

## DETENTION WATCH NETWORK

C/O Lutheran Immigration and Refugee Service  
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October 1, 2003

F. James Sensenbrenner, Jr.  
United States House of Representatives  
Committee on the Judiciary  
2138 Rayburn HOB  
Washington, D.C. 20515

Dear Chairman Sensenbrenner:

We, the undersigned organizations and individuals, write to request that you oppose H.R. 2671, the “Clear Law Enforcement for Criminal Alien Removal Act of 2003,” (hereinafter “The CLEAR Act,”) which was introduced on July 9, 2003 by Representative Charles Norwood (R-Georgia). The undersigned include members or supporters of the Detention Watch Network, a nationwide coalition of over 100 faith-based, civil, immigrant, and human rights organizations and more than 1,500 individuals committed to fair and effective immigration enforcement policies.

The CLEAR Act poses many dangers to the efficiency of our criminal justice system by dramatically increasing the number of immigrants in detention, creating harmful consequences for public safety and homeland security, and treading on core provisions of our Constitution.

***The CLEAR Act would drastically increase the number of immigrants in detention, wasting federal dollars and severely taxing the criminal justice system.***

The CLEAR Act grants state and local police the authority to enforce all federal immigration laws—including civil or administrative violations of the Immigration and Nationality Act. It also criminalizes many immigration violations that are now civil in nature. Channeling millions more individuals through the criminal justice and immigration detention system would easily overwhelm the system—and at a cost of roughly between \$60-100 dollars per day per individual, would also overwhelm taxpayers.

CLEAR does not target real criminals—it targets individuals with minor paperwork violations who pose no danger to society— such as people who have overstayed a temporary visa, or students who have dropped down in course load for a semester. Not only would the detention and processing of these individuals pose a tremendous strain on the system, but it seems unnecessarily cruel given the nature of their violations.

Detention separates immigrants from their families and often leaves dependents without necessary financial and emotional support.

***The CLEAR Act subverts local and federal law enforcement priorities.***

In the CLEAR Act, the federal government is asking states to divert their already scarce law enforcement resources away from traditional crime fighting, and into a new menu of responsibilities that are administrative in nature and notoriously complex. State and local law enforcement personnel are already over-stretched by their current law enforcement responsibilities—and their resources are limited. Expertise in immigration law enforcement is only possible after intensive legal training in the nuances of the Immigration and Nationality Act, and local police simply do not see the benefit of such a proposition when they have crimes to solve and other mandates to respond to that are more central to their missions.

Echoing the outcry from state and local law enforcement across the country when a similar proposal was floated last year, Robert Hurst of the Houston Police Department stated, “We are in the business of investigating crimes—not enforcement of immigration laws.” Enforcing our nation’s exhaustive immigration rules and regulations should be left to the federal agencies trained, tasked, and resourced to carry out these functions. Asking local police to set aside their more pressing missions and take on civil immigration law enforcement is simply not the way to go.

CLEAR requires the Department of Homeland Security to provide the National Crime Information Center (NCIC) with information on any individual who has violated immigration law. This means that millions of names of individuals with minor civil or administrative immigration violations will be added to the NCIC. This will corrupt the original intent and purpose of the NCIC away from finding violent criminals.

***The CLEAR Act undermines cooperative efforts between law enforcement and immigrant communities.***

State and local law enforcement have worked very hard to establish trusting relationships with ethnic and immigrant communities to help with crime solving and fighting, and the CLEAR Act would completely undermine those efforts. If state and local law enforcement agencies are given the ability to enforce immigration laws, immigrants and their family members will be afraid to contact the police in emergency situations for fear of deportation, and they will be afraid to step forward to help with criminal investigations. This, in turn, could jeopardize the safety and well-being of entire communities.

Observing that police view their primary mission as preventing and solving crimes, a former member of the Chicago Police Department said, “It would be virtually impossible to do that effectively if witnesses and victims, no matter what their residency status, had some reluctance to come forward for fear of being deported.” It is imperative that this important relationship between police and immigrant residents, which is vital to the

safety of the entire community, not be jeopardized. Ironically, the CLEAR Act would have precisely the effect of making us less safe from crime and criminals, and for that reason alone it should be defeated.

***The CLEAR Act raises Constitutional red flags.***

The CLEAR Act violates core principles of federalism and states' rights, by compelling state officers to execute federal laws and by seeking to supersede local ordinances or statutes that prohibit state and local police from enforcing federal immigration law, or reporting individuals who have not been accused of crimes to immigration officials. The CLEAR Act forces the states' hands by tying local police participation in civil immigration law enforcement to their federal reimbursement for detaining foreign nationals who have committed crimes.

The CLEAR Act also raises significant due process concerns, since apprehended individuals could sit in detention for up to a week and a half before local law enforcement even informs the Department of Homeland Security of their apprehension, and could wait even longer before deportation proceedings are initiated against them.

In addition, if state and local authorities are not properly trained in immigration law enforcement, there is a high probability that they could use ethnicity as the only justification to stop and question potentially foreign-born individuals, thereby violating the Fourth Amendment. In fact, the bill seems to acknowledge the likelihood for race- and ethnicity-based profiling, going so far as to grant officers immunity from civil suits that may arise due to their attempts to enforce immigration laws. Given the fact that there are millions of naturalized U.S. citizens, and a growing number of native-born citizens of Latin American and Asian origins, it is inevitable that the CLEAR Act will threaten the civil rights and civil liberties of citizens as well as non-citizens.

We believe the CLEAR Act is bad public policy, particularly because so many state and local police have indicated that enforcing civil immigration laws actually undermines their ability to enhance public safety. If we are really concerned about keeping criminals off the street, we should not ask state and local governments to make this trade-off.

Please do not hesitate to call Matthew Wilch, Lutheran Immigration and Refugee Service at 410-230-2721 if you would like to discuss this matter further. Thank you very much for your consideration.

Sincerely,

African Immigrant Communities Leadership Initiatives/US, *Columbus, GA*  
American Immigration Lawyers Association, *Washington, DC*  
American-Arab Anti-Discrimination Committee, *Washington, DC*  
Asian & Pacific Islander American Health Forum, *Washington, DC*  
Asian American Community Service Association, *Tulsa, OK*  
Asian American Institute, *Chicago, IL*

Asian Law Caucus, *San Francisco, CA*  
Asian Pacific American Legal Center of Southern California, *Los Angeles, CA*  
Border Association for Refugees from Central America, *Edinburg, TX*  
Capital Area Immigrant Rights Coalition, *Washington, DC*  
Catholic Charities Refugee and Immigrant Services, *San Diego, CA*  
Catholic Social Services, *Atlanta, GA*  
Church World Service IRP, *Washington, DC*  
Citizens and Immigrants for Equal Justice, *Mesquite, TX*  
Coalition for Humane Immigrant Rights of *Los Angeles, CA*  
Coalition for Immigrants' Rights at the Community Level, *York, PA*  
Council on American-Islamic Relations, *Washington, DC*  
Detention Resource Project, *Philadelphia, PA*  
Doctors of the World-USA, *New York, NY*  
El Centro Hispanoamericano, *Plainfield, NJ*  
Filipino Civil Rights Advocates, *Oakland, CA*  
Filipinos for Affirmative Action, *Oakland, CA*  
Florence Immigrant and Refugee Rights Project, *Florence, AZ*  
Florida Immigrant Advocacy Center, *Miami, FL*  
Golden Vision Foundation, *York, PA*  
Hate Free Zone Campaign of Washington, *Seattle, WA*  
Heartland Alliance for Human Needs & Human Rights, *Chicago, IL*  
Hmong National Development, *Washington, DC*  
Immigrant Legal Resource Center, *San Francisco, CA*  
International Gay and Lesbian Human Rights Commission, *San Francisco, CA*  
Jesuit Refugee Service/USA, *Washington, DC*  
Lawyers Committee for Human Rights, *Washington, DC*  
Lesbian and Gay Immigration Rights Task Force, *New York, NY*  
Lutheran Family and Community Services, *New York, NY*  
Lutheran Immigration and Refugee Service, *Baltimore, MD*  
Massachusetts Immigrant and Refugee Advocacy Coalition, *Boston, MA*  
Midwest Immigrant & Human Rights Center, *Chicago, IL*  
Minnesota Advocates for Human Rights, *Minneapolis, MN*  
Na Loio - Immigrant Rights & Public Interest Legal Center, *Honolulu, HI*  
National Alliance of Vietnamese American Service Agencies, *Oakland, CA*  
National Asian Pacific American Legal Consortium, *Washington, DC*  
National Coalition for Haitian Rights, *New York, NY*  
National Council of La Raza, *Washington, DC*  
National Immigration Forum, *Washington, DC*  
National Immigration Law Center, *Los Angeles, CA*  
National Immigration Project of the National Lawyers Guild, *Boston, MA*  
National Korean American Service & Education Consortium, *Flushing, NY*  
National Network for Immigrant and Refugee Rights, *Oakland, CA*  
Northwest Immigrant Rights Project, *Seattle, WA*  
Organization of Chinese Americans, *Washington, DC*  
Pennsylvania Immigrant & Refugee Women's Network, *Enola, PA*  
Political Asylum/Immigration Representation Project, *Boston, MA*

PRIME--Ecumenical Commitment to Refugees, *Clifton Heights, PA*  
Refugee Immigration Ministry, *Malden, MA*  
Somali Development Center, *Jamaica Plain, MA*  
Southeast Asia Resource Action Center, *Washington, DC*  
The Immigration Project, *Granite City, IL*  
Vermont Refugee Assistance, *Montpelier, VT*

Individuals

Aster Kidane, *New York, NY*  
Brooke Hammond, MSW, *Florence, AZ*  
Gloria Rivera, *Detroit, IL*  
Henry Cruz, *Austin, TX*  
Jackson Chin, *New York, NY*  
Larry Mueller, *Bremerton, WA*  
Mai Kaneko, *Tokyo, Japan*  
Pronita Gupta, *Oakland, CA*  
Rev. Linda Orsen Theophilus, *Pittsburgh, PA*  
Sarah Jarmon, *Oakland, CA*

cc: Chairman C.W. Bill Young  
Representative David Obey  
Chairman Ted Stevens  
Senator Robert Byrd  
Members of the House Judiciary Subcommittee on Immigration, Border Security and Claims  
Members of the Senate Judiciary Subcommittee on Immigration, Border Security and Citizenship