

Supreme Court No. 81590-9

**SUPREME COURT OF THE STATE OF WASHINGTON**

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**ALEX SALAS**

**Petitioner,**

**v.**

**HI-TECH ERECTORS, a Washington Corporation**

**Respondent.**

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**MEMORANDUM OF *AMICUS CURIAE*  
LEGAL VOICE  
IN SUPPORT OF PETITIONER ALEX SALAS**

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## I. INTEREST OF *AMICUS CURIAE*

Legal Voice (formerly known as the Northwest Women's Law Center) is a non-profit organization that engages in litigation and legislative advocacy to secure and ensure justice for women throughout the Pacific Northwest. Throughout its thirty-one year history, Legal Voice has advocated for protections for survivors of domestic violence, including immigrants, and has been a leader in the development of family law and in ensuring the law's fair and equitable application to women in Washington State. *Amicus* Legal Voice submits this brief to assist the Court in considering the negative consequences that flow from the admission of immigration status in civil cases.

## II. INTRODUCTION

Evidence about the immigration status of a party should not, in almost every instance, be admissible in a civil proceeding. Such evidence is irrelevant and highly prejudicial to immigrant litigants. *Amicus* is concerned that a rule permitting the introduction of immigration status in this case could further open a door that is, unfortunately, ajar to permit admission of immigration status in domestic relations proceedings. The consideration of immigration status in such cases has a profoundly negative effect on immigrants who suffer from domestic violence, because it will seriously dissuade immigrants, fearing the loss of custody of their children

and possible deportation, from seeking assistance from the court system. Such a result contravenes various laws, programs, and public policies designed to protect and encourage immigrants' access to justice by building trust with immigrant communities, and would undermine Washington State's strong public policy in favor of holding abusers accountable and assisting survivors of domestic violence in escaping violent relationships.

### III. STATEMENT OF THE CASE

*Amicus Curiae* adopts the Petitioner's Statement of the Case.

### IV. ARGUMENT

*Amicus Curiae* Legal Voice is deeply concerned that allowing admission of immigration status in civil cases such as *Salas v. Hi Tech Erectors* could establish a precedent with far-reaching negative ramifications. Specifically, allowing evidence of immigration status in civil cases may lead to the accepted introduction of such evidence in domestic relations cases, which would in turn severely curtail access to the justice system for immigrant victims of domestic violence and their children.

#### A. WASHINGTON STATE AND LOCAL POLICIES RECOGNIZE THAT IMMIGRANTS FACE SIGNIFICANT BARRIERS THAT MAY PREVENT THEM FROM ACCESSING THE JUSTICE SYSTEM

1. Even Without the Risk of Immigration Status Being Admitted into Evidence, Immigrants Experience Formidable Obstacles to Accessing the Civil Court System.

Many immigrants have a strong and ingrained distrust of the justice system in general, in part because of their personal experiences with and knowledge about corruption and discrimination by legal and judicial systems in their home countries as well as in the United States.<sup>1</sup> When combined with a general fear of deportation or other negative immigration consequences, it is understandable that immigrants are naturally resistant to – and sometimes severely afraid of – utilizing the legal and judicial systems of their adopted country.<sup>2</sup> As the City of Seattle’s 2007-2009 Immigrant and Refugee Report and Action Plan (hereinafter the I/R Report) recognizes, “[m]ost undocumented workers, even when they have rights, are fearful of asserting those rights and are less likely to report crimes committed against them out of fear of deportation.”<sup>3</sup>

A lack of knowledge about the justice system’s intricacies and their rights within it, because of factors like language barriers and cultural differences, creates additional barriers for many immigrants. According to the I/R Report, “[some] immigrants and refugees are uninformed of their legal rights and, like other low-income residents, may lack access to affordable legal services. They need education, advocacy, and legal

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<sup>1</sup> Leslye E. Orloff *et al.*, *Battered Immigrant Women's Willingness to Call for Help and Police Response*, 13 UCLA Women's L.J. 43, 47 (2003).

<sup>2</sup> *Id.*

<sup>3</sup> City of Seattle Immigrant and Refugee Report and Action Plan 2007-2009, page 7, attached as Appendix A.

assistance.”<sup>4</sup> Washington State organizations and local governments have responded to this need by enacting laws and policies designed to afford participation of everyone, regardless of immigration status, in the justice system.

2. Allowing the Admissibility of Immigration Status Would Contravene Washington Laws and Public Policies Designed to Address the Barriers that Immigrants Face in Accessing the Justice System.

State and local government has worked to remedy the barriers that deter immigrants from exercising their rights to access the justice system. Underlying these laws and policies is an effort to build a relationship of trust between immigrants and law enforcement agencies and judicial systems. If immigrants trust the justice system, they are more likely to utilize the system, which in turn increases public safety and the prosecution of crimes. Allowing the admission of immigration status in civil cases would thwart the efforts made to establish immigrant communities’ faith in – and their resulting use of – the justice system.

The Washington State Human Rights Commission and the Washington State Department of Labor and Industries have adopted policies aimed at ensuring that employment laws are enforced regardless of a claimant’s immigration status. In a statement from its Director, the Department of Labor and Industries indicated that “all workers be paid at

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<sup>4</sup> *Id.*

least the minimum wage and [be] provid[ed] with medical care and wage replacement when an injury or an occupational disease prevents them from doing their job...without regard to the worker's immigration status.”<sup>5</sup> Similarly, the Washington State Human Rights Commission enforces laws against discrimination “without regard to the immigration status of the Complainant.”<sup>6</sup>

Likewise, the City of Seattle recognizes the roles that fear and lack of knowledge play in creating obstacles to immigrants' access to justice, and in response has taken active, remedial steps. The I/R Report referenced above details the City programs and efforts designed to ensure equal access to the justice system for immigrants, including Executive Orders and legislation to support access to City services, policies regarding the use of interpreters and translators, and educational resources and services provided to immigrant communities.<sup>7</sup>

In addition, a June 2002 Seattle Police Department Directive prohibits officers from asking for identification or documents for the sole purpose of determining an individual's immigration status.<sup>8</sup> The Directive states that the Department's intent is “to foster trust and cooperation with all

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<sup>5</sup> Statement of Gary Moore, Director, State of Washington Department of Labor and Industries, dated May 10, 2002, attached as Appendix B.

<sup>6</sup> Letter from Susan J. Jordan, Executive Director, State of Washington Human Rights Commission dated October 7, 2002, attached as Appendix C.

<sup>7</sup> I/R Report, *supra*, note 3.

<sup>8</sup> Seattle Police Department Directive D02-40, June 6, 2002, attached as Appendix D.

people in our City, and to encourage all complainants, witnesses and victims to communicate with Seattle Police officers without inquiry regarding their immigration status.”<sup>9</sup> Just six months after the SPD Directive was established, the Seattle City Council passed an Ordinance prohibiting City personnel from inquiring into the immigration status of any person and from engaging in activities designed to ascertain a person’s immigration status.<sup>10</sup> The Ordinance references the SPD’s Directive and proclaims the City’s tradition of providing equal services to all individuals, “regardless of race, ethnicity, or immigration status[.]”<sup>11</sup>

Similarly, in April 2004 the Seattle City Council passed a Resolution opposing federal legislation that would have encouraged local enforcement of civil immigration laws (the “CLEAR” Act). In its recitals, the Resolution declares that “all City officials . . . work diligently to gain the trust of immigrant residents so that all communities feel that it is safe to contact and work with police and to access other vital city services.”<sup>12</sup> The Resolution opposes the proposed federal legislation because it would “negate” City initiatives “to protect immigrants’ access to police protection

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<sup>9</sup> *Id.*

<sup>10</sup> Seattle City Ordinance Number 121063 (Council Bill Number 114436), January 27, 2003, amending SMC Ch. 4.18, attached as Appendix E. The law includes an exemption for Seattle police officers if the officer has reasonable suspicion to believe that the person has previously been deported from the United States, is again present in the United States, and is committing or has committed a felony criminal law violation. *See* SMC 4.18.015(A).

<sup>11</sup> *Id.*

<sup>12</sup> Seattle City Council Resolution Number 30672, April 19, 2004, attached as Appendix F.

and public services” and would “discourage immigrants from coming forward to report crimes and suspicious activity[.]”<sup>13</sup>

King County Councilmember Larry Gossett’s office is currently working on proposed legislation that would establish restrictive guidelines regarding the extent to which King County personnel may request or use information about a resident’s immigration status in providing various County services and engaging in law enforcement activities. The restrictions would apply to County personnel in the Sheriff’s office and in the Department of Public Health, along with other King County offices and departments.<sup>14</sup> Underlying the proposed restrictions is the essential need to establish trust and cooperation between immigrant communities and law enforcement. The Proposed Ordinance includes in its Findings: “The protection of an individual’s citizenship and immigration status will create trust and cooperation between law enforcement officials and immigration communities to heighten crime prevention and public safety.”<sup>15</sup>

A recent letter from the Washington State Sheriff’s Association underscores the extent to which public safety depends on developing a relationship of trust between immigrant communities and law enforcement.

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<sup>13</sup> *Id.*

<sup>14</sup> See Draft Proposed Ordinance 2009-0393, obtained from the office of King County Councilmember Larry Gossett on September 30, 2009, attached as Appendix G.

<sup>15</sup> *Id.* at 2. The Findings also note that “[o]ver fifty cities, counties and states in the United States have passed legislation prohibiting their agencies from unilaterally inquiring about citizenship and immigration status including Cambridge, Chicago, Los Angeles, Seattle, Cook county and the states of Alaska, Maine and Oregon.” *Id.* at 3.

The Association explains: “The lack of a coherent national immigration policy has . . . had an enormous negative impact on the trust that many of our sheriff’s offices and police departments have worked hard to build with immigrant communities over the years. We know from experience that law enforcement is more effective in achieving its job of keeping the community safe where there is strong trust built.”<sup>16</sup>

Finally, in recognition of the language barriers that immigrants face when accessing the legal system in both civil and criminal cases, Washington State requires the appointment of qualified interpreters for all litigants with limited English proficiency. *See* RCW 2.43.101 *et seq.* The Administrative Office of the Courts, working with the statewide legal services programs Northwest Justice Project and Columbia Legal Services, developed a statewide plan for achieving access for people with limited English proficiency in every courthouse.<sup>17</sup> This plan continues to be monitored and implemented by the Washington State Court Interpreter Commission. *See* Washington State Supreme Court General Rule 11.

These are among the significant efforts of state and local government to safeguard immigrants’ legal rights and to encourage

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<sup>16</sup> Letter from Washington State Sheriff’s Association to Senators Patty Murray and Senator Maria Cantwell, June 22, 2009, attached as Appendix H.

<sup>17</sup> *See* Washington State Administrative Office of the Courts, *Washington State Court Interpreter Services: Limited English Proficiency (LEP) Plan*, July 2007, available at <http://www.lawhelp.org/documents/380461WA%20Statewide%20LEP%20Plan%20PDF.pdf>.

immigrants to utilize the justice system by developing a relationship of trust and cooperation. Admitting immigration status in civil court cases would seriously undermine those efforts.

B. BATTERED IMMIGRANTS FACE ADDITIONAL OBSTACLES TO SEEKING LEGAL REDRESS, AND STATE AND FEDERAL POLICIES RECOGNIZE AND ATTEMPT TO ADDRESS THIS PROBLEM

1. Immigrant Victims of Domestic Violence Are Uniquely At Risk Of Their Immigration Status Being Used Against Them When They Seek Help

- a. Domestic violence is the exertion of power and control over a family member or an intimate partner.

Social science recognizes domestic violence as a pattern of behavior designed to control another person.<sup>18</sup> These behaviors include verbal, psychological, emotional, physical and sexual abuse.<sup>19</sup> However, abusers commonly control their victims through a combination of physical and psychological abuse. As Washington's Domestic Violence Manual for Judges notes, "[t]he psychological control of abused parties through intermittent use of physical assault along with psychological abuse (e.g.,

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<sup>18</sup> *World Report on Violence and Health: Summary*, 15, Geneva, World Health Organization (2002); *Violence and the Family: Report of the American Psychological Association Presidential Task Force on Violence and the Family*, Executive Summary (1996).

<sup>19</sup> *World Report*, *supra*, note 7; see also Anne L. Ganley and S. Schecther, *Understanding Domestic Violence: Preparatory Reading for Trainers*, 5-9, Domestic Violence: A National Curriculum for Child Protective Services, Family Violence Prevention Fund (1996).

verbal abuse, isolation, threats of violence, etc.) is typical of domestic violence.”<sup>20</sup>

The risk of abuse escalates when a battered woman tries to escape an abusive relationship. When battered partners attempt to leave, perpetrators routinely “escalate their intimidation by stalking, attacks against property, threats to take children, false reports to Child Protective Services (CPS) or Immigration and Customs Enforcement...”<sup>21</sup> Consequently, survivors often feel powerless to leave abusive relationships because they fear that their abusers will follow through on threats of further domestic violence or deportation.<sup>22</sup>

b. Abusers frequently use immigration status to maintain control over their battered spouse.

Indeed, batterers’ use of immigration status to exert additional control over a victim of abuse is a well-documented phenomenon.<sup>23</sup> An abuser may prevent his victim from learning English and in so doing make it difficult for her to obtain access to health care, social workers, battered

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<sup>20</sup> Wash. State Gender & Justice Comm’n, *Domestic Violence Manual for Judges 2-7* (2006).

<sup>21</sup> *Id.* at 2-32.

<sup>22</sup> See, e.g., Zeldia B. Harris, *The Predicament of the Immigrant Victim: “VAWA Diversion” and Other Considerations in Support of Battered Women*, 14 *Hastings Women’s L.J.* 1, 13 (2003) (noting “[t]he threat to have a woman deported is recognized as a particular form of domestic violence deployed by abusive United States citizen and legal permanent resident spouses against their immigrant spouses.”).

<sup>23</sup> Giselle Aguilar Hass *et al.*, *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, *Domestic Violence: Global Responses*, 93, 105 (2000) (“Immigration-related abuse is a critical way in which batterers of immigrant women exert power and control; it is a key element of extreme cruelty, dominance and isolation.”).

women's advocates, immigration authorities, police, and courts.<sup>24</sup> In many cases, the immigrant woman is already isolated by living in a new country with no supportive community, family, and friends so that the additional isolation by the abuser leaves the immigrant victim with no access to the outer world. In such a context, the immigrant domestic violence victim is uniquely vulnerable to the maintenance of the abusive relationship.

Abusers frequently exploit this situation by using "control over immigration status to stop their spouses from fleeing or reporting abuse ... by threatening deportation and loss of ability to work and loss of child custody because of deportation."<sup>25</sup> Consequently, it is imperative that courts recognize that "in many instances, the fact that battered immigrant women have no legal immigration status or documentation [of that status] in the U.S. is a result of the batterer's use of their victim's immigration status as a weapon of abuse."<sup>26</sup>

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<sup>24</sup> Leslye E. Orloff, *et al.*, *With No Place to Turn: Improving Legal Advocacy for Battered Immigrant Women*, 29 *Family L. Quarterly* 313, 316-17 (1995).

<sup>25</sup> Janet Calvo, *A Decade of Spouse-Based Immigration Laws: Coverture's Diminishment, but Not Its Demise*, 24 *N. Ill. U. L. Rev.* 153, 167-68 (2004); *see also* Leslye Orloff *et al.*, *Countering Abuser's Attempts to Raise Immigration Status of the Victim in Custody Cases*, in *Breaking Barriers: A Complete Guide to Legal Rights and Resources for Battered Immigrants* ch. 6.1, at 6 (2004) ("Threatening an immigrant victim that the police will turn her into USCIS if she calls the police for help isolates the immigrant victim and her children from police and justice system protection and shields the abuser from prosecution for his violence."); Linda Kelly, *Stories from the Front: Seeking Refuge for Battered Immigrants in the Violence Against Women Act*, 92 *NW. U. L. Rev.* 665, 680 (1998) ("Abusive husbands routinely threaten to call INS and report their undocumented wives if there is any attempt to report the beatings.").

<sup>26</sup> Leslye E. Orloff *et al.*, *supra*, note 1, at 55.

- c. Fear of losing child custody traps many abused women in dangerous relationships.

Many victims of domestic violence remain trapped in abusive relationships for fear that leaving the relationship will lead to the loss of custody or even access to their children. These concerns are heightened significantly in cases involving victims who are also undocumented immigrants. According to a 1994 study by the American Bar Association, abusers whose victims are immigrant parents often use threats of deportation to shift the focus of family court proceedings away from their own violent acts.<sup>27</sup> The ABA study further concluded:

When the judicial system condones these tactics, children suffer .... *Parties should not be able to raise, and courts should not consider, immigration status of domestic violence victims and their children in civil protection order, custody, divorce, of child support proceedings....* This ... will ensure that children of domestic violence victims will benefit from ... laws (like presumptions against awarding custody or unsupervised visitation to batterers) in the same manner as other children.<sup>28</sup> (emphasis added)

Social science studies confirm that fear of losing custody or access to children frequently deters immigrant women from leaving their abusers or seeking assistance in stopping the abuse.<sup>29</sup> One study found that 48.2%

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<sup>27</sup> Howard Davidson, *The Impact of Domestic Violence on Children: A Report to the President of the American Bar Association* (Aug. 1994) at p. 20.

<sup>28</sup> *Id.*

<sup>29</sup> Leslye Orloff *et al.*, *supra*, note 25, at 1. See also Felicia E. Franco, *Unconditional Safety for Conditional Immigrant Women*, 11 Berkeley Women's L.J. 99, 136 (1996); Margot Mendelson, *The Legal Production of Identities: A Narrative Analysis of Conversations with Battered Undocumented Women*, 19 Berkeley Women's L.J. 138, 182 (2004) (describing

of battered immigrant women who reported still living in an abusive relationship cited the fear of losing child custody as an obstacle to leaving that relationship.<sup>30</sup> Because abusers of immigrant victims raise the issue of the victim's lack of legal immigration status in an attempt to maintain control over their victims and tip the custody scales in their favor, such fears are often well grounded in reality.<sup>31</sup> As a result, "many battered immigrant women are reluctant to pursue a civil order of protection, divorce, custody, or child support proceedings."<sup>32</sup>

## 2. Deterring Victims of Domestic Violence from Seeking Help Would Contravene State and Federal Policy

While drafting the Violence Against Women Act of 1994, (hereinafter "VAWA") legislators cited high levels of abuse in households where citizen or lawful permanent residents were married to immigrant spouses who were dependent upon them for attaining lawful immigration status.<sup>33</sup> Consequently, one of Congress' goals in enacting VAWA was to allow "battered immigrant women to leave their batterers without fearing

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interviews with undocumented women in which they "all regarded the courts and the custody laws as adversarial to their interests... The women shared an overriding sense of their own vulnerability in the legal setting"; Edna Erez *et al.*, *Violence Against Immigrant Women and Systemic Responses: An Exploratory Study*. Report submitted to National Institute of Justice, Washington D.C. (2003); Mary Anne Dutton *et al.*, *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 *Geo. J. On Poverty L. & Pol'y* 245, 301 (2000).

<sup>30</sup> Leslye Orloff *et al.*, *supra*, note 25, at 1.

<sup>31</sup> *Id.* at 2.

<sup>32</sup> Felicia E. Franco, *Unconditional Safety for Conditional Immigrant Women*, 11 *Berkeley Women's L.J.* 99, 136 (1996).

<sup>33</sup> H.R. REP. NO. 103-395, at 25(1993); S. REP. NO. 101-545, at 38-39 (1990).

of battered immigrant women who reported still living in an abusive relationship cited the fear of losing child custody as an obstacle to leaving that relationship.<sup>30</sup> Because abusers of immigrant victims raise the issue of the victim's lack of legal immigration status in an attempt to maintain control over their victims and tip the custody scales in their favor, such fears are often well grounded in reality.<sup>31</sup> As a result, "many battered immigrant women are reluctant to pursue a civil order of protection, divorce, custody, or child support proceedings."<sup>32</sup>

## 2. Deterring Victims of Domestic Violence from Seeking Help Would Contravene State and Federal Policy

While drafting the Violence Against Women Act of 1994, (hereinafter "VAWA") legislators cited high levels of abuse in households where citizen or lawful permanent residents were married to immigrant spouses who were dependent upon them for attaining lawful immigration status.<sup>33</sup> Consequently, one of Congress' goals in enacting VAWA was to allow "battered immigrant women to leave their batterers without fearing

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interviews with undocumented women in which they "all regarded the courts and the custody laws as adversarial to their interests... . The women shared an overriding sense of their own vulnerability in the legal setting"); Edna Erez *et al.*, *Violence Against Immigrant Women and Systemic Responses: An Exploratory Study*. Report submitted to National Institute of Justice, Washington D.C. (2003); Mary Anne Dutton *et al.*, *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 *Geo. J. On Poverty L. & Pol'y.* 245, 301 (2000).

<sup>30</sup> Leslye Orloff *et al.*, *supra*, note 25, at 1.

<sup>31</sup> *Id.* at 2.

<sup>32</sup> Felicia E. Franco, *Unconditional Safety for Conditional Immigrant Women*, 11 *Berkeley Women's L.J.* 99, 136 (1996).

<sup>33</sup> H.R. REP. NO. 103-395, at 25 (1993); S. REP. NO. 101-545, at 38-39 (1990).

deportation.”<sup>34</sup> To that end, Congress passed legislation within VAWA providing numerous protections for battered immigrant women, most notably provisions permitting battered immigrant women to “self-petition” for legal status in the United States regardless of the lack of cooperation or need to separate from their spouses upon whom their status had previously been dependent. *See Luis-Hernandez v. Ashcroft*, 345 F.3d 824, 827-8 (9<sup>th</sup> Cir. 2005).

Washington State, for its part, has numerous laws and policies aimed at eradicating domestic violence. As this Court has previously recognized, the legislative, judicial and executive branches of government have repeatedly declared that it is the public policy of this state to prevent domestic violence. *Danny v. Laidlaw Transit Services, Inc.*, 165 Wn.2d 200, 208, 193 P.3d 128 (2008). The Washington Legislature has similarly “recognize[d] the importance of domestic violence as a serious crime against society,”<sup>35</sup> and has emphasized the importance of “assur[ing] the victim of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide.”<sup>36</sup>

Courts must work to overcome the belief, instilled in battered immigrant women by their batterers and by their understandings of the risk

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<sup>34</sup> *Id.*

<sup>35</sup> RCW 10.99.010 (“Domestic Violence – Official Response”); *see also* Washington State Domestic Violence Task Force, *Final Report of the Washington State Domestic Violence Task Force*, Office of the Administrator of the Courts, 1-2 (June 1991).

<sup>36</sup> RCW 10.99.010.

of loss of child custody and immigration status, that the justice system will use immigration status against them. Admitting evidence of immigration status in civil cases is directly counter to this goal, and undermines federal and state law and public policy enacted to address domestic violence.

C. JUST AS IN THE CASE AT HAND, IMMIGRATION STATUS IS GENERALLY IRRELEVANT AND ITS POTENTIAL PREJUDICE OUTWEIGHS ITS USE IN DOMESTIC RELATIONS CASES

Due to the growing number of immigrants and children of immigrants in the United States, it is increasingly common for immigrant families to be characterized by “mixed status,” meaning that individual members of immigrant families have different immigrant or citizenship status.<sup>37</sup> As of 2006, approximately 1.8 million children lived in the U.S. without documented immigration status, including some whose parents have documented immigration status or U.S. citizenship.<sup>38</sup> In 41% of mixed status families, the parents have different citizenship statuses.<sup>39</sup> These intra-familial differences in immigration or citizenship status present particular challenges when the families break apart and enter the family court system, especially in cases where domestic violence is present.<sup>40</sup>

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<sup>37</sup> David B. Thronson, *Custody and Contradictions: Exploring Immigration Law as Federal Family Law in the Context of Child Custody*, 59 *Hastings L.J.* 453, 454 (2008).

<sup>38</sup> See Jeffrey S. Passel, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.*, p.8 (2006), available at <http://pewhispanic.org/files/reports/61.pdf>.

<sup>39</sup> Valerie Leiter et al., *Challenges to Children's Independent Citizenship: Immigration, Family, and the State*, 13 *Childhood* 11, 17 (2006).

<sup>40</sup> Thronson, *supra*, note 37 at 455.

Given this reality, the immigration status of the parents or children may find its way into custody determinations.<sup>41</sup> Indeed, when parents in a child custody dispute have different immigration or citizenship status, one parent may try to focus attention on the immigration status of the other parent.<sup>42</sup> Perpetrators of domestic violence may attempt to raise their spouse's immigration status and argue that it is better for the child to live with a person with citizenship or legal immigration status, even one with a history of abuse, rather than with a non-abusive parent lacking citizenship or legal immigration status.<sup>43</sup>

This concern is not theoretical. Indeed, this Court has previously condoned consideration of immigration status in the context of dependency proceedings. *In re Dependency of J.B.S.*, 123 Wn.2d 1, 4, 863 P.2d 1344 (1993) (holding that, while “not dispositive, the trial court has discretion to consider [immigration status] insofar as it may affect the consequences of the placement decision.”)<sup>44</sup> Setting aside the troubling aspects of the *J.B.S.* ruling for another day, while there may be rare instances where immigration

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<sup>41</sup> Kerry Abrams, *The Center for Children, Families, and the Law Interdisciplinary Conference “Welcome to America”: Immigration, Families, and the Law: Immigration Status and the Best Interests of the Child Standard*, 14 Va. J. Soc. Pol’y & L. 87, 88 (2006).

<sup>42</sup> See David B. Thronson, *Of Borders and Best Interests: Examining the Experiences of Undocumented Immigrants in U.S. Family Courts*, 11 Tex. Hisp. J.L. & Pol’y 45, 53 (2005).

<sup>43</sup> Orloff *et al.*, *supra* note 25, at 5.

<sup>44</sup> In an unpublished decision, the Washington State Court of Appeals, Division Two, relied on *J.B.S.* in holding that immigration status could be a factor for consideration in a family law proceeding under Title 26 RCW. *In re Parentage of Florentino*, 113 Wn. App. 1002, 17-18 (2002). However, that court noted that “due process and equal protection provisions prevent denying an illegal immigrant custody based on that ground.” *Id.* at 17.

issues are appropriate for consideration in a domestic relations case – for example, as evidence to show that a pattern of domestic violence exists where a battered woman’s immigration status has been used as a tool of abuse (*see, e.g., Meredith v. Muriel*, Washington State Supreme Court Case No. 83060-6, Petition for Review pending) – immigration status is most often too prejudicial, hard to accurately assess, and simply irrelevant.

Interrogating a parent’s immigration status – an analysis family law courts are typically ill-equipped to make<sup>45</sup> – improperly shifts the focus of custody proceedings away from the best interests of the child. A parent’s immigration or citizenship status is not indicative of parenting abilities or moral character of the parent.<sup>46</sup> Nor does a parent’s presence in the U.S. without authorized immigration status *per se* indicate instability or an inability on the part of the parent to provide for the economic well-being of the child.<sup>47</sup> Even in cases when a parent’s removal from the United States is imminent, this fact does not determine the child’s interests in maintaining a relationship with that parent.

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<sup>45</sup> *See Abrams, supra* note 40, 92-94 (noting the complexities of immigration law, illustrated by *Rico v. Rodriguez*, 120 P.3d 812 (Nev. 2005), a Nevada Supreme Court decision reviewing a trial court’s denial of custody to a parent based in part on immigration status. The Supreme Court found that the trial court relied on an erroneous understanding of immigration law and its impact on the children’s parent. Nonetheless, the Court found that the error was harmless, because other factors supported the trial court’s decision.)

<sup>46</sup> *Thronson, supra* note 36 at 466 (explaining that immigration law itself does not treat persons without valid immigration status as lacking in good moral character).

<sup>47</sup> *Id., see also Abrams, supra*, note 40, 93 (noting that state courts often mistakenly believe that an undocumented person is likely to be deported; in fact, many immigrants are never put into deportation proceedings and of those that are, many have defenses that will enable them to remain in the United States).

In addition, a custody determination based *solely* on a parent's immigration status violates a parent's rights to due process and equal protection. *See, e.g., Troxel v. Granville*, 530 U.S. 57, 65 (2000) (parental rights are "perhaps the oldest of the fundamental liberty interests"); *see also Plyler v. Doe* 457 U.S. 202 (1982) (the Fourteenth Amendment to the federal Constitution prohibits discrimination based on immigration status and requires evidence of a substantial state interest to justify laws that single out undocumented immigrants for unfavorable treatment). In one of the few published state court decisions on this issue, the Supreme Court of Nevada agreed, holding that "among the fundamental interests [that] apply to individuals regardless of their immigration status" is "the interest of parents in the care, custody and control of their children." *Rico v. Rodriguez*, 121 Nev. 695, 704, 120 P.3d 812 (2005) (as discussed in footnote 45, *supra*, that court held that immigration status could be considered, but could not be dispositive).

All of these concerns are heightened when domestic violence is present. When the justice system allows a victim's immigration status to be raised as a negative factor used against her in domestic relations cases, immigrant victims of domestic violence are discouraged from seeking protection and from participating in criminal prosecution of their abusers.<sup>48</sup>

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<sup>48</sup> Leslye Orloff *et al.*, *supra* note 25, at 8 (2004).

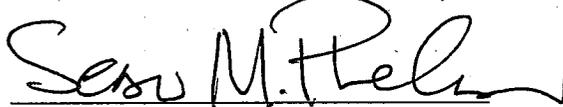
The net result of this deterrent effect is that the cycle of violence continues, the battered immigrant remains trapped and isolated, and children continue to be exposed to familial violence.<sup>49</sup> When immigration status is irrelevant and is nevertheless introduced in custody cases, it endangers an immigrant's constitutional rights and undermines a child's best interests.<sup>50</sup>

## V. CONCLUSION

The admissibility of immigration status in civil proceedings could effectively result in a denial of access to the court system for many immigrants. For battered immigrant women, such a result erects yet another obstacle to freedom from domestic violence, and increases the likelihood that immigrant victims and their children will remain trapped in violent and abusive relationships. *Amicus* urges the Court to reject efforts to inject immigration status into civil proceedings to ensure that all people are guaranteed the opportunity to fully participate in the legal system.

DATED this 9<sup>th</sup> day of October, 2009.

RESPECTFULLY SUBMITTED,



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<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

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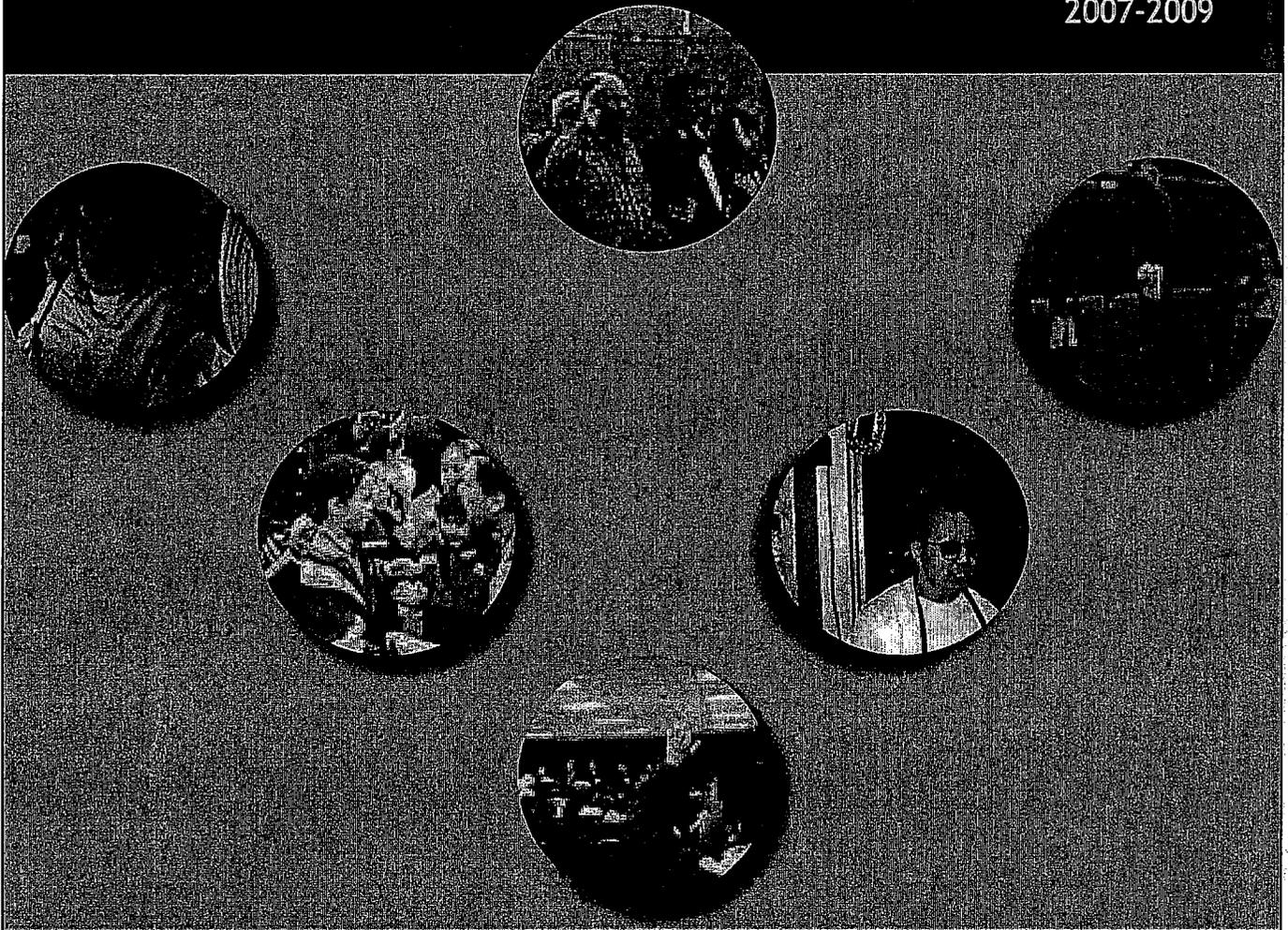
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## Appendix A

# Immigrant & Refugee (I/R) Report and Action Plan

2007-2009



City of Seattle





## City of Seattle

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Gregory J. Nickels, Mayor  
June, 2007

Dear Friends,

With the unprecedented growth of a diverse foreign-born population since the 1980s, Seattle has become a multi-cultural city. This diversity gives us much to celebrate. It also challenges City government to change to embrace Seattle's newest residents. As part of my Race and Social Justice Initiative, I want to strengthen how City government serves immigrant and refugee communities living in Seattle because we all benefit when we're all included.

We have created a broad and comprehensive initiative to promote the full and active participation of our immigrant and refugee communities in Seattle's civic, economic and cultural life. The cornerstone of this initiative is the Immigrant & Refugee Report and Action Plan you see before you.

Input provided by members of Seattle's immigrant and refugee communities, City staff, community leaders and service organizations helped us develop this plan. And, because we're not the only city grappling with these challenges, we also took a look at what other governments are doing to meet the needs of their immigrant and refugee communities.

This Immigrant & Refugee Report and Action Plan highlights the issues we identified, current efforts and actions we plan to take, both this year and in the long-term. This is a living document and as we accomplish some of the items listed in the plan, I know we'll find more actions to add to our "to do" list. We will also monitor our success and progress to ensure the actions we take provide the desired results. For more details on the Immigrant and Refugee Initiative, please go to <http://www.seattle.gov/mayor/issues/rsji/I&RInitiative.htm> or call Yemane Gebremicael at (206)684-8076.

Thank you for your continued commitment to our immigrant and refugee communities as we work to ensure the City of Seattle is responsive to all the communities we serve.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Nickels'.

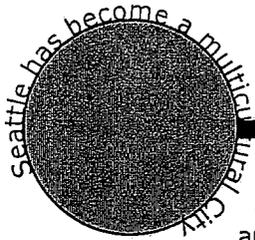
GREG NICKELS  
Mayor of Seattle

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## EXECUTIVE SUMMARY

With the unprecedented growth in the foreign-born population since the 1980s, Seattle has become a multi-cultural city, rich with diversity. As part of the Mayor's Race and Social Justice Initiative, City government is committed to ensuring quality customer service for all, including immigrant and refugee communities living and working in Seattle.

This Immigrant & Refugee Report and Action Plan identifies key issues for immigrant and refugee communities, describes current efforts Citywide, and sets out short and long-term actions that represent the City's next steps in its efforts to integrate immigrants and refugees into our community.

The report was the result of the following fact-finding activities and a series of consultations with stakeholders, including community representatives:

- A public City Council forum conducted in May 2005.
- An analysis of current City services and programs.
- A review of other jurisdictions' programs.
- A community engagement process involving 260 people.

The following topic areas surfaced and became the major themes and sections of this report and action plan:

- Access to Services and Information
- Workforce and Economic Development
- Protection of Civil Rights
- Service Delivery
- Civic Engagement

This report examines each topic area, with sections covering issues, current City efforts, and short and long-term action steps. The actions identified are the next steps in the City's ongoing effort to create a community that is enriched by its diverse cultures, with full participation by all its residents.

### ACCESS TO SERVICES AND INFORMATION

**Issues:** Many immigrants / refugees (I/R) do not know about City programs and/or how they can access them. Moreover, the City's communication and outreach efforts are inconsistent and uncoordinated among departments.

**Current City efforts:** The City's language web portal indexes departments' documents translated into 26 languages. In 2006, the City re-vamped its Employee Language Bank to improve departments' access to in-house interpretation services.

**Action steps:** The City will implement its new Citywide translation and interpretation policy; establish the newly-named Customer Service Bureau as an initial point of contact; develop new and/or refine existing communications and outreach strategies with I/R communities; and address the needs of immigrants/refugees as part of its emergency preparedness efforts.

### PROTECTION OF CIVIL RIGHTS

**Issues:** Too many immigrants / refugees (I/R) have limited knowledge or information about U.S. laws and customs, including their legal and civil rights. Many also lack access to affordable legal services.

**Current City efforts:** The Mayor and City Council support comprehensive, humane immigration reform. The City has ensured the rights of immigrants and refugees to access City services by prohibiting City staff, including the Seattle Police Department, from asking about immigration status and accepting other forms of identification, e.g. Mexican I.D. cards.

**Action steps:** The City will collaborate with community partners to produce a "U.S. Laws and Customs 101" course for immigrant/refugee communities. The Mayor will continue to advocate for comprehensive and humane immigration reform, as well as for state and federal funding to provide affordable legal aid.

## CIVIC ENGAGEMENT

**Issues:** Immigrant/Refugee (I/R) communities have few opportunities to engage with City staff and elected officials.

**Current City efforts:** Some City departments maintain active advisory bodies composed of immigrant community members.

**Action steps:** The City will establish an Immigrant/Refugee Advisory Board to advise the Mayor and City Council on relevant issues. The City, through the Mayor's Office, also will enhance its outreach efforts with I/R communities.

## WORK FORCE AND ECONOMIC DEVELOPMENT

**Issues:** In order to successfully enter and succeed in the work force, I/R need to learn English necessary for employment, gaining citizenship and accessing resources. People also need improved educational and training opportunities.

**Current City efforts:** A number of City programs support English language and computer classes and job-readiness training and services. Economic development initiatives offer resources to many immigrant-owned businesses.

**Action steps:** The City will work with community partners to increase vocational English, computer and citizenship classes, as appropriate. The City also will provide more in-depth technical assistance to immigrant-owned businesses.

## SERVICE DELIVERY

**Issues:** Many types of agencies exist in Seattle to serve I/R communities, including smaller, emergent immigrant-run agencies. At times, several of these smaller agencies, many with very limited capacity, serve the same relatively small community. Additionally, some I/Rs find mainstream non-immigrant led agencies non-responsive to their cultural need.

**Current City efforts:** The City provides direct services to assist I/Rs in the areas of nutrition, senior services and youth programs, funds many types of agencies serving I/Rs, and funds technical assistance for small, emergent, immigrant-led agencies.

**Action steps:** The City will make it easier for small I/R - run community based organizations to apply for service funding, and will work more closely with these organizations to meet their communities' needs. The City will work with East African communities to assess community needs and strengthen their capacity to address these needs.



## INTRODUCTION

The percentage of foreign-born residents (i.e., immigrants, refugees, people on student or work visas, and undocumented individuals) has increased significantly in the last 25 years. In 1980, the foreign-born population constituted about 11 percent of Seattle's population. In 2000, it was almost 17 percent. By 2010, it could be almost 20 percent and total up to 120,000.

The foreign-born population is a very diverse group. The Seattle Public School District, for example, reports that it enrolls students from more than 70 countries and that more than 90 languages are spoken by its students. The most common countries of origin for Seattle's foreign-born are the Philippines, China (including Hong Kong and Taiwan), and Vietnam. We also know that the number of individuals arriving from Mexico and Africa is increasing very rapidly.

As the face of Seattle changes, Seattle government has and will continue to change to welcome the newest residents of our city. In 2005, the City expended \$7.1 million on services designed solely for immigrant and refugees in our community. Many more services available to all City residents were available to immigrants and refugees, as well. This action plan describes some of the key steps the City has taken previously to meet the needs and engage immigrants and refugees in our community. It also sets forth next steps in the City's effort to change the way it does business so that immigrants and refugees are included in city life. Key goals include helping immigrants and refugees better access City services and resources and increasing opportunities for immigrants and refugees to participate in the civic life of the city. As these goals are realized, the city will enjoy more fully the benefits associated with being a multicultural community.

### CONTEXT FOR THE REPORT AND ACTION PLAN

Information gathered from a variety of sources helped guide this plan, including:

- A public forum on issues facing Seattle's immigrant and refugee community, conducted in May 2005 by the Seattle Housing, Human Services & Health Committee, chaired by Councilmember Tom Rasmussen.
- An analysis of current City services and programs that assist and involve immigrants and refugees.
- A review of what some other jurisdictions are doing to assist and involve immigrants and refugees.
- The results of a community engagement process designed by the consulting firm Emerging Designs and involving 260 people.

The key issues that surfaced through the investigative process form the major themes and sections of this report and action plan.

- Access to Services and Information
- Protection of Civil Rights
- Civic Engagement
- Workforce and Economic Development
- Service Delivery

Each section includes an overview of each issue, followed by a few highlights of current City efforts to address the issue. Each section then concludes with the action items the City will pursue in the short-term (during 2007) and through 2009, as funding allows.

## **DESIRED OUTCOMES**

Taken collectively, the successful implementation of this plan will achieve the following results:

- City will improve its customer service with immigrant and refugees.
  - Immigrants and refugees will experience improved knowledge of, and access to, City services and City funding.
  - Immigrants and refugees will improve their knowledge of U.S. norms and customs.
  - More immigrants and refugees will achieve citizenship and improve their English language skills.
  - The City will support the various community-based organizations serving immigrants and refugees, as appropriate, to assure effective service delivery.
  - Immigrants and refugees will have more opportunities to engage in the civic process and communicate with senior staff and elected officials.
-



# ACCESS TO SERVICES AND INFORMATION

## ISSUE STATEMENT

Many immigrants /refugees (I/R) do not know about City programs and/or how they can access them. During emergency situations, knowledge of and access to certain information and services can be the difference between life and death.

- Participants in the community engagement process would like a single point of contact at the City to help them access services and programs.
- Regarding language access, the City's approach to translation and interpretation, historically, has varied on a department-by-department basis, which has sometimes compromised the quality and depth of these efforts. Additionally, the availability of materials translated into other languages varies among departments.
  - Participants in the community engagement process expressed a desire for higher quality and more consistent translation and interpretation services from the City.
  - In addition, the participants believe that services and programs (delivered by the City and/or or by mainstream organizations) are best delivered by bicultural/bilingual employees and/or community liaisons who understand the language, culture, and process of adjusting to life in the United States.

## HIGHLIGHTS OF CURRENT CITY EFFORTS

- The City's language web portal (<http://www.seattle.gov/html/citizen/language.htm>) features indexes of translated documents for 26 languages. While all documents are not available in all 26 languages, examples of the types of documents include information on domestic violence, resources for borrowers and victims of predatory lending, and a guide to City Light services.
  - A re-vamped Employee Language Bank allows City bi-/multilingual employees to volunteer their time to meet the immediate, short-term language needs of City departments.
  - In recent years, the Seattle Center has hosted the Discover Seattle - Newcomers Fair, which provides a forum for Seattle residents, including immigrants and refugees, to learn how the City works, and how to access City and community resources. It is also an opportunity for City staff to learn from residents about their needs and priorities.

## ACTION STEPS

### Short-Term (to be completed by December 2007)

1. Begin implementing the new Citywide policy on translation and interpretation. On January 29, 2007, the Mayor issued Executive Order #01-07 that requires departments to translate all critical and vital documents (such as consent and complaint forms, notice of rights, notice of free language assistance, and explanations of departments' direct services) into the languages most commonly spoken in Seattle: Spanish, Chinese, Vietnamese, Korean, Tagalog and Somali. (For more information: <http://www.seattle.gov/mayor/issues/rsji/I&RInitiative.htm>) Lead department: Office of Policy and Management.

2. Change the name of the Citizens Service Bureau to Customer Service Bureau, to make the service more welcoming to all Seattle residents. Lead department: Neighborhoods /Customer Service Bureau.
3. Establish 684-CITY (2489) and selected Neighborhood Centers as initial points of contact for immigrants and refugees wanting to access City services and programs. Lead department: Neighborhoods/Customer Service Bureau.
4. As a part of the City's emergency preparedness efforts, address the needs of immigrant and refugee (I/R) communities, establish adequate contacts within these communities, and provide translated information, per translation and interpretation policy. Lead department: Police/Emergency Management.
5. Determine and promote within the City the best communications, outreach and public engagement strategies for working with I/R communities. Strategies, which may include use of ethnic media, work with community groups, and Web-base approaches, will be community-specific and address the needs of pre- and non-literate individuals. Lead departments: Neighborhoods, Public Utilities.

**Long-Term (target date December 2008)**

1. Complete implementation of the Citywide policy on translation and interpretation. Lead department: Office of Policy and Management.
2. Determine which City positions warrant bilingual skills as a preferred attribute, modify the City's hiring policies and practices, as appropriate, and recruit candidates accordingly. Lead department: Office of Policy and Management, Personnel.

**Areas for Further Exploration (TBD)**

Conduct outreach within immigrant and refugee, and other minority, communities on the City's hiring policies and procedures, including the online application. Lead department: Personnel.



## PROTECTION OF CIVIL RIGHTS

### ISSUE STATEMENT

- Immigrants and refugees generally come to Seattle to join family members or to work. Many are fleeing persecution, war, corruption in the courts, and police abuse, as well.
- For many immigrants and refugees, the protections granted to them by our justice system may seem like a luxury. For others, they may seem impossible to achieve. Most undocumented workers, even when they have rights, are fearful of asserting those rights and are less likely to report crimes committed against them out of fear of deportation.
- Other immigrants and refugees are uninformed of their legal rights and, like other low-income residents, may lack access to affordable legal services. They need education, advocacy, and legal assistance.
- Since September 11, 2001, as a growing number of American citizens demand tough measures from federal and local governments to deter illegal immigration and to increase national security, the civil rights and liberties for all, including immigrants and refugees, are being eroded.

### HIGHLIGHTS OF CURRENT CITY EFFORTS

- In March 2006, Mayor Nickels and the City Council notified members of the Washington congressional delegation of the City's support of the McCain-Kennedy "Secure America and Orderly Immigration Act of 2005," which provided for comprehensive, humane immigration reform.
- Between 2003 and 2005, the City of Seattle issued Executive Orders and legislation to support the rights of immigrants and refugees to access City of Seattle services, e.g., E.O. 04-03, accepting Mexican I.D. cards as a form of identification and Ordinance 121063 prohibiting City staff from inquiry into immigration status, unless needed for criminal investigations.
- Seattle Police Department (SPD) has developed and implemented a number of policy initiatives to address the wide array of issues that exist when working with immigrant and refugee populations, including, for example, Directive 03-57, which prohibits officers from asking for specific documents for the sole purpose of determining someone's civil immigration status.
- In accordance with its policy #3.009, whenever possible, SPD utilizes interpreters and translators when dealing with non-English speaking people and sign language interpreters and translators for hearing-impaired people.
- The Seattle Municipal Court provides language and sign interpreters for more than 60 different languages and dialects during proceedings and hearings before the Court. In 2006, the Seattle Municipal Court created the position of Interpreter Coordinator and is currently in the process of creating a formal Interpreter Services Program.
- The City's Office of Civil Rights provides a number of services and resources to assist immigrant and refugee communities including: tips on identifying housing discrimination; trainings and materials on Employing Non-Citizens; and translated brochures on such matters as "How to File a Complaint with the Seattle Office for Civil Rights" and "Fair Housing."

## **ACTION STEPS**

### **Short-Term (to be completed by December 2007)**

1. Study and create, in collaboration with community colleges, community organizations, and others, a "U.S. Laws & Customs 101" course to effectively orient new I/R communities. Lead departments: Neighborhoods, Office of Policy and Management.
2. Continue support and advocacy for comprehensive and humane immigration reform. Lead department: Intergovernmental Relations.
3. Organize and coordinate dissemination of relevant I/R rights information, including that which exists in the online resource directory. Lead department: Office for Civil Rights.

### **Long-Term (target date December 2008)**

Advocate for state and federal funding for organizations that provide affordable legal aid for low-income residents, including immigrants and refugees. Lead department: Intergovernmental Relations.

### **Areas for Further Exploration**

Secure private funding to implement the "US Laws & Customs 101" course. Lead departments: Neighborhoods, Office of Policy and Management



## ISSUES STATEMENT

- Few formal opportunities exist for immigrants and refugees to engage City staff. Without clear paths in place, immigrant and refugee communities do not always have sufficient access to communicate their needs and offer their perspective on how the City may best respond to those needs.
- Participants in the community engagement process would like to have a more active voice in how City government serves their communities; they positively responded to the idea of establishing an advisory group on immigrants and refugees.
- During the community engagement process, participants expressed a desire for more opportunities to interact with City officials through walking tours, community dialogues, and other events.

## HIGHLIGHTS OF CURRENT CITY EFFORTS

- The Seattle Police Department (SPD) has created citizen-based Multicultural Boards to advise them on emerging issues. Other departments are considering similar bodies or are determining if they could use these existing boards. For example, SPD currently sponsors 10 demographic advisory councils, which represent the following communities: African American, East African; Southeast Asian; Korean; Filipino; Latino; Muslim, Arab & Sikh; Youth; Native American; and LGBTQ. SPD also has an 11th Advisory Council, the Citywide Advisory Council. It consists of representatives from the ten demographic advisory councils and the five precinct advisory councils and meets quarterly with the Chief of Police.
- In 2006, the City Race & Social Justice Initiative (RSJI) Public Engagement work group conducted an analysis of the City's current public engagement strategies by surveying six City departments. The work group's findings and recommendations will form the basis of a plan to design and implement efficient, inclusive, culturally appropriate public engagement activities. This information also will serve as the foundation of Citywide training offered to employees who plan, conduct, or facilitate public engagement activities.

## ACTION STEPS

### Short-Term (to be completed by December 2007)

1. Develop outreach strategies for City Departments to disseminate information to immigrant and refugee communities. In addition to the use of ethnic media, community groups, Web-base resources, the strategies may incorporate Mayoral walking tours and community-specific events. Lead departments: Office of Policy and Management, Mayor's Office.
2. Proactively recruit I/R community members who qualify for membership on the City's boards and commissions, as appropriate. Lead department: Mayor's Office.
3. Establish an advisory group to provide a more formal opportunity for immigrants and refugees to engage City staff and leaders. This group would have the following scope of work: (1) advise the Mayor and City Council about I/R issues and (2) advise departments about best practices for serving the City's many I/R communities, particularly in relation to the Immigrant and Refugee Action Plan. Lead departments: Office of Policy and Management, Neighborhoods.



## ISSUE STATEMENT

- Recent immigrants' rights marches in Seattle and across the nation have increased the visibility of the work force challenges faced by immigrant/refugee populations. Some of these challenges include learning the English necessary for employment, gaining citizenship, and accessing the resources needed for success. At a City-sponsored brown bag forum on immigrant and refugee issues held in May 2005, several attendees voiced similar concerns about education and work force development.
- Participants in the community engagement process voiced a strong desire for training on various systems and processes in the United States, including public schools, adult education, and employment.
- Participants in the community engagement process (across all groups engaged) also specified jobs and training as unmet service needs of high priority. A person's ability to speak English remains a central concern for these unmet needs.
- Several indicators of academic achievement show disparities between populations proficient in English and populations with limited English proficiency (LEP). Such disparities could adversely affect the skills held by and opportunities available to foreign-born workers in the future.
- The 2000 U.S. Census estimates that approximately 15,300 (25 percent of total) immigrants/refugees who entered the country between 1980 and 2000 reported the lowest levels of education (i.e. less than a high school diploma).

## HIGHLIGHTS OF CURRENT CITY EFFORTS

### Classes on English Language and Computer Literacy:

- Seattle Public Library (SPL) is a major provider of City-funded English as a Second Language (ESL) programs, including "Talk Time," which gives adults an opportunity to practice speaking English in a comfortable environment and "Wired for Learning," which provides computer skill classes in three languages – Chinese, Russian, and Spanish. Such skills can often help people learn another language.
- The Department of Parks and Recreation administers seven programs striving to improve the English language skills of immigrants and refugees. In 2006, one program, free ESL classes, involved a partnership with North Seattle Community College and served approximately 50 people in the Bitter Lake neighborhood. Another program, adult ESL basic computer classes, meets twice a week at Yesler Terrace.
- The Office of Economic Development helps support the Seattle Jobs Initiative, a community-based organization working to eliminate barriers to good-paying jobs by establishing partnerships that align supportive services, like childcare, with job skills training and job placement assistance. About a third of those who participate in its programs are immigrants and refugees. This includes two specialized programs for immigrants and refugees offered in partnership with the Asian Counseling and Referral Service and Neighborhood Housing/Highline Community College, respectively; a two-week intensive vocational ESL/job skills hospitality course; and an eight-week vocational ESL/job skills janitorial course.

- In July 2006, the City granted Technology Matching Fund awards to 13 community projects aimed at helping further digital inclusion. These projects will provide web-based community conversations, audio and video technology to engage youth in conversations about social justice issues, and bring together International District youth with members of 10 other Seattle neighborhoods to use Public Development Authorities, community mapping, and photojournalism as tools to raise voices and foster discussion about the current status and future development needs.
- Classes on Citizenship: The New Citizen Initiative (NCI) is administered by the Human Services Department (HSD) and delivered by 22 partners, such as SeaMar Community Health Centers, Asian Counseling & Referral Services, and the Refugee Women's Alliance. The program provides citizenship instruction and other resources for immigrants and refugees. Between 2000 and 2005, NCI served approximately 5,300 people. Of this number, approximately 2,000 persons or 39 percent became naturalized citizens.
- Economic Development: Through the Rainier Valley Community Development Fund, the City's Office of Economic Development (OED) provides support and funding to businesses in the Rainier Valley. OED estimates that immigrants and refugees own and operate approximately 270 businesses – 50 percent of all businesses in the area. The Fund has the goal of mitigating the closure and/or relocation of businesses during construction of Sound Transit's light rail line.

## ACTION STEPS

### Short-Term (to be completed by December 2007)

1. Enhance the City's citizenship services by (1) purchasing curricula and sponsoring teacher training to help its partner agencies provide citizenship classes to prepare 1,200 immigrant and refugee applicants for the new Citizenship Test and (2) supporting community workshops and the development of web-based "how-to" guides/toolkits to help immigrants and refugees that do not require intensive assistance to pursue their citizenship. Lead department: Human Services.
2. Invite immigrant/refugee-owned businesses to participate in the City's annual fair for women and minority-owned (WMBE) businesses. Lead department: Executive Administration.
3. Conduct an assessment, including gap analysis, of the quantity and types of English as a Second Language programs and computer classes offered in Seattle and the populations served by the various programs. Lead department: Parks
4. Complete an assessment of the economic impacts of small businesses in Seattle, including a special focus on immigrant and refugee businesses. This assessment also will include a compilation of information on the types of businesses, who owns them, where they are located, and their needs. Lead department: Economic Development.
5. Establish a Career Pathways in Health Care pilot project that will provide opportunity for immigrants and other working poor employees at a local health care organization to move into higher-skilled jobs. Lead department: Economic Development.
6. In partnership with South Seattle Community College, Puget Sound Industrial Excellence Center, and other local economic development agencies, develop and deliver a business development and entrepreneurial training program targeting low-income and immigrant communities. Lead department: Economic Development.

7. Provide more in-depth, individualized technical assistance to businesses impacted by light rail construction in the Rainier Valley including immigrant and refugee. Lead department: Economic Development.
8. Assist the businesses in the Little Saigon neighborhood in assessing the benefits of forming a Business Improvement Area. Lead department: Economic Development.

**Long-Term (target date December 2008)**

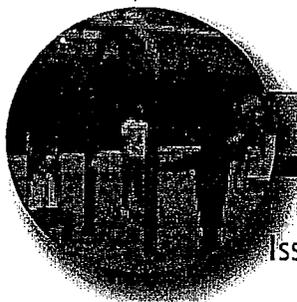
Create and distribute, in accordance with the Citywide policy on translation and interpretation, a list of City-sponsored technical assistance and other resources available to immigrant/refugee-owned businesses. Lead department: Economic Development.

**Areas for Further Exploration**

In collaboration with community partners, expand the vocational English language and computer classes currently offered within the community, if appropriate.<sup>1</sup> Lead department: Policy and Management.

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<sup>1</sup> The City of Boston has enjoyed tremendous success in securing philanthropic and corporate donations for its English for New Bostonians (ENB) program. Approximately \$3 million was raised between June 2001 and June 2005 for ENB (<http://www.cityofboston.gov/newbostonians/default.asp>).



## ISSUE STATEMENT

- The immigrant and refugee community in Seattle is a very diverse one, representing numerous nationalities, ethnic groups, and languages.
- In some cases, the communities (e.g., the East African community) are very factionalized due to misperceptions, mistrust, limited communication and political and social issues carried over from countries of origin.
- Many different communities have created community-based organizations (CBOs), often called Mutual Assistance Associations (MAAs), that endeavor to create a bridge between the homeland and their new home in this community for recent immigrants and refugees. For the Somali community alone, 10 such CBOs exist. Over the last 10 years, 18 Somali MAAs have existed at one time or another.
- The immigrant/refugee-run MAAs struggle to survive. They lack staff capacity and have difficulty competing with larger, more established agencies, including larger immigrant-based agencies, for funding. Yet these agencies appear to have close relationships with recent immigrants and refugees. During the community engagement process, representatives of these emergent agencies communicated that they believe that their own grassroots organizations are best able to define their community's needs, and then design and deliver culturally appropriate services. These individuals want more outside investment in their grassroots organizations.
- Immigrants and refugees are served not only by emergent CBOs/MAAs but also by larger or more stable CBOs that serve multiple immigrant populations. During the community engagement process, some participants expressed concern about the cultural competency of the services provided by some of the more mainstream CBOs and dissatisfaction with these services.
- Members of the immigrant and refugee communities have challenges that are common to the mainstream community members (e.g., understanding and paying utility bills, accessing health care, and addressing violence in the family). However, language and cultural differences create additional barriers and hardships. Among key challenges are children-rearing, poor school performance, providing senior services, and preventing domestic violence.
  - 30 – 40 percent of I/R children are not prepared for learning as they enter K-12. Immigrant and refugee students with limited English proficiency, as well as African American and Native American students perform very poorly on the WASL.
  - Youth of color, including immigrant and refugee youth, account for 83 percent of middle school suspensions and 76 percent of high school suspensions.<sup>2</sup>
  - In Seattle, the number of limited English-speaking children has increased 59 percent from 3,832 students in 1988 to 6,091 students in 2005.<sup>3</sup>
  - About 25 percent of the 84,800 foreign-born residents of Seattle are over the age of 55.<sup>4</sup> In addition to physical and psychological changes that are part of the normal aging process, immigrant and refugee elders also must deal with dislocation, loss, isolation, and confusion because of language and cultural differences.

2 SPS Data Profile, December 2005.

3 SPS Data Profile, 1989 and SPS Data Profile, 2005.

4 2000 U.S. Census.

## HIGHLIGHTS OF CURRENT CITY EFFORT

- Through the PeoplePoint: Bridge to Benefits Initiative, the City's Human Services Department and Public Health-Seattle and King County provide one-stop access to several benefit programs for low to moderate-income families and individuals, including child care, food, health care and utility/energy assistance (<http://www.peoplepoint.info/>). A multilingual staff member is available at the International Family Center weekly. Some program information (brochures) is available in the following languages: Spanish, Chinese, Vietnamese, Russian, Cambodian, and Somali.
- In 2005, 14 percent of the 5,994 domestic violence service recipients served by the City of Seattle were identified as immigrants and/or refugees<sup>5</sup>, and about 29 percent of approximately \$1.8 million in City expenditure was contracted with agencies providing I/R-specific domestic violence prevention and protection services.
- The City supports the Multilingual Access Project (MAP), which has launched a new multilingual web site on domestic violence ([www.map-seattle.org](http://www.map-seattle.org)), and trained almost 100 bilingual domestic violence advocates since 2004.
- The City, in collaboration with various agencies, currently provides several services for older immigrant and refugees. In 2005, 1,500 frail, isolated immigrants, and refugees in public housing received case management services; more than 3,200 received ethnic meals, fresh fruits, and vegetables and participated in social and fitness activities; and 2,850 benefited from bilingual/bicultural information and assistance.
- In 2001, HSD's Division on Aging and Disability Services convened a coalition called Key Partners in Transportation. In December 2006, the partners finalized a formal King County Coordinated Special Needs Transportation Plan and hope to secure federal transportation funds that have become available recently. The coalition includes Metro, King County Community Services, Sound Transit, Puget Sound Regional Council, City of Seattle/Aging and Disability Services, City of Bellevue, HopeLink, and United Way of King County.
- Cultural Competency/Capacity Building: The Reinvesting in Youth Project funded the development of an assessment/training protocol to help build the capacity of youth-serving community-based organizations, specifically in the area of cultural competency.
- South Park Action Agenda: South Park has a large population of Spanish-speaking immigrants and residents of other immigrant communities (e.g., South Pacific Islanders). Through a comprehensive public process, the City worked closely with South Park residents to determine a list of priorities for city action in 2007 and beyond. In addition, in response to rising youth violence, in 2006 the City of Seattle invested an additional \$300,000 to expand the South Park Teen Center. The funding also supports youth counseling and gang prevention services through Consejo Counseling and Referral Services, as well as Sea Mar's Youth Boxing Program.
- Seattle Youth Employment Program (SYEP): 45% of program participants are youth primarily from Southeast Asia and East Africa. The program includes counseling, homework assistance, and school re-entry services.
- Seattle Team for Youth (STFY): This case management program focuses on providing culturally and linguistically appropriate services to help youth stay in school and succeed academically. HSD contracts with community-based organizations to provide intensive case management services to Latino, Samoan, Southeast Asian, African American, and Native American youth.

5. City of Seattle 2005 client profile data for domestic violence services.

- The City of Seattle, with funds from its Families and Education Levy, supports high-quality and culturally appropriate early learning pre-school services in more than 11 languages in classrooms that are dual language or bilingual. Additionally, the Refugee and Immigrant Family Support Project provides 722 families assistance in becoming more involved in their children's school activities to support academic success.
- The City provides funding to the Nonprofit Assistance Center (NAC) and other organizations to provide technical assistance and training services to small CBOs.
- The City's Community Facilities Loan Program provides resources that assist community-based agencies that provide public benefits. During the last three years, the City has assisted various organizations including Asian Counseling and Referral Service, Filipino Community Center, and the Lao Highland Community Center.
- Since 2002, Seattle Public Utilities Environmental Justice Network in Action has worked with immigrant and refugee community-based organizations to identify and address the top environmental service and environmental health issues faced by immigrant and refugee communities. Some of the key issues: recycling, water quality, water and energy conservation, and household hazardous waste disposal.

## **ACTION STEPS**

### **Short-Term (to be completed by December 2007)**

1. Improve access to funding opportunities for small I/R agencies by fully implementing HSD's Request For Investment (RFI) process. Changes will allow longer response deadlines, clarification of written proposals, and interview/site visits with individuals responsible for program implementation. Lead department: Human Services.
2. As part of developing a new Area Plan on Aging strategy for I/R seniors, conduct at least one forum with existing partners including UW Nutritional and Science Department, School of Nursing, Pharmacy Department, and King County Public Health, to address emerging issues relating to I/R seniors and others. Lead department: Human Services.
3. Work with the coordinated special needs regional transportation planning effort to address language and access barriers facing I/R seniors. Lead department: Human Services.
4. Research and provide information to I/R senior communities about public gathering places where they can socialize. Lead department: Human Services.
5. Develop strategies that clarify the City's ongoing working relationships with CBOs working to meet human services and cultural needs of I/R communities and to assure effective service delivery. Strategies may include use of partnerships between CBOs, where appropriate, and the types of outcomes the City will fund. Lead department: Human Services, Policy and Management, Neighborhoods.
6. Work with East African communities to assess service needs and organizational capacity to address them; if appropriate, develop a plan to strengthen organizational capacity over time. Lead department: Policy and Management, Neighborhoods.

## Areas for Further Exploration

1. Assess current domestic violence and sexual assault immigrant and refugee services offered by City-funded agencies; identify promising approaches, best-, and evidence-based practices that could be implemented in our community. Identify new funding sources (i.e. federal grants), if additional resources are necessary, to implement these programs; undertake an RFI in 2008 or 2009, and fund programs according to funding source timelines. Lead department: Human Services.
2. Begin providing training on cross-cultural communication and relations to City employees as part of the City's Race and Social Justice Initiative (RSJI) and to mainstream organizations that work with I/R communities. Lead department: Office for Civil Rights.
3. Implement a coordinated, multi-lingual access system (e.g., services, crisis lines, shelters) so that domestic violence victims, including immigrants and refugees, need make only one or two calls in order to access the services they require. Lead department: Human Services.

## **NEXT STEP - IMPLEMENTATION**

To assure successful implementation of this Immigrant and Refugee Action Plan, and future updates, the City has or will implement a number of administrative mechanisms to guide and support staff in the work necessary and assure accountability. The key mechanisms are as follows:

### **IMMIGRANT & REFUGEE PROGRAM PLANNER**

The Mayor's Executive Human Services Team is charged with the overall implementation of the Immigrant and Refugee Action Plan. To fulfill this responsibility, the Mayor authorized the creation of a new planner position. This individual will work closely with departments to assure successful implementation of the plan by providing technical assistance, organizing trainings, and monitoring progress on a quarterly basis. This individual will also staff the Refugee and Immigrant Coordinating Group and the Translation / Interpretation Inter-departmental Team.

### **REFUGEE AND IMMIGRANT COORDINATING GROUP**

The plan identifies lead departments for each action items. The staff leads for each item will form a workgroup to guide the implementation of the plan, coordinating across areas of responsibility where appropriate, resolving problems, and monitoring progress. Each member of this team will submit quarterly reports, which the Immigrant and Refugee Program Planner will review.

#### **Inter-departmental Teams**

When the implementation of an action item involves multiple departments, inter-departmental teams will be formed to guide implementation. An example of one such team is the Translation and Interpretation team. This group will help guide the implementation of City's new translation and interpretation policy and consist of the departmental translation & interpretation liaisons. The work of the group will include defining procedures, identifying and resolving training needs, monitoring progress, and updating the policy, as appropriate.

### **DEPARTMENTAL TRANSLATION/INTERPRETATION LIAISONS**

To assure successful implementation of this new translation & interpretation policy, the Mayor required each department director, as a part of his/her accountability agreement with him, to assign a staff person as the department's translation/interpretation liaison. This person will play a critical role in assuring strong communications between the Executive Human Services Team, department leadership, and department staff about procedures, practices, resources and training needs & opportunities available to help departments implement the new policy.

### **IMMIGRANT & REFUGEE ADVISORY BOARD**

The newly established Immigrant & Refugee Advisory Board will play a major role during implementation. Staff will brief the Board on implementation progress, at least quarterly, and solicit advice on strategy and program development. In addition, the Board will help shape 2009 update of the plan.

# ACKNOWLEDGEMENTS

## Office of the Mayor

Mayor Greg Nickels

## City Council

Council Member Tom Rasmussen

## Office of Policy and Management

Mary Jean Ryan, Director  
Marilyn Littlejohn, Executive Manager, Human Services Team

## Project Coordinating Team

Matthew Eng, Office of Policy and Management  
Jacque Larrainzar, Seattle Office for Civil Rights  
Marilyn Littlejohn, Executive Manager, Human Services  
Haddis Tadesse, Human Services Team  
Sebhat Tenna, Office of Policy and Management  
Kip Tokuda, Human Services Department

## City Interdepartmental Working Group on Immigrants and Refugees:

Christine Andrade, Department of Personnel  
Claudia Arana, Office of the Mayor  
Delia Burke, Department of Information Technology  
Michelle Chen, Office of Intergovernmental Relations  
Janet Credo, Department of Finance  
Michael Davis, Seattle Public Utilities  
Mark Ellerbrook, Office of Housing  
Bobby Forch, Department of Executive Administration  
Cheryl Fraser, Department of Parks and Recreation  
Gina Hooks, Department of Information Technology  
Nancy Locke, Department of Executive Administration  
Henri McClenney, Department of Personnel  
Peter McGraw, Department of Neighborhoods  
Yazmin Mehdi, Seattle Public Library  
Emma Moreno, Department of Neighborhoods  
Elisabeth Perrin, Seattle Public Utilities  
Cynthia Phillips, Department of Neighborhoods  
Lisa Stewart, Office of Economic Development  
Cathy Wenderoth, Seattle Police Department

## Emerging Design Consulting Team:

Bonnie Olson, Principal  
Ginger Kwan  
Mercedes Cordova-Hakim  
Aster Dibaba  
Abdullahi Jama

## **Appendix B**



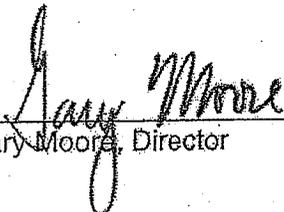
STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES

PO Box 44000 • Olympia, Washington 98504-4000

May 21, 2002

**Statement by Gary Moore, director of the Department of Labor and Industries**

The 1972 law that revamped Washington's workers' compensation system is explicit: All workers must have coverage. Both employers and workers contribute to the insurance fund. The Department of Labor and Industries is responsible for protecting worker safety, ensuring that all workers be paid at least the minimum wage and providing workers with medical care and wage replacement when an injury or an occupational disease prevents them from doing their job. The agency has and will continue to do all that without regard to the worker's immigration status.

  
\_\_\_\_\_  
Gary Moore, Director

## **Appendix C**



STATE OF WASHINGTON

## HUMAN RIGHTS COMMISSION

711 S. Capitol Way, Suite 402 • PO Box 42490 • Olympia, WA 98504-2490

(360) 753-6770 • Fax (360) 586-2282

<http://www.wa.gov/hrc>

October 7, 2002

Antonio Ginatta  
 Executive Director  
 WA ST Commission on Hispanic Affairs  
 P.O. Box 40924  
 Olympia, WA 98504-0924

RECEIVED  
 NOV 13 2002  
 Commission on Hispanic Affairs

Dear Tony:

I am responding to your letter of September 23, 2002 regarding the application of the U.S. Supreme Court's decision in *Hoffman Plastics v. NLRB* to the Washington State Law Against Discrimination (RCW 49.60). This is an opinion of the Executive Director of the Washington State Human Rights Commission (the Commission) as provided by WAC 162-04-070.

The Hoffman decision held that federal immigration policy foreclosed the NLRB from awarding back pay to an undocumented alien who had never been legally authorized to work in the United States. The court based its opinion on reconciling a conflict between federal immigration policy as expressed in the Immigration Reform and Control Act of 1986 and the National Labor Relations Act. The Commission does not view the Hoffman case as restricting its authority to seek back pay as a remedy for acts of discrimination in violation of state law.

RCW 49.60.250 clearly provides that remedies in an unfair practice case can include hiring or reinstating an employee, with or without back pay, or such other action as will effectuate the purposes of the chapter. The Law Against Discrimination is concerned with the elimination and prevention of discrimination on the basis of race, creed, color, national origin, familial status, sex, marital status, age and disability. It is the intent of the Commission to continue to seek awards of back pay in cases when merited, without regard to the immigration status of the Complainant.

I trust this opinion answer the concerns you raised. If you have questions or wish to discuss this matter further, you may call me at 360/753-2558.

Very truly yours,

Susan (Sue) J. Jordan  
 Executive Director

## **Appendix D**

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# Seattle Police Department

## DIRECTIVES

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Date: JUNE 6, 2002

Directive: D02-40

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### ROLL CALL TRAINING

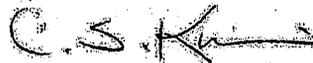
#### INQUIRIES INTO IMMIGRATION STATUS

It is the intent of the Seattle Police Department to foster trust and cooperation with all people in our City, and to encourage all complainants, witnesses and victims to communicate with Seattle Police officers without inquiry regarding their immigration status. Determining the status of an undocumented person in this country - barring any criminal activity - is a Federal civil violation not enforced by the municipal police department. Only INS can enforce federal laws relating to illegal entry and residence within the United States. NOTE: This policy is consistent with past training and procedures first promulgated by SPD in 1991.

The following is presented as a guideline for officers in their street contacts:

1. Request for specific documents for the sole purpose of determining someone's civil immigration status is not permitted. However, if offered by the person and not specifically requested by the officer, it is permissible to rely on immigration documents to establish someone's identity in response to a general request for identification.
2. Seattle police officers shall not initiate police action based solely on an individual's civil immigration status, nor shall they ask for identification or documents pertaining to the individual's status.
3. Per Seattle city ordinance, SMC section 4.18.010, the Seattle Police Department will assist Federal agencies as resources allow and while considering the enforcement priorities of the Department. Designated officers will be assigned to assist Federal agencies from time to time to arrest previously deported aliens who are currently involved in criminal activity. Any joint patrol with a federal agency will be with the express approval of the employees' commanding officer.

Requests for documents relating to someone's civil immigration status during street contacts applies whether officers are talking to victims, witnesses, suspects or persons of interest to another agency (such as the subject of an outstanding warrant). Under ordinary circumstances a general request for adequate identification as part of a criminal investigation is all that is necessary or appropriate. Questions concerning this issue should be directed to Leo Poort, Department Legal Advisor.



Deputy Chief Clark Kimerer

## **Appendix E**

**Seattle City Council Ordinance**

**Council Bill Number: 114436**

**Ordinance Number: 121063**

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AN ORDINANCE concerning **inquiries** by Seattle City officers and employees into **immigration status**, and activities designed to ascertain such **status**; and amending Seattle Municipal Code Chapter 4.18 in connection therewith.

**Date introduced/referred:** Dec 9, 2002

**Date passed:** Jan 27, 2003

**Status:** Passed As Amended

**Vote:** 9-0

**Date of Mayor's signature:** Feb 5, 2003

**Committee:** Neighborhoods, Arts and Civil Rights

**Sponsor:** LICATA

**Index Terms:** CITIZENSHIP, CIVIL-RIGHTS, CITY-EMPLOYEES, POLICE-DEPARTMENT, PUBLIC-REGULATIONS

**Text**

*Note to users: {- indicates start of text that has been amended out  
-} indicates end of text that has been amended out  
{+ indicates start of text that has been amended in  
+} indicates end of text that has been amended in*

AN ORDINANCE concerning inquiries by Seattle City officers and employees into immigration status, and activities designed to ascertain such status; and amending Seattle Municipal Code Chapter 4.18 in connection therewith.

WHEREAS, the city of Seattle is comprised of immigrants from throughout the world who contribute to Seattle's social vivacity and cultural richness; and

---

WHEREAS, Seattle has been a city that traditionally respects the rights of and provides equal services to all individuals, regardless of race, ethnicity, or immigration status; and

WHEREAS, the September 11, 2001 attacks on the World Trade Center and the Pentagon have left immigrant communities of color afraid to access benefits to which they are entitled, for fear of being reported to the Immigration and Naturalization Service (INS); and

WHEREAS, the Seattle Police Department issued a Directive on June 6, 2002, providing guidelines stating, among other things, that Seattle Police officers may not request specific documents for the sole purpose of determining a person's civil immigration status, and may not initiate police action based solely on a person's civil immigration status; and

WHEREAS, all Seattle City officers and employees should be afforded analogous guidance with respect to inquiries into immigration status; and

WHEREAS, a number of other jurisdictions in the United States have enacted policies or laws recognizing that their officers and employees should properly play a limited role with respect to matters relating to immigration status; and

---

WHEREAS, these amendments to Seattle Municipal Code Ch. 4.18 are

consistent with federal laws regarding localities' responsibilities to cooperate with federal immigration authorities; and

WHEREAS, this ordinance is not intended to interfere with the enforcement of laws.

WHEREAS, amending SMC Ch. 4.18 is an effective way to guide city officials and employees to adhere to federal law while helping to protect the safety and health of all members of our community.

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Section 4.18.015 is added to Seattle Municipal Code Chapter 4.18, as follows:

4.18.015 Inquiries into immigration status.

(A) Notwithstanding Seattle Municipal Code Section 4.18.010, unless otherwise required by law or by court order, no Seattle City officer or employee shall inquire into the immigration status of any person, or engage in activities designed to ascertain the immigration status of any person.

---

(B) Seattle Police officers are exempted from the limitations imposed

by Subsection (A), above, with respect to a person whom the officer has reasonable suspicion to believe: (1) has previously been deported from the United States; (2) is again present in the United States; and (3) is committing or has committed a felony criminal-law violation.

Section 2. Seattle Municipal Code Section 4.18.020 is amended as follows:

4.18.020 Mayor reports to Council.

The Mayor shall report to the City Council and the people on a yearly basis as to the actions taken and being taken in support of this chapter.

Section 3. Seattle Municipal Code Section 4.18.030 is amended as follows:

4.18.030 City Attorney enforcement duties.

Consistent with and subject to Article XIII of the City Charter and the Code of Professional Responsibility, the City Attorney is requested to defend every action brought to declare invalid any section of this chapter, and maintain actions enforcing provisions of this chapter.

---

Section 4. A new Section 4.18.035 is added to Seattle Municipal Code

Chapter 4.18, as follows:

4.18.035. Required cooperation not prohibited.

Nothing in this Chapter shall be construed to prohibit any Seattle City officer or employee from cooperating with federal immigration authorities as required by law.

Section 5. Nothing in this chapter is intended to create or form the basis for Liability, on the part of the City, or its officers, employees, or agents.

Section 6. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Section 7. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2003, and

signed by me in open session in authentication of its passage this

\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
President of the City Council

Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Mayor

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
City Clerk

January 27, 2003

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## **Appendix F**



## City of Seattle Legislative Information Service

Information retrieved on October 9, 2009 9:01 AM

### Resolution Number: 30672

A RESOLUTION OPPOSING FEDERAL LEGISLATION THAT ENCOURAGES LOCAL ENFORCEMENT OF  
 CIVIL IMMIGRATION LAWS.

◦ **Date introduced/referred:** April 12, 2004  
**Date adopted:** April 19, 2004  
**Status:** Adopted  
**Vote:** 9-0

**Committee:** Full Council  
**Sponsor:** LICATA

**Index Terms:** STATING-POLICY, US-GOVERNMENT, CITIZENSHIP, CIVIL-RIGHTS, CITY-EMPLOYEES, POLICE-DEPARTMENT, PUBLIC-REGULATIONS, DEPARTMENT-OF-HOMELAND-SECURITY

**References/Related Documents:** Related: Ord 121063

### Text

RESOLUTION \_\_\_\_\_

A RESOLUTION OPPOSING FEDERAL LEGISLATION THAT ENCOURAGES LOCAL ENFORCEMENT OF CIVIL IMMIGRATION LAWS.

WHEREAS, the City of Seattle, to protect immigrants' access to police protection and public services, passed ordinance 121063 on January 27, 2003; and

WHEREAS, the Seattle Police Department issued Directive D02-40 on June 6, 2002, instructing police officers to refrain from enforcing civil federal immigration violations such as lack of immigration status; and

WHEREAS, over 56 other similar ordinances, police directives, resolutions, and polices designed to protect immigrants' access to police protection and public services have been passed in 21 states; and

WHEREAS, all City officials, including the Seattle Police Department, work diligently to gain the trust of immigrant residents so that all communities feel that it is safe to contact and work with police and to access other vital city services; and

WHEREAS, H.R. 2671, the Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act, and S. 1906, the Homeland Security and Enhancement Act (HSEA), while purporting to enhance homeland security by requiring the country's over 600,000 state and local police to operate as immigrant agents, would burden police with enforcement of technical civil immigration statutes, diverting them from priority tasks of public safety; and

WHEREAS the CLEAR Act and HSEA would negate our City's initiatives to protect immigrants' access to police protection and public services, by requiring, as a condition of receiving reimbursement for incarcerating non-U.S. citizens and obtaining funds for immigration enforcement, state and local jurisdictions to institute policies authorizing police to enforce immigration laws, or repeal any statutes, policies, or practices to the contrary, within two years of the law's enactment; and

WHEREAS, by requiring police officers to perform the functions of immigration agents, the CLEAR Act and HSEA would discourage immigrants from coming forward to report crimes and suspicious activity, making Seattle's street less safe; and

WHEREAS the policy of the Seattle Police Department is that officers shall not consider ancestry, race, ethnicity, national origin, color, age, sex, sexual orientation, gender variance, marital status, physical or mental disability, or religion as a sole basis for establishing reasonable suspicion, probable cause, or a basis for requesting consent to search; and

WHEREAS, legislation such as the CLEAR Act and HSEA would represent an unfunded and unsafe mandate imposed on local city police.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE THAT:

Section 1. The City of Seattle reaffirms its commitment to civil rights and equal access to all city services, including police protection, regardless of immigration status.

Section 2. The City of Seattle reaffirms ordinance 121063 and the policies of the Seattle Police Department which were instituted to protect immigrants' access to police protection and public services.

Section 3. The City of Seattle firmly adheres to the principle that no law enforcement agency, or other city agency, may profile or discriminate against any person solely on the basis of ancestry, race, ethnicity, national origin, color, age, sex, sexual orientation, gender variance, marital status, physical or mental disability, or religion, nor shall City of Seattle agencies assist other agencies in practices that violate these policies.

Section 4. The City of Seattle opposes enactment of HR 2671, the CLEAR Act, and S. 1906, the Homeland Security Enhancement Act because of the requirement that state and local police officers enforce civil federal immigration laws or lose Federal funding.

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Adopted by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2004,  
and signed by me in open session in authentication of its adoption  
this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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President of the City Council

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2004.

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City Clerk

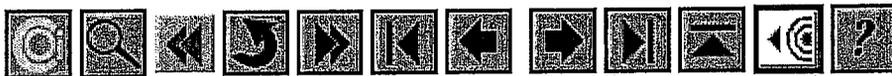
(Seal)

LH

CLEARACT

4/9/04

V #1



## **Appendix G**

[July 27, 2009]

[wsh]

Sponsor: \_\_\_\_\_

Proposed No.: 2009-0393

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2009-0393, VERSION**

2 **1**

**DRAFT**

3 On page 1, beginning on line 5, strike everything through page 6, line 105, and insert:

4 "BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

5 **SECTION 1. Findings:**

6 A. King County is a "home rule" government under Article XI, Section 4, of the  
7 Washington State Constitution. Under its home rule power, King County may exercise  
8 any power and perform any function, unless preempted by state or federal law, relating to  
9 its government and affairs, including the power to regulate for the protection and rights of  
10 its inhabitants. To this end, King County is dedicated to providing all of its residents fair  
11 and equal access to services, opportunities and protection.

12 B. While precise figures are difficult to quantify, a 2009 Pew Hispanic Center  
13 report estimated that between 140,000 and 210,000 undocumented immigrants live in  
14 Washington state.

15 C. Conditioning the provision of benefits, opportunities and services on  
16 citizenship or immigration status hinders King County's commitment to fair and equal  
17 access for all residents.

18 D. The enforcement of civil immigration laws have historically been a federal  
19 government responsibility through the Immigration and Naturalization Service. Since  
20 2002, matters of immigration law have been handled by the Office of Immigration and  
21 Customs Enforcement, a branch of the Department of Homeland Security. Requiring  
22 local law enforcement agencies, which are not specifically equipped or trained to  
23 implement immigration measures, forces local governments to expend their limited  
24 resources to perform traditionally federal functions.

25 E. The protection of an individual's citizenship and immigration status will create  
26 trust and cooperation between law enforcement officials and immigration communities to  
27 heighten crime prevention and public safety.

28 F. Since 1992, the King County sheriff's office, recognizing the benefits of these  
29 protections, has clearly outlined them in its operations manual, with which this ordinance  
30 is consistent.

31 G. On April 22, 2008, King County Superior Court affirmed the principle that  
32 our courts must remain open and accessible for all individuals and families to resolve  
33 disputes on the merits by adopting a policy that warrants for the arrest of individuals  
34 based on their immigration status shall not be executed within any of the King County  
35 Superior Court courtrooms unless directly ordered by the presiding judicial officer and  
36 shall be discouraged in the King County Superior Court courthouses, unless the public's  
37 safety is at immediate risk. Shortly after its adoption, the King County Executive and  
38 Immigration and Customs Enforcement agreed to honor this policy.

39 H. Over fifty cities, counties and states in the United States have passed  
40 legislation prohibiting their agencies from unilaterally inquiring about citizenship and

41 immigration status including Cambridge, Chicago, Los Angeles, Seattle, Cook county  
42 and the states of Alaska, Maine and Oregon.

43 SECTION 2.

44 A. Except as provided in this section or when otherwise required by law, a King  
45 County office, department, employee, agency or agent shall not condition the provision  
46 of county services on the citizenship or immigration status of any individual.

47 B.1. King County sheriff personnel shall not request specific documents relating  
48 to a person's civil immigration status for the sole purpose of determining whether the  
49 individual has violated federal civil immigration laws. The documents include but are  
50 not limited to:

- 51 a. passports;
- 52 b. alien registration cards; or
- 53 c. work permits.

54 2. King County sheriff personnel may use documents relating to a person's civil  
55 immigration status if the documents are offered by the person upon a general, nonspecific  
56 request.

57 3. King County sheriff personnel shall not use stops for minor offenses or  
58 requests for voluntary information as a pretext for discovering a person's immigration  
59 status.

60 4. King County sheriff personnel shall not initiate any inquiry or enforcement  
61 action based solely on a person's:

- 62 a. civil immigration status;
- 63 b. race;

- 64 c. inability to speak English; or
- 65 d. inability to understand the deputy.

66 C. Subject to any contrary provision of state or federal law, a King County office,  
67 department, agency, official, employee or agent shall not disclose information regarding  
68 the citizenship or immigration status of any person except at the direction of such person  
69 in order to assist such person in accessing social services or coordinating medical care.

70 D. The Seattle-King County department of public health shall not condition the  
71 provision of health benefits, opportunities or services on matters related to citizenship or  
72 immigration status. The Seattle-King County department of public health may inquire  
73 about or disclose information relating to an individual's citizenship or immigration status  
74 for the sole purpose of determining eligibility for benefits or seeking reimbursement from  
75 federal, state or other third-party payers.

76 E. Except when otherwise required by law, where the county accepts presentation  
77 of a state-issued driver's license or identification card as adequate evidence of identity,  
78 presentation of a photo identity document issued by the person's nation of origin, such as  
79 a driver's license, passport or matricula consular, which is a consulate-issued document,  
80 shall be accepted and shall not subject the person to a higher level of scrutiny or different  
81 treatment than if the person had provided a Washington state driver's license or  
82 identification card. However, a request for translation of such a document to English  
83 shall not be deemed a violation of any provision of this ordinance and any subsequent  
84 ordinance. This provision does not apply to documentation required to complete a  
85 federal I-9 employment eligibility verification form.

86 F. This section does not create or form the basis for liability on the part of the  
87 county, its officers, employees or agents. The exclusive remedy for violation of this  
88 ordinance shall be through the county's disciplinary procedures for officers and  
89 employees under regulations including, but not limited to, county code, union contracts,  
90 civil service commission rules or any other agency rules or regulations.

91 G. Unless permitted by this ordinance or otherwise required by law, all  
92 applications, questionnaires and interview forms used in relation to the provision of  
93 county benefits, opportunities or services shall be promptly reviewed by each agency, and  
94 any question requiring disclosure of information related to citizenship or immigration  
95 status shall be, in the agency's best judgment, either deleted in its entirety or revised such  
96 that the disclosure is no longer required.

97 The review and revision shall be completed within one hundred and eighty days  
98 of the effective date of this ordinance."

99 **EFFECT:**

- 100 **1) Revises finding statement regarding population of undocumented**  
101 **immigrants and strikes reference to the Perryman economic impact study.**
- 102 **2) Revises finding statement regarding King County Superior Court resolution**  
103 **based on feedback from Superior Court.**
- 104 **3) Removes provision that stated that the Sheriff's Office does not have**  
105 **authority to investigate/detain/arrest persons suspected of immigration law**  
106 **violations.**
- 107 **4) References to "sheriff's office" are amended to read "King County sheriff**  
108 **personnel" (technical change)**

109 5) Deletes sentence specifying that immigration documents may be requested if  
110 related to an investigation into election law violations.

111 6) Allows for disclosure of citizenship or immigration status when assisting an  
112 individual access social/medical services at the direction of the individual.

113 Strikes sentence requiring signing of a waiver in order to disclose an  
114 individual's citizenship status.

115

**DRAFT**

## **Appendix H**



## WASHINGTON STATE SHERIFF'S ASSOCIATION

3060 Willamette Drive NE - Lacey, WA 98516

Phone (360) 486-2380 Fax (360) 486-2381 [www.washeriffs.org](http://www.washeriffs.org)

DATE: June 22, 2009

TO: Senator Patty Murray  
Senator Maria Cantwell,

FROM: Washington State Sheriffs' Association

RE: The Time Is Now to Fix the Broken Immigration System and Its Safe-Guards

For years, the federal government has failed to deal with the broken immigration system and left our communities to deal with the effects: illegal drug trade; smugglers who take advantage of immigrant workers and families; criminals who prey on immigrants because they believe they won't be reported; the expense on local courts and local jails; millions of individuals trying to better their lot in life but who easily work with false papers or driving without a license; over-burdened schools; and an over-burdened health care system. The time is now to fix the broken immigration system and its safe-guards.

The lack of a coherent national immigration policy has created chaos in our communities and made the job of law enforcement much harder. Very bad people have been allowed to easily find their way into our communities and victimize us. There has been confusion and disparities in how law enforcement agencies have chosen to handle immigration issues nationwide.

The lack of a coherent national immigration policy has also had an enormous negative impact on the trust that many of our sheriff's offices and police departments have worked hard to build with immigrant communities over the years. We know from experience that law enforcement is most effective in achieving its job of keeping the community safe when there is strong trust built. However, the lack of a federal solution to the civil immigration system has stymied or eroded the trust we have built and our ability to effectively police all of our community.

Instead of forcing state and local police to pick up where the federal government has failed, Congress and the President must reform our immigration laws. We urge Congress and the President to enact a comprehensive immigration law that secures the borders and addresses the reality of illegal workers in a comprehensive manner so that this nation can move forward as one.

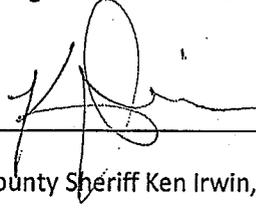
We need a national immigration system that is just and humane and yet allows us to keep clear the important distinction between federal officials who enforce civil immigration law versus local law enforcement who enforce criminal law.

Our immigration system must process applications in a timely fashion so that immediate families can be together, whatever the decision may be on overall strategy. Likewise, it must remove criminal aliens from the United States and punish human smugglers and unscrupulous employers who might try to profit from a broken system.

Ultimately, we believe strongly that enacting comprehensive federal immigration reform will allow state and local police to focus on job number one: protecting all members of our communities from crime. We urge Congress and President Obama to pass federal immigration reform as soon as possible as we serve our country and our communities on the front line every day.

The time is now to fix the broken immigration system and its safe-guards.

The Washington State Sheriffs' Association

A handwritten signature in black ink, appearing to be 'Ken Irwin', written over a horizontal line.

Yakima County Sheriff Ken Irwin, President

CC: President Barack Obama

Senators Schumer & Cornyn, Senate Judiciary Committee

Representatives Lofgren & King, House Judiciary Committee