

Immigrants as Victims and Witnesses

A presentation to the Illegal Immigration Task Force
of the Virginia State Crime Commission
September 25, 2007

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Agenda

- I. Virginia Alliance for Sensible Community Policing Efforts
- II. Introduction to Virginia Justice Center
- III. Immigration in Virginia
- IV. Immigrants as Victims
- VII. Immigrants as Witnesses
- VIII. Recommendations

Virginia Alliance for Sensible Community Policing Efforts

***VA-SCOPE is an alliance of organizations
and individuals concerned about
preserving trust between local law
enforcement and the immigrant
communities of Virginia.***

Virginia Alliance for Sensible Community Policing Efforts

***VA-SCOPE members believe that
expanding the scope of state and local
enforcement to include the enforcement of
civil violations of federal immigration law is
bad public policy and would undermine that
vital trust.***

Virginia Alliance for Sensible Community Policing Efforts

VA-SCOPE members want to underscore in the strongest possible terms our opposition to amending state laws or negotiating “voluntary” agreements to accept responsibility for what is clearly a federal duty, and one that will result in tremendous local costs and consequences.

Virginia Alliance for Sensible Community Policing Efforts

Any proposal to expand state and local enforcement of federal immigration laws must:

- Expressly respect and protect the confidentiality of the immigration status of all crime victims and witnesses by prohibiting inquiry into that status.

Virginia Alliance for Sensible Community Policing Efforts

Any proposal to expand state and local enforcement of federal immigration laws must:

- Provide for the collection and reporting of racial and ethnic data regarding persons stopped, detained, arrested and/or convicted to monitor the program for racial or ethnic bias.

Virginia Alliance for Sensible Community Policing Efforts

Any proposal to expand state and local enforcement of federal immigration laws must:

- Establish uniform statewide standards that limit 287(g) agreements to correctional facilities and to post-conviction inquiries only.

Virginia Alliance for Sensible Community Policing Efforts

Any 287 (g) agreement that is authorized by the legislature or signed by a state or local official should be required to include:

- A finite duration with a sunset date;
- A required process of review before renewal
- Limited applicability to designated officers
- Limited authority for the designated officers
- Clear guidelines defining circumstances for detention on an immigration violation.

Virginia Alliance for Sensible Community Policing Efforts

Under no circumstances should state law permit any state or local law enforcement officer to be engaged in unlimited enforcement of civil immigration laws against any persons who have not committed a criminal act under state or local law.

Virginia Justice Center for Farm and Immigrant Workers

- Founded in 1998 as a statewide project of the non-profit Legal Aid Justice Center.
- This year the Legal Aid Justice Center celebrates forty years of providing free civil legal assistance to low-income Virginians.

Virginia Justice Center for Farm and Immigrant Workers

- Mission of the VJC: To support low-wage immigrant workers in their efforts to find justice and fair treatment in the workplace.
- The Virginia Justice Center represents workers without regard to their immigration status.

Virginia Justice Center for Farm and Immigrant Workers

Why does the VJC represent workers without regard to their immigration status?

- Employers should NOT be able to win contracts and gain a competitive advantage over their rivals by hiring undocumented immigrants and cheating them out of their pay.

Virginia Justice Center for Farm and Immigrant Workers

Why does the VJC represent workers without regard to their immigration status?

- The federal minimum wage and overtime law protects the right of workers to be paid, regardless of immigration status .

Virginia Justice Center for Farm and Immigrant Workers

Why does the VJC represent workers without regard to their immigration status?

- Virginians recognize the value of hard work.
- If you do a good day of hard work, you've earned a full day's pay.

Immigration in Virginia

More than ten percent
of Virginians were born
outside of the United States.

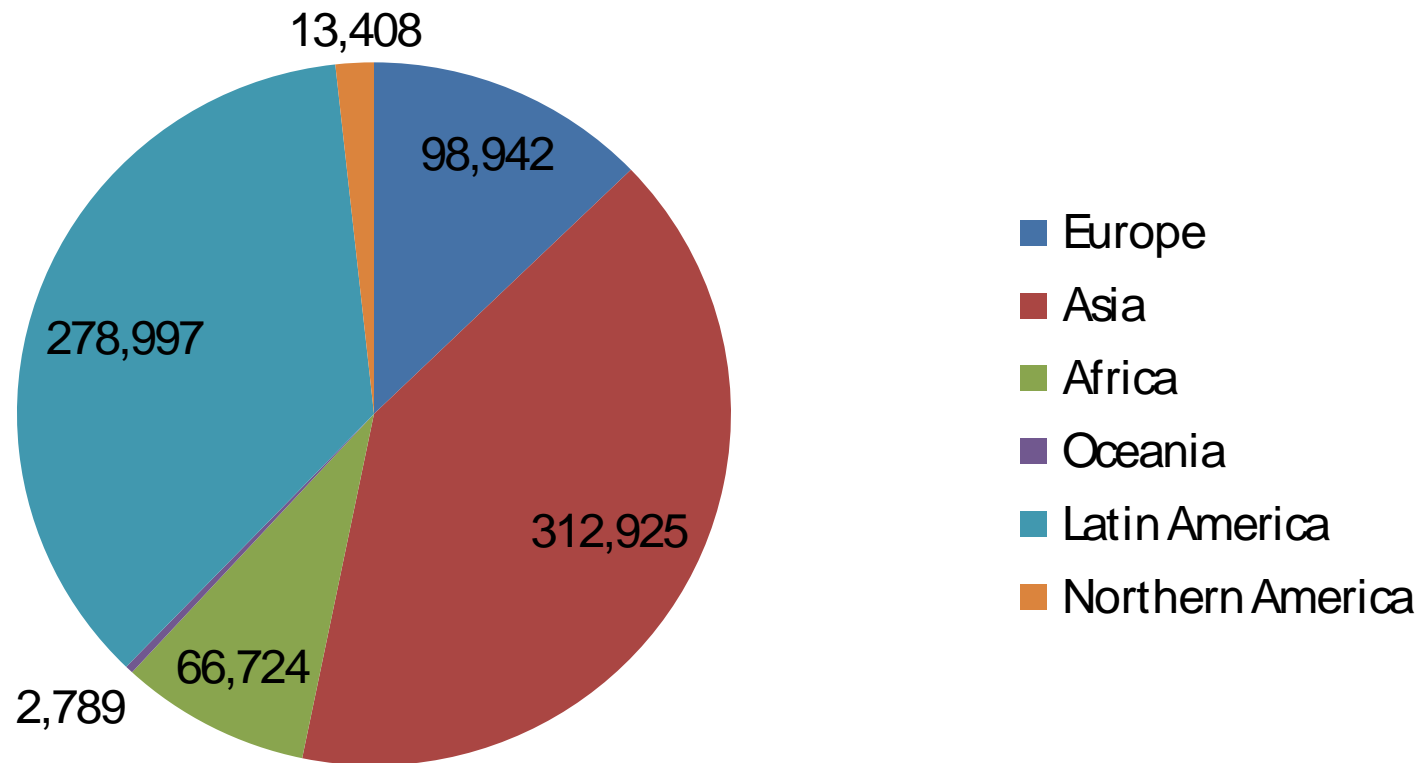
Immigration in Virginia

- In 2005, the foreign born were 12.6% of Virginia's civilian employed workforce
- The majority of Virginia's foreign born residents are from Asia; followed by Latin America

Sources: Migration Policy Institute. (2006). Virginia fact sheet on the foreign born: Demographic and social characteristics. Washington, D.C. Available at <http://www.migrationinformation.org/DataHub/acscensus.cfm#>; U.S. Census Bureau. (2007). 2006 American Community Survey. Selected social characteristics in the United States: Virginia. Washington, D.C. Available online at <http://factfinder.census.gov>.

Immigration in Virginia

Region of Birth of the Foreign Born Population in Virginia, 2006



Source: U.S. Census Bureau. (2007). 2006 American Community Survey. Selected social characteristics in the United States: Virginia. Washington, D.C. Available online at <http://factfinder.census.gov>.

Immigration in Virginia

There were an estimated
250,000-300,000
“unauthorized migrants” in
Virginia in 2006.

Immigration in Virginia

According to Passel's estimates...

- 30% of the foreign born in the United States are unauthorized migrants
- Mixed-Status Families: As of 2005, there were 6.6 million families in the U.S. in which either the head of the family or spouse was unauthorized. These families contain 14.6 million people.
- Unauthorized workers in the U.S. are overrepresented in certain industries (i.e., farming, cleaning, construction, and food preparation)

Table 1. Unauthorized Migrant Share of Selected Specific Occupations: March 2005

(In thousands)

Detailed Occupation	Total Workers	Unauthorized Workers	
		Number	Share
Total, Civilian Labor Force (with an occupation)	148,615	7,255	4.9%
Insulation workers	56	20	36%
Miscellaneous agricultural workers	839	247	29%
Roofers	325	93	29%
Drywall installers, ceiling tile installers, and tapers	285	79	28%
Helpers, construction trades	145	40	27%
Butchers and other meat, poultry, and fish processing workers	322	87	27%
Pressers, textile, garment, and related materials	83	21	26%
Grounds maintenance workers	1,204	299	25%
Construction laborers	1,614	400	25%
Brickmasons, blockmasons, and stonemasons	198	49	25%
Dishwashers	367	85	23%
Helpers--production workers	64	15	23%
Maids and housekeeping cleaners	1,531	342	22%
Graders and sorters of agricultural products	74	16	22%
Painters, construction and maintenance	768	167	22%
Cement masons, concrete finishers, and terrazzo workers	141	29	21%
Computer hardware engineers	54	11	20%
Packaging and filling machine operators and tenders	367	75	20%
Packers and packagers, hand	548	111	20%
Cleaners of vehicles and equipment	427	85	20%
Carpet, floor, and tile installers and finishers	330	66	20%
Cooks	2,218	436	20%
Parking lot attendants	64	12	19%
Upholsterers	72	13	18%
Sewing machine operators	292	51	18%
Food preparation workers	758	128	17%
Laundry and dry-cleaning workers	206	30	15%

Source: Passel, J.S. (2006). The size and characteristics of the unauthorized migrant population in the U.S.: Estimates based on the March 2005 Current Population Survey. Washington, D.C.: Pew Hispanic Center. Available online at <http://pewhispanic.org/files/reports/61.pdf>.

Immigrants as Victims

- Most criminals do not check the immigration status of their victims!
- Perpetrators commit crimes based on their stereotypes and perceptions of potential victims (not based on their immigration status)
- These perceptions put all persons of color at risk

Immigrants as Victims

Woodbridge homicide, September 2006

- Teenagers were out to “get a Mexican”
- Serafin "Pedro" Alvarez Negrete, the victim, just happened to walk by the perpetrators on his way home from work
- End result: Negrete, 32, husband and father of three children, was shot seven times and killed

Immigrants as Victims

"The problem is that they make good victims, and they have been targeted because they are disinclined to report the robberies."

-John B. Arledge, Prince William County
Assistant Commonwealth's Attorney

Source: Theresa Vargas, *Teen Pleads Guilty in Slaying of Immigrant: Authorities Say the Woodbridge 18-Year-Old and an Accomplice Had Decided to "Get a Mexican,"* The Washington Post, May 31, 2007, at PW01. Available online at <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/29/AR2007052902342.html>.

Immigrants as Victims

Reasons Criminals Target Immigrants

- Less likely to report crime due to fear of police or deportation
- Less likely to report crime due to language barriers
- Less likely to report crime due to unfamiliarity with U.S. judicial system
- Lack of ID makes it difficult to open bank account to deposit money, so perceived to carry large amounts of cash

Hispanic Immigrants as Violent Crime Victims

In 2005...

- Hispanics were victims of overall violence at a rate higher than non-Hispanics.
- Hispanics were victims of robbery and aggravated assault at rates higher than non-Hispanics.
- Hispanic persons age 12 or older experienced 15% of all violent crime and made up 13% of the population.

Virginia Employers Exploit Workers

Since 1998...

- VJC has represented **more than 1,500 immigrant** workers with claims against hundreds of employers, almost all based in Virginia.
- VJC's immigrant worker clients have won judgments and settlements **totaling more than \$2 million**--primarily representing unpaid wages for work performed.

Virginia Employers Exploit Workers

- Non-payment of wages earned
- Failure to pay minimum wage and overtime
- Payment with “bad checks” or checks with insufficient funds
- Misclassification of employees as independent contractors
- Extortion related to immigration status (withholding passports, threatening deportation)

Existing Virginia Laws Offer Some Protection

Crime to Issue a bad check
(Va. Code Ann. 18.2-181 through 18.2-
184)

Existing Virginia Laws Offer Some Protection

Virginia Minimum Wage Act
non-payment of wages provision
(Va. Code Ann. 40.1-28.8 et seq.)

Existing Virginia Laws Offer Some Protection

Mechanics' and Materialmen's Liens
(Va. Code Ann. 43-13)

Existing Virginia Laws Offer Some Protection

New Extortion Provision
(Va. Code Ann. 18.2-59)

But the Laws are Rarely Enforced

- Financial Crimes Units not interested in bad checks—“That’s a civil matter.” (Referring to Va. Code Ann. 8.01-27.2 Civil recovery for giving bad check.)

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- Extortion provision is new and will hopefully be used by courageous immigrants who trust law enforcement.

Barriers to Justice for Victims

- Fear of police and reluctance to report crime
- Lack of familiarity with U.S. laws and judicial system
- Language barrier and lack of access to interpreters
- Filing claims requires money and the ability to miss work to appear in court -- many low-wage immigrant workers have neither
- Wage claims are rarely attractive to private attorneys
- Limited *pro bono* efforts require bilingual attorneys familiar with employment law, or interpreters.
- Fear of police, and reluctance to report crime

Immigrants as Witnesses

- Fear of incarceration and deportation for self or others creates an environment in which undocumented immigrants are reluctant to come forward as witnesses.
- Limited language access to magistrates and police departments presents a barrier to reporting crime.
- Mixed-status families: concern for unauthorized individuals in the same household may affect willingness to cooperate.

Immigrants as Witnesses

Newark Incident, September 2007

- Geraldo Carlos, a Brazilian journalist, discovers the body of a woman in a Newark, N.J. alley while shooting photos on assignment
- Carlos and his editor report the body to the police.
- Some of the first questions asked by police: “Do you have a Green Card? Are you here legally?”
- Police demand the newspaper turn over photos
- Editor of the paper, Roberto Lima, goes to the police station to protest the request for photos
- Editor is handcuffed to a bench and detained

Immigrants as Witnesses

"After what happened to me, a well-known person, 19 years in the community, no Brazilian in this area will call police to report a crime. Even if they see Osama bin Laden himself, they will not call police."

-Editor Roberto Lima, naturalized U.S. citizen

VA-SCOPE Recommendations

- Do not expand the scope of state and local law enforcement to include the enforcement of civil violations of federal immigration law.

Any proposals considered by the Task Force must:

- Include a confidentiality provision regarding immigration status of victims and witnesses, codified in legislation with statewide applicability
- Collect and report racial and ethnic data for persons stopped, detained, arrested and/or convicted of immigration-related offenses
- Implement uniform statewide standards that limit any 287(g) agreements to correctional facilities and post-conviction inquiries
- Require all authorized 287(g) agreements to meet standards previously mentioned

Additional VJC Recommendations

- Virginia's Attorney General should lead law enforcement in an effort to **enforce Virginia's existing laws** and crack down on employers who try to gain a competitive advantage over their rivals by cheating immigrant workers.
- Develop **uniform statewide policies** that protect immigrant victims and witnesses of crime.
- Improve language access throughout the judicial system by hiring more interpreters and multi-lingual personnel
- Incorporate more leaders of immigrant communities into citizen advisory boards for law enforcement
- **Rebuild and preserve the trust** between the immigrant communities of Virginia and state and local law enforcement.

For More Information

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