states that "Arizona's new statutory requirement in A.R.S. § 46-140.01 is **limited to** Title 46 welfare programs,"²⁰ clearly contradicts both the spirit and the letter of Proposition 200, which states that illegal aliens may not have access to "state and local public benefits that are not federally mandated...."²¹ In response to a severely-curtailed Proposition 200, proponents have filed suit (currently pending) in the Arizona Court of Appeals, in order to try to "restore the intent of the law which they said had been sabotaged by limits imposed by Gov. Janet Napolitano and Attorney General Terry Goddard."²²

Although such state efforts would not have a direct impact on Social Security and Medicare (both of which are federally-administered and protected benefits), such efforts — if successful — would have a significant impact on the illegal alien population in the United States.

Therefore, state efforts would have an impact on preserving both Social Security and Medicare trust funds for American citizens. In addition to giving direct assistance to such efforts, there may be opportunities to file "friend-of-the-court" briefs in support of cases such as the one against Arizona's Proposition 200, and the state action challenging the Attorney General's niggardly interpretation of the benefit programs governed thereby.

Endnotes to Chapter IV – What Can Be Done about Illegal Alien Access to Citizenship

CHAPTER X

THE CHALLENGES AHEAD

The TSCL Board has placed defeat of the proposed U.S.-Mexico Totalization Agreement as a high priority on its 2005-2006 legislative agenda. To that end, it has filed Freedom of Information Act requests with the appropriate government officials to access critical information that has been kept from the American people. Additionally, the Board has authorized the filing of a Petition for Redress of Grievances with the Congress of the United States, designed to bring the data that TSCL has assembled to the attention of the Senate and House so that they might know the threat that a proposed totalization agreement with Mexico will have on the Social Security Trust Funds and current retirement benefits. The Board has also determined to monitor illegal immigration matters to keep abreast of developments so as to be ready to intervene, if necessary, to protect American seniors and their rightful expectations under the Social Security and Medicare programs.

There is no doubt that the failure of our government officials to place a high priority on stopping illegal immigration — by closing our borders and deporting those who have wrongfully entered the country — poses an imminent threat to Social Security and Medicare, as well as to other benefit programs. While the U.S.-Mexico Totalization Agreement is only one aspect of a multifaceted problem of illegal immigration, the TSCL Board of Trustees has made its defeat a high priority in its 2005-2006 legislative agenda. To that end, the Board has authorized a concerted effort to obtain information about the agreement that has been kept from the American people. To date, the Board has not received a satisfactory response to its several requests. But the Board is committed to pressing forward to obtain the information that the American public is entitled to.

In the meantime, the Board has authorized the filing of a Petition for Redress of Grievances with the United States Congress based upon the data that it does have, showing the devastating impact that a U.S.-Mexico Totalization Agreement would have on the Social Security program. This Petition is designed to bring before members of the Senate and House information documenting the failure of the Social Security Administration to do its job to ensure that any totalization agreement would not adversely impact on the Social Security Trust Funds and current retirement benefits. In addition to the Petition, the Board will be presenting a brief in support of its recommendation in favor of either a congressional resolution urging the President not to submit the proposed U.S.-Mexico Totalization Agreement to Congress or a House or Senate Resolution disapproving of any such agreement. That brief not only will provide factual and legal support for such resolutions, but is supported by a concise and convincing case that the entire Social Security totalization statute is unconstitutional.

In addition to this effort, the Board has been alerted to an even greater potential threat to Social Security and Medicare. Under the terms of free trade agreements, such as NAFTA, CAFTA and FTAA, the power that Congress has traditionally exercised over immigration and naturalization may be transferred to international tribunals and trade panels. According to

Congressman Tom Tancredo (R-CO), the “service agreement” section of the recently-ratified CAFTA contains terms that could undermine America’s current immigration and naturalization policies as unlawful interferences with the cross-border trade in the supply of services.¹ If Congressman Tancredo is right, then such open border trade in services may open the door to America to numerous aliens who would otherwise be inadmissible, thereby posing additional risks to the economic viability of Social Security and Medicare.

Because of this potential threat, and because of other threats already documented, the Board has resolved to keep abreast of the illegal immigration crisis, monitoring it closely to determine whether additional steps might be necessary to secure the Social Security and Medicare benefits for which American seniors have labored. To keep its supporters and friends apprised of these developments, TSCL has created on its Website a section on the Problem of Illegal Aliens at <http://www.tscl.org>.

Endnotes to Chapter X — The Challenges Ahead

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- i. Papademetriou, D., "The Shifting Expectations of Free Trade and Migration," in NAFTA's Promise and Reality: Lessons from Mexico for the Hemisphere 44-53 (Carnegie Endowment for International Peace: 2003)
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- ii. *See id.* at pp. 39-41, 57.
- iii. *See, e.g.*, "Overview on Immigration Issues"
<http://citizentrade.org/immigrationexplained.php> (Aug. 4, 2005).
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http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=44486; and “Mexican drug commandos expand ops in 6 U.S. states,” *WorldNetDaily* (June 21, 2005).
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- ix. Walsh, J., “The Great Deceit: The Mexican Drive to Re-colonize the United States” (July 6, 2005). <http://www.theamericanresistance.com/articles/art2005jul06c.html>.
- x. See, e.g., Gonzalez, D. And Carroll, S., “Illegal immigration, it’s just getting worse,” *The Desert Sun* (Palm Springs, Calif.: June 19, 2005).
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- xi. See Tancredo, T., “CAFTA undermines immigration laws,” p. 2 (NCTimes.com, Monday, July 25, 2005)
<http://www.nctimes.com/articles/2005/07/18/opinion/commentary/71705195445.prt>.
- xii. Office of English for Speakers of Other Languages, Fairfax County Public Schools,
<http://www.fcps.edu/DIS/OESOL/index.htm>.
- xiii. See below at pages 47-49.
- xiv. “The Minutemen are Back,” *KOLD News 13* (June 18, 2005).
<http://www.kold.com/Global/story.asp?S=3491944&nav=14RTbC4h>.
- xv. Seper, J., “Border Patrol told to stand down in Arizona” (May 13, 2005).
<http://insider.washingtontimes.com/articles/normal.php?StoryID=20050513-122032-5055r>.
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- xvii. “Re: State and Local Public Benefits Subject to Proposition 200,” Terry Goddard, Attorney General of the State of Arizona, Letter to Anthony D. Rodgers, Director, Arizona Health Care Cost Containment System, November 12, 2004.
<http://www.azag.gov/opinions/2004/I04-010.pdf>.
- xviii. Report, “Opponents Seek to Strike Down or Limit Scope of Voter Approved Initiative”

(Federation for American Immigration Reform: January 2005).
<http://www.fairus.org/news/NewsPrint.cfm?ID=2593&c=54>.

xix. Davenport, P., "Court Refuses to Block Benefits Portion of Prop. 200," *The Associated Press*, August 9, 2005. <http://www.freerepublic.com/focus/f-news/1460043/posts>.

xx. Congressman Tom Tancredo (R-CO) serves as chairman of this informally-organized caucus of like-minded members of the House seeking to strengthen the nation's immigration policies and procedures. <http://tancredo.house.gov/irc/about.html>. See Appendix A for list of 82 House members of the Immigration Reform Caucus of the 109th Congress.

1. See, e.g., Arrillaga, Pauline. "U.S. Policy Lets Illegal Immigrants Go." The Associated Press. (July 3, 2005). <http://www.desertinvasion.us/articles/art2005jul03b.html>.

2. See "Half Million Illegals 'Caught and Released,'" *NewsMax.com* (Thurs., July 14, 2005). <http://www.newsmax.com/archives/articles/2005/7/14/130744.shtml>.

3. Arrillaga, P., "U.S. Policy Lets Illegal Immigrants Go," Assoc. Press (July 3, 2005). <http://www.desertinvasion.us/articles/art2005jul03b.html>.

4. *Id.*

5. There is even evidence to suggest that illegal immigrants from communist China are being "let loose" in the United States. In a news report, now several years old, it was documented that many of these sort of illegal aliens are not the "traditional" illegal alien. Instead, they are "in their 20s and 30s ... appear to be healthy[,] strong[,] ... and well clothed. Some of them even come to the islands wearing suits and carrying suitcases." The report claims that these persons have ties to the Chinese triads and the Chinese government, and quite possibly are being sent here by China with specific intent. See Archer, Stephan, "Chinese Enter U.S. Through Virgin Islands," *NewsMax.com*, August 11, 2000. <http://www.newsmax.com/articles/?a=2000/8/10/214414>.

6. "Half Million Illegals 'Caught and Released,'" *NewsMax.com* (July 14, 2005). <http://www.newsmax.com/archives/articles/2005/7/14/130744.shtml>.

7. See, e.g., Arrillaga, Pauline. 2005.

8. Kephart, Janice, "Immigration Benefits and Terrorism: Moving Beyond the 9/11 Staff Report on Terrorist Travel," Center for Immigration Studies, September, 2005. <http://www.cis.org/articles/2005/kephart.pdf>.

1. See Note, "Reforming U.S. Immigration Policy in an Era of Latin American Immigration: The Logic Inherent in Accommodating the Inevitable," 39 *Univ. Of Richmond L. Rev.* 1355, 1357 (2005) (hereinafter "Reform. U.S. Imm. Pol.").

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2. *See, e.g.*, “Minutemen’ Plan to Patrol Arizona Border,” <http://www.cnn.com/2005/US/02/21/border.minutemen.ap/index.html> (Feb. 21, 2005); J. Seper, “Border Patrol Told To Stand Down in Arizona,” <http://www.washingtontimes.com/functions/print.php?StoryID=20050513-122032-5055r> (May 13, 2005); and “The Minutemen Are Back,” KOLD NEWS 13 <http://www.kold.com/Global/story.asp?S=3491944&nav=14RTbC4h> (June 20, 2005); <http://www.minutemanhq.com/>.
3. *See, e.g.*, R. Harlow, “Gingrich Urges Action Against Illegals,” <http://www.washtimes.com/national/20050221-123840-4099r.htm> (Feb. 22, 2005) (“The former House speaker wants the United States to completely seal off its borders with Mexico and Canada, deport illegal aliens within 72 hours of their arrest and exclude U.S. courts from reviewing such deportations.”). *See also* M. Ellington, “Alabama State GOP: Seal Border Against Illegals,” Americans for Legal Immigration <http://alipac.us/article488.html> (June 22, 2005).
4. *See, e.g.*, “Arkansas Bill Cuts Off Illegals’ Benefits,” http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=42664 and R. Paul, “H.R. 418 - A National ID Bill Masquerading as Immigration Reform,” <http://www.house.gov/paul/congrec/congrec2005/cr020905.htm> (Feb. 16, 2005).
5. In an interview with Fox News, Mrs. Clinton was quoted as saying “I am, you know, adamantly against illegal immigrants.” “[I do not] think that we have protected our borders or our ports or provided our first responders with the resources they need, so we can do more and we can do better.” “People have to stop employing illegal immigrants....” Charles Hunt, “Hillary Goes Conservative On Immigration,” *The Washington Times*, <http://www.washtimes.com/national/20041213-124920-6151r.htm>, (December 13, 2004).
6. Since 1999, Congressman Tancredo (R-CO) has led the Congressional Immigration Reform Caucus in the United States House of Representatives. The caucus has served as a legislative watchdog to “review current immigration policy, propose new immigration policies and provide a forum in Congress for addressing the positive and negative consequences of our immigration policies.” Mr. Tancredo also has played a critical role as point man publicly exposing the failure of elected officials to protect America’s borders. *See* excerpts from letter by Congressman Tom Tancredo (May 16, 2005) http://www.cairco.org/sanctuary/protest_2005may16_tancredo.html (June 20, 2005) and G. Putnam, “One Reporter’s Opinion — Illegal Alien Invasion Update” (May 27, 2005) <http://www.newsmax.com/archives/articles/2005/5/27/22450.shtml> (June 20, 2005).
7. <http://www.cnn.com/CNN/Programs/lou.dobbs.tonight/> Lou Dobbs Tonight airs at 6:00 pm, 11:00 pm, and 4:00 am each weekday.
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 2. Congressmen Bob Barr (GA-7); Michael Bilirakis (FL-9); Rick Boucher (VA-9); Kevin Brady (TX-8); Henry E. Brown, Jr. (SC-1); Sonny Callahan (AL-1); Christopher Cox (CA-47); Nathan Deal (GA-9); John J. Duncan, Jr. (TN-2); Virgil H. Goode, Jr. (VA-5); Ralph M. Hall (TX-4); Stephen Horn (CA-38); Brian D. Kerns (IN-7); John Linder (GA-1); C.L. “Butch” Otter (ID-1); Ron Paul (TX-4); Edward L. Schrock (VA-2); John B. Shadegg (AZ-4); Charles H. Taylor (NC-11); and Dave Weldon (FL-15).
 3. See H.R. 190, 107th Congress, 1st Session (Jan. 3, 2001). According to Congressman Stump, the purpose of the bill was “to deny citizenship to the American-born children of illegal aliens.” *Congressional Record*, p. E77 (Jan. 31, 2001).
 4. Statement of the Honorable Bob Stump of Arizona in the House of Representatives, *Cong. Rec.*, p. E77 (Jan. 31, 2001) [emphasis added].
 5. United States Constitution, Amendment XIV, Section 1, <http://caselaw.lp.findlaw.com/data/constitution/amendment14/>.
 6. Statement of the Honorable Bob Stump of Arizona in the House of Representatives, *Cong. Rec.*, p. E77 (Jan. 31, 2001).
 7. See H.R. 698, 109th Cong., 1st Sess. (Feb. 9, 2005).
 8. See W. Olson, H. Titus, and A. Woll, “Children Born in the United States to Aliens Should Not, by Constitutional Right, Be U.S. Citizens,” U.S. Border Control. <http://usbc.org/alien%20birth.pdf>. (February 2002).
 9. United States v. Wong Kim Ark, 169 U.S. 649 (1898). *Id.* at 8.
 10. See W. Olson, H. Titus, A. Woll, “Children Born in the United States to Aliens,” *supra*.

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11. H. J. Res. 53, 109th Congress, 1st Session.
 12. See II J. Story, *Commentaries on the Constitution*, C. XLVII (by T.M. Cooley), Sections 1928-1933 and 1963 (5th ed., Little, Brown: 1891).
 13. Cf. Dept. of Comm. v. U. S. House of Representatives, 525 U.S. 316, 321-22 (1999).
 14. Cf. *Id.* at 330-34.
 15. J. Gilliland, "Anti-Immigration Initiative Takes Effect in Arizona," *NewsMax.com* (Friday, Dec. 24, 2004) <http://www.newsmax.com/archives/articles/2004/12/24/85516.shtml>. (Dec. 25, 2005).
 16. "Opponents Trying to Negate Arizona Immigration Law," *NewsMax.com Wires* (Jan. 19, 2005) <http://www.newsmax.com/archives/articles/2005/1/19/95959.shtml> (Jan. 20, 2005).
 17. See "Feds OK Ariz. Immigration Law Requirements," *NewsMax.com Wires* (Tuesday, Jan. 25, 2005) <http://www.newsmax.com/archives/articles/2005/1/25/15732.shtml> (Jan. 25, 2005).
 18. See "Arizona voters approve Proposition 200, drive to clamp down on illegals expands to California, Colorado, Georgia," U.S. Border Control (Nov. 4, 2004) <http://www.usbc.org/info/2004/nov/arizonavoters.htm> (Jan. 18, 2005); "Arkansas bill cuts off illegals' benefits," *WorldNetDaily* (Wed., Feb. 2, 2005) http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=42664 (Feb. 2, 2005).
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<http://www.azag.gov/opinions/2004/I04-010.pdf>.
 21. A.R.S. 46-140.01, "Verifying Applicants for Public Benefits; Violation; Classification; Citizen Suits,"
<http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/46/00140-01.htm&Title=46&DocType=ARS>.
 22. Gonzalez, Daniel, "Prop. 200 Backers Renew Battle to Expand Scope of Law," *The Arizona Republic*, May 25, 2005.
<http://www.azcentral.com/specials/special03/articles/0525prop200appeal-CP.html>.

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