



## **Protecting Civil Liberties in Federal Immigration Reform Legislation January 2013**

As President Obama and Congress take up immigration reform, the ACLU urges policymakers to endorse and promote the following priorities for any reform:

**Immigration reform must create a welcoming roadmap to citizenship for aspiring Americans living in and contributing to the U.S. Fundamental fairness as guaranteed by the Constitution requires that these individuals be brought within the**





throughout the country of illegal traffic stops and detentions for immigration investigation purposes.

**Immigration reform must address systemic due process problems with immigration detention and deportation.**

Immigration reform must end the unnecessary and unconstitutional overreliance on costly and inhumane immigration detention, which led to 429,000 people being detained administratively in the last fiscal year (almost twice as many as in the entire federal prison system), at a wasteful cost of \$2 billion.

No one should be in immigration detention without a constitutionally adequate bond hearing where the government bears the burden of showing that detention is necessary to protect against danger to the community or flight risk, and that no alternative release conditions would suffice.

Immigration reform must eliminate mandatory and disproportionate deportation laws that needlessly separate families, by restoring discretion to consider the equities in every individual ensure access to counsel in immigration proceedings (more than half of individuals in immigration court proceedings are unrepresented, including 84% of those in detention) as well as effective judicial review as integral components of due process.

**Immigration reform must transform border enforcement, which has grown wastefully and abusively without regard to genuine public safety needs.**

Immigration reform must end the abuses committed by U.S. Customs and Border Protection (CBP), both at the border and in interior areas, by creating accountability within CBP, establishing robust and independent external oversight, and ending CBP immigration enforcement efforts removed from the borders year low in migrant apprehensions. It should also contain measures to ensure

**Immigration reform must address immigration enforcement's contribution to America's mass incarceration problem.**

Immigration reform should include no new criminal provisions, and must end wasteful and inhumane overreliance on criminal prosecutions. DHS now refers more cases for enforcement agencies. Federal prisons are already 40% over capacity, due in large part to indiscriminate prosecution of individuals for crossing the border without authorization, often to rejoin their families. The majority of those sentenced to federal prison last year were Hispanics and Latinos, who constitute 16% of the population.



**Immigration reform must include the ability of committed and loving couples in same-sex relationships to sponsor their spouse or permanent-partner in the same way opposite-sex couples have long been able to under current immigration law.**

The discriminatory and unconstitutional so-called Defense of Marriage Act has caused these LGBT immigrant families to live in the shadows with the fear of separation and deportation for far too long. Family unity - including for those who are LGBT - is a critical component of any reform proposal.