



Statement for the Record

Submitted to the House Judiciary Committee Markup on the Dream Act, HR 2820; the American Promise Act, HR 2821; and the Venezuela TPS Act of 2019, HR 549

May 22, 2019

We, the Brighton Park Neighborhood Council, Campaign for Youth Justice, Chispa, Immigrant Defense Project, Immigrant Legal Resource Center (ILRC), Mijente, Organized Communities Against Deportation (OCAD), Providence Youth Student Movement (PrYSM), Resilience Orange County, Southeast Asian Resource Action Center (SEARAC), Urban Peace Institute, and Youth Justice Coalition (YJC) oppose the gang labeling of immigrant youth.

Our organizations are deeply disappointed that the American Dream and Promise Act has been amended, prior to a full hearing before the House Judiciary Committee, to increase provisions that further criminalize Black people, communities of color and immigrants. Specifically, the

new version of the bill excludes youth who have been labeled as gang affiliated by local police or ICE from consideration for the Dream Act.

We are racial justice, youth justice, immigrant and civil rights groups who have worked collectively for decades to challenge police gang suppression tactics such as injunctions, street harassment and surveillance, and gang databases.

Recently, many of us shared our outrage when the nominee for ICE Director Mark Morgan stated that he could tell whether a migrant child was a gang member by looking into their eyes.¹ There is little difference between the nominee's methods and the existing practices of ICE and local police when it comes to gang labeling. Getting stopped-and-frisked in a high-crime area, wearing a Chicago Bulls hat, or doodling the country code of El Salvador in a notebook: all evidence that police have used to label immigrant youth as gang affiliated. The vague definition also means that police use gang labeling as a proxy for old-fashion racial profiling, with Black and Latinx males composing more than 80% of any major city police department's gang list.²

We envision real protections for immigrant youth, TPS and DED holders and others who have been targeted by the current Administration. Unfortunately, the recent changes to these bills represent a troubling acquiescence to the racist rhetoric of the Trump Administration. We must speak out against any efforts to further vilify people of color and immigrant youth.³ Moreover, the new bars in the Dream Act undermine decades of youth and criminal justice efforts. In addition to labeling people as gang affiliated, the bill now excludes Dream Act of 2019 applicants with juvenile adjudications (decisions from juvenile court) and those who are vaguely considered "public safety" threats. Applicants will face dozens of complicated and harsh barriers and bars to relief if they had contact with the criminal legal system. By using a "guilty

¹ Ted Hesson, "Trump's pick for ICE director: I can tell which migrant children will become gang members by looking into their eyes," Politico, May 2019, <https://www.politico.com/story/2019/05/16/mark-morgan-eyes-ice-director-1449570>.

² George Joseph, "The NYPD's Gang Policing Looks a Lot Like Stop-and-Frisk," City Lab, Feb. 2017, <https://www.citylab.com/equity/2017/02/has-gang-policing-replaced-stop-and-frisk/517572/>; Babe Howell, *Gang Policing: The Post Stop-and-Frisk Justification for Profile-Based Policing*, CUNY Law School (2015); Annie Sweeney, "Chicago police gang data collection faulted by city's inspector general as unchecked and unreliable," Chicago Tribune, Apr. 2019, <https://www.chicagotribune.com/news/local/breaking/ct-met-chicago-police-gang-data-04112019-story.html>.

³ As experts on gang databases, we would like to stress that the gang database exception to the bar, within the current version of the bill, is functionally useless. The provision fundamentally misunderstands how ICE and local police operate gang databases, which serve as data storage networks for police records. Since law enforcement store and share such police records in many other ways that are readily accessible to ICE, the limitation on the use of a gang tracking database as evidence of gang affiliation is extremely easy to circumvent. Moreover, the provision ignores the practical reality that many police department store gang-related data on information platforms where the primary purpose is not to track gang affiliation. For example, the Chicago "gang database" is "not a unified standalone system, as publicly perceived," but "...a patchwork of data systems, visualization tools, and computer applications" where the primary purpose of the systems is not the tracking gang information. See City of Chicago, Office of the Inspector General, *Review of the Chicago Police Departments "Gang Database,"* April 2019, at 1.

until proven innocent” approach, this bill will force applicants to repeatedly prove that they do not fit the legal labels placed onto them. These additional criminal exclusions are gross overkill given that our immigration laws are already draconian and punitive.

To be clear, the vilification of Black and Latinx youth is nothing new. In fact, gang databases, injunctions, and other police suppression tactics were popularized in the 1990s, driven by a wave of public panic over Black youth as “super predators”.⁴ Black and Brown communities are still reckoning with the trauma and harm caused by these failed policies of hyper-policing and incarceration. The fear of immigrant youth is part of a larger history of misguided and racialized panic. We urge that the House Judiciary Committee reject this language and any further changes that draw from this narrative as the bill proceeds in the House.

For further information or questions, please contact Sameera Hafiz, Policy Director, Immigrant Legal Resource Center (ILRC) at shafiz@ilrc.org or 202.900.8950.

⁴ Kristen West Savali, “For the Record: ‘Superpredators’ Is Absolutely a Racist Term”, The Root, <https://www.theroot.com/for-the-record-superpredators-is-absolutely-a-racist-t-1790857020>; Alex Vitale, Op-Ed Contributor, “The New ‘Superpredator Myth,’ ” NY Times, Mar. 2018, <https://www.nytimes.com/2018/03/23/opinion/superpredator-myth.html>