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## **National Security and Noncitizens in the United States after 9/11**

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## **National Security and Noncitizens in the United States after 9/11**

In the four years after the September 11, 2001 terrorist attacks, the United States has refocused attention on national security issues relating to noncitizens, a process that had made clear just how big a role non-U.S. citizens play in all aspects of American day-to-day life, as well as how vulnerable the United States is to attack and how difficult it is to distinguish friend from foe. One in eight people who live in America was born in another country, as is one of every eight workers on whom our economy depends. Immigrants represent 50 percent of U.S. research and development workers and 25 percent of doctors and nurses. Foreign nationals hold 38 percent of U.S. science and engineering jobs that require doctorates. Each year, roughly 500 million people cross our borders; nearly one million each year end up staying. More than 600,000 foreign students are enrolled in U.S. educational institutions.

At the same time, there are roughly 10 million people in the United States without legal documents – a huge population that goes unaccounted for and virtually unaccountable. The vast majority of the foreign-born in the United States, both legal and illegal, come to better their lives, but a small number do have bad intentions. National security thus depends on identifying those who we must keep out while keeping the doors open to the non-citizens upon whom we depend.

With these challenges in mind, the World Policy Institute at The New School in New York City has launched the Program on Citizenship and Security in order to promote a dialogue to address national security issues involving noncitizens. Although immigration and national security issues overlap considerably, the dialogue between the security and immigration communities too often remains tinged with mistrust. Policy

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<sup>1</sup> Program on Citizenship and Security

[www.citizenshipandsecurity.org](http://www.citizenshipandsecurity.org)

World Policy Institute at The New School

New York City

makers and practitioners coming from a security perspective may fail to see ways in which their actions toward noncitizens may be counterproductive; similarly, immigration activists and community leaders can be inflexible and fail to fully acknowledge the real national security dangers that face the United States.

When immigration and security policymakers work together rather than at cross-purposes, we are more likely to achieve effective policies in both fields, to ensure that all our countries remain both secure and welcoming to immigrants. To fully succeed, both sides must engage important actors in civil society, particularly the private sector, whose need for workers draws people to this country and thus makes it a crucial element in devising effective policies involving noncitizens and security.

The Program on Citizenship and Security has broken down policy challenges involving

noncitizens and national security into four major areas:

- Practical intelligence issues including “hard” security and counterterrorism.  
How do we best monitor the presence and activities of noncitizens to document who is here? What is the best way to balance federal immigration enforcement goals and practical local crime fighting concerns?
- Legal issues involving the rights of noncitizens versus those enjoyed by citizens; these include visa, detention, and deportation policies;
- Assimilation and integration of immigrants into mainstream society to prevent the emergence of terrorist cells and to enlist non-citizens’ help in identifying and preventing threats;
- The gap between perception and reality of the nature of the threat and the unintended secondary consequences of national security policies in other areas, particularly economic, which, in turn, involve noncitizens and affect national security considerations.

**Practical Intelligence.** It is impossible to talk about immigration without addressing the question of how to maintain borders that let in the people we want to welcome, yet keep out those who may harm us. In the United States, this has raised controversy over the touchy subject of racial profiling, a practice that the Bush administration has said that it will not allow –except for suspected terrorists.

The United States is increasingly turning to databases, biometrics, and other “high-tech” approaches to monitor the movement of noncitizens across borders. These offer the promise of identifying foreign visitors more accurately but have raised concerns over privacy and the potential impact of human error. Three sweeping post-9/11 bureaucratic regimes affected students, scientists and scholars: the Visa Mantis program, which requires security checks for sensitive technologies; Visa Condor, which requires security checks for visitors from certain countries; and the Student Exchange Visitor Information System (SEVIS), which tracks students from the moment they apply for their visa throughout the course of their studies. While the need to know who is within our borders is widely accepted, the roll-outs of these rules were plagued by bureaucratic and technological glitches that still are being worked out. Another major practical intelligence issue has to do with jurisdictions; in many U.S. cities, local police officials have resisted federal efforts to get them to participate in immigration enforcement, while in other communities, notably in New Hampshire, a local sheriff attempted to charge undocumented immigrants with trespassing because he was frustrated that federal immigration authorities were not intervening.

At the same time, traditional urban gang problems are now being re-defined as national security issues when they involve foreign-born members, as with the Salvadoran MS-13 gang. In urban areas where local crime is a problem, immigrants may be afraid to report crimes or come forward with relevant information if they fear that they will be detained on immigration charges. If these immigrant communities are alienated, it can hurt law enforcement agencies’ abilities to win their trust and cooperation, as well as to recruit minorities and immigrants to local law enforcement and national military service, where their translation and cultural skills can be invaluable.

**Law.** National security concerns now permeate both immigration regulation and the criminal law that relates to immigration: from visa law, to detention and deportation policies, to zero-tolerance for immigrants outside of legal status, to the limits on the legal rights of noncitizens facing trial, to special registration rules and visa policies. Some measures are temporary, designed to reflect a state of exception. Others embody lasting modifications to rules governing the movement of non-citizens across and within borders.

Detention policies in the United States have taken several paths. First, recognizing Americans' contrition over the detentions of Japanese, German and Italian citizens during World War II, the government has made sure to keep war prisoners in Guantánamo, off of U.S. soil. Second, the administration has increased detentions within the United States through strict application of immigration laws, making particular use of the 1996 laws that retroactively made deportation mandatory for immigrants – even those here legally – who have been convicted of crimes, even if they have repaid their debt to society. Efforts have intensified to identify immigrants who are subject to deportation for violation of immigration law. Of these, the best-known is the special registration program that required male temporary foreign visitors over 16 years old from thirty-three suspect countries to register with law-enforcement authorities to get fingerprinted and photographed. Of the more than 82,000 who complied, 13,000 were told to leave the country.

At the same time, there has been a movement to increase the distinctions between citizens and non-citizens, particularly non-citizens who do not have legal status. Arizona passed a law requiring people to present proof of citizenship before they vote or receive any state benefits, and there are movements in other states to emulate that policy. Congress recently passed a law to tighten requirements for getting drivers licenses. Despite some efforts to help immigrants integrate into their communities – like the financial services industry's support of allowing various forms of identification to allow undocumented immigrants to open bank accounts, and the dozen or so movements across the country to allow non-citizens to vote in municipal elections – the trend has been firmly in the opposite direction. In the first half of 2005, legislators introduced one hundred fifty different bills in thirty state legislatures to restrict immigrant rights or to make it harder to prove eligibility for voting.

**Immigrant Integration.** America's success in integrating immigrants into mainstream society – both in the first generation and more importantly through second- and third generations – is pivotal to determining whether or not we create a fertile ground for home-grown terrorists who embrace radical ideologies as a result of alienations. The need to find ways to ensure that immigrants integrate into American society is clear from

the examples of home-grown American terrorists like the Oklahoma City bomber Timothy McVeigh – whose white supremacist philosophy stemmed from resentment against minorities – and the accused “dirty bomber” José Padilla, a former Chicago gang member who converted to radical Islam during a prison stint. Since 9/11, however, immigrant groups have had to replace some of their former efforts to teach English and other skills essential to assimilation because they have seen communities decimated by post-9/11 policies that have broken up families and led entire other families to flee to other countries.

Some immigrant community leaders who had acted as bridge builders between the U.S. government and immigrants, came to regret having urged fellow immigrants to follow the law, for example by showing up for special registration. The marginalization of immigrants as a result of national security policies may backfire as some immigrants find it harder to earn a living and others are prevented by fear from working closely with their local police departments to prevent local crimes.

**Threat Perception and Reality.** In devising the most effective security policies that we can, it is essential to analyze costs and benefits, a task that is complicated by shifting perceptions about where the biggest threat to America lies. In some cases, the public may demand policies to address threats that are smaller than they appear to be – or they may ignore threats that do not seem to be important. These gaps between perception and reality can tie policy makers’ hands, so a crucial element in devising practical approaches is understanding the nature of perceived and actual threats, and what shapes those attitudes. In identifying potential costs, it is important to look at collateral damage in the form of unintended impacts on U.S. organizations that depend on non-citizens, particularly universities and technology businesses.

So far, the US record has been mixed in terms of balancing costs and benefits of the new national security policies. The side effects on business and the academy have been alarming. Visa delays have cost companies tens of billions of dollars since 9/11. Academic and business conferences are being moved to other countries, at a tremendous cost to our culture of scholarship and innovation. Between 2001 and 2003, the number of student visas granted fell by 80,000, or 27 percent, while the number of skilled workers admitted fell by 60,000, another 27 percent – the result of our refusing

more applications even as fewer people apply to come here. Foreign student applications to and enrollments in U.S. universities are falling, partly because of tighter visa rules and partly because other countries are becoming more attractive options.

International student enrollments in the United Kingdom, by contrast, rose 23 percent from 2002 to 2003; in Canada by more than 15 percent; and in Australia by more than 10 percent. Rules to bar non-citizens from certain areas of research have backfired in some cases. As Robert C. Richardson, the Nobel Laureate in Science at Cornell University, complained to *The New York Times Magazine*, the effect has not been to make America safer, but instead less so: “So what is the situation now? We went from thirty-eight people who could work on select agents to two. We’ve got a lot less people working on interventions to vaccinate the public against smallpox, West Nile virus, anthrax and any of thirty other scourges.” America’s national security policies toward non-citizens remain a work in progress that sometimes succeeds and sometimes need improvement. It is important to recognize, however, that the public and government have worked hard to put our security policies under ongoing scrutiny of their effectiveness and unintended consequences. After lawmakers and community leaders complained that special registration was a needle-in-a-haystack exercise that was doing more harm than good, the program was dismantled.

Immigration officials have made an effort to improve the visa screening process, for example, and have made progress in working out some of the glitches and delays. Lawmakers have offered several proposals to strengthen our borders and to better keep track of who is within those borders. A long way remains to go before policies are in place that hit the right balance between letting in friends and keeping out enemies. But with a level-headed, collaborative approach by immigration and security experts, with the input of the private sector and community leaders, the United States can get it right.

## Center for International Relations

### WHO WE ARE?

The Center for International Relations (CIR) is an independent, non-governmental establishment dedicated to the study of Polish foreign policy as well as those international political issues, which are of crucial importance to Poland. The Center's primary objective is to offer political counselling, to describe Poland's current international situation, and to continuously monitor the government's foreign policy moves. The CIR prepares reports and analyses, holds conferences and seminars, publishes books and articles, carries out research projects and supports working groups. Over the last few years, we have succeeded in attracting a number of experts, who today cooperate with the CIR on a regular basis. Also, we have built up a forum for foreign policy debate for politicians, MPs, civil servants, local government officials, journalists, academics, students and representatives of other NGOs. The CIR is strongly convinced that, given the foreign policy challenges Poland is facing today, it ought to support public debates on international issues in Poland.

The president of the Center for International Relations is Mr Eugeniusz Smolar.

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