

2019 Immigration Policy Context

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Introduction

New Jersey benefits from the presence of large and vibrant immigrant communities that make significant cultural and economic contributions to the state. More than 2 million immigrants live in New Jersey (22% of the population). The top countries of origin are India (13%), the Dominican Republic (8%), Mexico (6%), the Philippines (5%), and Korea (4%). Immigrants are well represented in occupations including computer and mathematical sciences (49%), building and grounds cleaning and maintenance (45%), and healthcare support (37%).¹

Immigrants in New Jersey reside in all regions of the state and are active in all aspects of civic life. Forty percent of all state residents are immigrants themselves or the children of immigrants. In 2014, immigrant-led households in the state earned \$74.2 billion and paid \$13.1 billion in federal taxes and \$6.5 billion in state and local taxes, with the results that they retained \$54.6 billion in spending power.² In New Jersey in 2015, immigrant business owners accounted for 33% of all self-employed residents and generated \$3.3 billion in business income.³ Given the demographic reality, the current and future prosperity of the state is linked to the success of immigrants.

Although over half of New Jersey's immigrants are naturalized U.S. citizens, nearly one quarter (475,000) are undocumented.⁴ Although undocumented residents of New Jersey contribute more than \$587 million each year in state and local taxes,⁵ they are particularly vulnerable to the challenges inherent in the new immigrant experience. Mixed status families are common – an additional 600,000+ residents, including 200,000+ children who are citizens born in the U.S., live in households with at least one undocumented person.⁶

In the last few years, changes in federal immigration policy have escalated pressures facing many immigrant families in New Jersey. These pressures have a negative impact in communities and workplaces with large immigrant populations, with the result that families are less likely to participate in social and civic activities, report crimes, enroll in public services to

¹ American Immigration Council: [Fact Sheet: Immigrants in New Jersey. October 13, 2017.](#)

² New American Economy: [The Contributions of New Americans in New Jersey. August 2016.](#)

³ American Immigration Council: [Fact Sheet: Immigrants in New Jersey. October 13, 2017.](#)

⁴ Pew Research Center: [U.S. Unauthorized Immigrant Population Estimates by State, 2016. February 5, 2019.](#)

⁵ Erika J. Nava, NJ Policy Perspective: [Undocumented Immigrants Pay Taxes. April 16, 2018](#)

⁶ Silva Mathema, Center for American Progress: [State-by-State Estimates of the Family members of Unauthorized Immigrants. March 16, 2017.](#)

which they or their children are entitled, and contribute to the local economy. Further pressure is created by the proposed addition of an untested question on Census 2020 about citizenship status. Census Bureau experts have testified that including such a question is likely to reduce the quantity and accuracy of responses, with the result that New Jersey could receive less representation and fewer federal funds than it should.⁷ The issue is being litigated and resolution is expected before summer 2019.⁸

Federal Immigration Policy Update

Since winning election in 2016 on an anti-immigrant, nativist platform and a promise to “build the wall” and “make Mexico pay for it,” President Trump and his administration have aggressively and systematically sought to advance an anti-immigrant agenda to promote: (1) federal laws and policies that shrink legal entrance to the U.S. for new immigrants, particularly black and brown people, (2) policies that foreclose permanent legal status for current residents, and (3) detention and deportation of documented and undocumented immigrants already residing here.

Prevent New Immigrants from Entering the United States

Earlier this month, President Trump declared a national emergency seeking to divert \$6.7 billion from the Congressionally approved federal budget to build 230 miles of wall along the border between the U.S. and Mexico, a declaration already facing numerous legal challenges and one that will likely be decided by the U.S. Supreme Court. A few months prior, national outcry countered the Administration’s policy of intentionally separating children from their parents as an attempted mode of deterrence, before a court halted the policy and ordered 2,500 children reunited with their families. The public subsequently learned that many more thousands of children had likely been separated from their families than was originally revealed and that family separations still continue despite the official end to the policy.⁹

In another attempt to reduce entry into the U.S., the Administration reduced refugee admissions to their lowest levels since the U.S. resettlement program began in 1980, with the actual number of admitted refugees expected to be less than half of the new cap of 45,000 due to new “extreme vetting” policies. The Administration has also narrowed the eligibility criteria for asylum, announcing in June 2018 that those suffering from domestic violence or gang violence would no longer be eligible, a policy change that will disproportionately affect Central

⁷ Michael Wines, New York Times: [Court Blocks Trump Administration From Asking About Citizenship in Census. January 15, 2019.](#)

⁸ The Fund for New Jersey joined 30 foundations and philanthropy-serving organizations nationally in submitting an Amicus Brief to the U.S. Supreme Court on April 1, 2019 opposing the addition of a citizenship question to the 2020 Census. The Fund for New Jersey: [The Fund for New Jersey Joins Census 2020 Amicus Brief.](#) April 4, 2019.

⁹ Miriam Jordan and Caitlin Dickerson, New York Times: [U.S. Continues to Separate Migrant Families Despite Rollback of Policy,](#) March 9, 2019.

American asylum seekers. These policies were preceded by the 2017 travel ban, commonly known as the “Muslim ban,” which banned travel from seven majority-Muslim countries, including Syria and Yemen, and was upheld by the U.S. Supreme Court in June 2018. President Trump has considered additional policy changes, such as ending the Diversity Visa Lottery program and limiting family admissions by eliminating the ability of U.S. citizens to sponsor relatives, but these have yet to advance in Congress. His recent declaration of a national emergency, however, indicates his willingness to bypass Congress to achieve his immigration agenda.

Prevent Current Residents from Achieving Citizenship

In addition to attempting to stop immigrants from seeking refuge and a new life in the United States, the Administration has sought to prevent those already here from advancing on the path to citizenship. In an effort to prevent lower-income immigrants from qualifying for permanent residence (“green cards”), the Trump Administration last fall announced a proposed change in the “public charge” rule to count immigrants’ use of health care, nutrition, or housing programs for which they were qualified against them in green card eligibility determinations as well as to create for the first time an income threshold for green card eligibility (\$15,000 for a single person/\$31,000 for a family of four). In September 2017, the President announced the intention to end the Deferred Action for Childhood Arrivals (DACA) program, which shields from deportation about 700,000 young undocumented immigrants who were brought to the U.S. as children (1.3 million people are potentially eligible). A federal appeals court in November 2018 ruled that President Trump cannot immediately end DACA, but the program is likely headed to the U.S. Supreme Court, where its fate is uncertain. Last year, the Administration announced its intention to end Temporary Protected Status (TPS) for more than 300,000 people who entered legally after emigrating from any of six countries: El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan. TPS was created in 1990 and is a temporary humanitarian relief program used in cases of war and famine, and many covered under the program have resided in the U.S. for years because conditions in their countries of origin have remained unstable. Legal challenges to the Administration’s actions are underway. More individuals from the additional four countries covered by the program (Somalia, South Sudan, Syria, and Yemen) are vulnerable to losing protections over the coming months.¹⁰

Detain and Deport Undocumented Residents

While aggressively changing policies to restrict who can come to, and remain in, the United States, the Administration has ramped up detention and deportation of undocumented immigrants, intensifying focus on the “interior” of the country (i.e., states that do not border Mexico). From President Trump’s first day in office in January 2017 to the end of the FY2017

¹⁰ D’Vera Cohn et al, Pew Research Center: [Many Immigrants with Temporary Protected Status Face Uncertain Future in U.S. February 21, 2019.](#)

fiscal year, Immigration and Customs Enforcement (ICE), part of the Department of Homeland Security, removed 61,000 immigrants from the interior of the U.S., a 37% increase from those months in 2016. During the same period, ICE arrested more than 110,000 people, a 42% increase over that period in 2016. The trend continued through the last three months of calendar year 2017, with ICE arresting 39,000 more people, representing a 43% increase over the prior year period. At the same time, the rate of arrest of immigrants with no criminal convictions went up by 146%, representing a break with the prior Obama administration policy of focusing on those with serious criminal convictions.¹¹ As a result of these policies, the detention of immigrants has reached new highs with an estimated 48,322¹² people in detention on any given day, including thousands of children.¹³ Implementing increased detention and deportation in the interior of the country has required an increased number of detention facilities and cooperation from state and local authorities with ICE in the form of intergovernmental service agreements (IGSAs) and 287(g) contracts. From 2017 to early 2019, the number of 287(g) contracts nationally has doubled, bringing the total to 75 programs in 20 states.¹⁴

New Jersey in the National Context

New Jersey is home to more than two million immigrants, 25% of whom are undocumented. It is no wonder, then, that federal immigration policy has a disproportionate impact on New Jersey families, in areas ranging from family separation to legal representation to pathways to permanent residency.

Detention and Deportation

Immigrants in New Jersey have been detained and deported at disproportionate rates. In New Jersey, immigration arrests are among the highest in the nation, with a 43% increase from 2016 to 2017 compared with a 23% increase nationally, according to a November 2018 New Jersey Policy Perspective (NJPP) Report.¹⁵ Further, based on data from October 2017 to May 2018, Essex County ranked seventh in the nation for the most community arrests, more than Maricopa County in Arizona.¹⁶ At any given time in the state, 1,800 to 2,000 immigrants are

¹¹ Sarah Pierce et al, Migration Policy Institute: [U.S. Immigration Policy Under Trump: Deep Changes and Lasting Impacts. July 2018.](#)

¹² Tara Tidwell Cullen, National Immigrant Justice Center: [ICE Released Its Most Comprehensive Immigration Detention Data Yet. It's Alarming. March 13, 2018.](#)

¹³ Caitlin Dickerson, New York Times. [Detention of Migrant Children Has Skyrocketed to Highest Levels Ever. September 12, 2018.](#)

¹⁴ Immigrant Legal Resource Center: [National Map of 287\(g\) Agreements. February 5, 2019.](#)

¹⁵ Erika J. Nava, New Jersey Policy Perspective: [Working with ICE: A Costly Choice for New Jersey. November 13, 2018.](#)

¹⁶ TRAC, Syracuse University: [Counties Where ICE Arrests Concentrate. October 24, 2018.](#)

being held in detention. New Jersey is among the top five states in the country in the number of detained immigrants.¹⁷ The NJPP report documented that ICE detainers are on the rise in New Jersey under the Trump administration, increasing by close to 88% from 2016 to 2017 compared with a 40% increase nationally. New Jersey's local law enforcement has paid at least \$12 million to voluntarily honor ICE detainer requests. Under the new Immigrant Trust Directive, however, local law enforcement will no longer voluntarily honor such detainer requests, with certain exceptions (see Progress in New Jersey below).

IGSAs are contracts under which state and local governments are paid to imprison individuals the federal government is holding on criminal or immigration matters. Although no new IGSAs have been signed in New Jersey since Trump took office, the per diem rates generated by IGSAs have been a significant fiscal incentive for counties. Currently Bergen, Essex, and Hudson have IGSAs with per diem rates of about \$100 dollars per detainee. Hudson County alone reaped \$22 million each year from its IGSA.¹⁸ Essex County has 8½ years left on a 10-year IGSA contract and no cap on the number of immigrant detainees it can hold (800 detainees are currently held there); Bergen County's contract has no expiration date and it holds 450 detainees, up from 250 two years ago.

Further, conditions at New Jersey's detention facilities are hazardous. The Essex County Correctional Facility, the largest detention center for immigrants in the region, was recently the subject of a scathing Inspector General report from the Department of Homeland Security, citing evidence of unsanitary conditions, leaking ceilings, and dangerous food handling.¹⁹ In Hudson County, deaths of six detained immigrants within nine months (June 2017-March 2018) led to creation of three oversight bodies focused on improving medical conditions .

Under 287(g) agreements, which allow ICE to delegate many of its powers to state and local jurisdictions, New Jersey's county governments are given various powers, including the ability to: (1) inquire into a person's immigration status, (2) detain persons beyond the time they would be held in local custody, and (3) issue Notice to Appear documents to commence removal proceedings.²⁰ While New Jersey has four 287(g) programs in Hudson County, Monmouth County, Salem County, and Cape May County, the recent State Attorney General Immigrant Trust Directive (see Progress in New Jersey below) prevents the renewal, extension, or entering into of new agreements absent Attorney General approval, marking a significant policy change and ushering in the end of 287(g) agreements in New Jersey by 2020, when Cape May County's agreement is set to expire.

¹⁷ Freedom for Immigrants: [Detention By the Numbers](#).

¹⁸ American Friends Service Committee analysis of OPRA requests.

¹⁹ Matt Katz, WNYC: [Abandoned Gun, Moldy Bread Pudding and 'Unrecognizable' Hamburgers Found in New Jersey immigrant Lock-up. February 15, 2019.](#)

²⁰ Immigrant Legal Resource Center: [National Map of 287\(g\) Agreements. February 5, 2019.](#)

Universal Representation

Given the high rates of detention in New Jersey, legal representation is critical. According to a report published by NJPP, 67% of immigrants facing deportation go before judges without a lawyer and most are deported. In contrast, New Jersey residents who are detained for civil immigration violations are three times as likely to prevail in their cases when they have legal representation, illustrating the critical importance of universal representation.²¹

Foreclosing Legal Residency Pathways and Harming New Jersey's Economy: TPS, DACA, and the "Public Charge" Rule

New Jersey is home to more than 22,000 DACA recipients and approximately 14,000 TPS holders. New Jersey TPS holders have contributed more than \$448 million toward the state GDP. New Jersey DACA recipient's economic contributions are the fifth largest of any state at \$1.6 billion toward the state GDP. According to a 2017 survey, approximately 15,900 DACA recipients in New Jersey are employed, more than 900 own their own businesses, 7,800 are in school, 5,600 are pursuing a bachelor's, master's or professional degree, and 12,650 have an American citizen sibling, spouse or child.²² The Trump Administration's termination of DACA and TPS, if implemented, will leave many New Jersey long-time residents subject to deportation, without work permits or access to driver's licenses, thereby stifling their contributions to the economy and ability to support themselves and their families and threatening the security of their families. Under the proposed "Public Charge" rule, 24 million residents nationally and 700,000 New Jersey residents would be harmed.²³ While they will not all encounter a public charge determination when applying for permanent residency, mixed-status family members are likely to become nervous about applying for benefits, and a portion will consequently disenroll from benefits programs. In New Jersey, 250,000 children under age 18 live in families with at least one non-citizen family member where at least one member has received one of the benefits specified under President Trump's public charge rule; 210,000 of these 250,000 children are U.S. citizens but are still made vulnerable as members of mixed-status families. Another 440,000 adults are potentially negatively impacted, including 310,000 non-citizens. The same NJPP study shows a potential loss of \$425 million in direct federal dollars coming into New Jersey if the public charge rule is adopted. These reductions in federal dollars in turn lead to a potential loss of \$709 million in indirect spending at local businesses, such as grocery stores and supermarkets, as well as healthcare spending.

²¹ Monsy Alvarado, North Jersey Record: [New Jersey Allocates \\$2.1 Million for Legal Aid for Immigrants. November 20, 2018.](#)

²² Office of the Attorney General: [AG Grewal Moves to Defend Dreamers From Texas-Led Lawsuit. May 21, 2018.](#)

²³ Erika J. Nava, New Jersey Policy Perspective: [New Immigration Rule Will Have Chilling Effect on New Jersey's Mixed-Status Families. November 27, 2018.](#)

Progress in New Jersey

Under Governor Murphy's administration, New Jersey has taken important steps to adopt pro-immigrant policies that build on the state's strength in diversity while establishing bulwarks to protect New Jersey immigrant communities from intensifying federal threats.

Resisting Federal Immigrant Exclusion, Detention, and Deportation Policies

Since being sworn in as Attorney General in 2017, New Jersey's Attorney General Grewal has aggressively challenged federal immigration policies, joining a number of other states in filing legal challenges to the Administration's efforts to: declare a national emergency to build a wall along the Mexico–U.S. border (February 2019, 16 states); block immigrants from seeking asylum on the grounds of domestic or gang violence in their countries of origin (October 2018, 17 states and D.C.); forcibly separate families at the Mexico border (June 2018, 17 states and D.C.); and ban travel to the U.S. for residents from Muslim-majority countries (March 2018, 18 states and D.C.), to name just a few of the higher profile legal challenges.

Immigrant Trust Directive. In November 2018, New Jersey Attorney General Grewal announced a groundbreaking new Attorney General directive to “strengthen trust between New Jersey’s law enforcement officers and the state’s diverse immigrant communities.” The directive recognizes that the federal government has increasingly relied on state, county, and local law enforcement, which is charged with enforcing state criminal law, to enforce federal civil immigration law, and seeks to reverse that trend by limiting New Jersey’s participation in increasingly aggressive federal efforts to deport undocumented immigrants while also supporting immigrants’ abilities to access court and law enforcement services without fear of reprisal. Broadly speaking, the directive: prohibits local law enforcement from assisting in immigration enforcement operations, honoring ICE detainers (with some exceptions), and sharing facilities or databases with ICE; prohibits any new or extended 287(g) agreements without the Attorney General’s permission; informs incarcerated immigrants of their rights; and requires local law enforcement to develop procedures to assist victims and witnesses applying for T- and U-Visas, which provide special immigration status for those cooperating with law enforcement investigations. The directive replaced a 2007 directive that had been widely criticized as flawed and inconsistent: it required local police to inquire about immigration status upon arrest of a suspect for an indictable offense and to report individuals suspected of being undocumented to ICE. The directive is broad in its application, covering 36,000 law enforcement officers, including state and local police officers, correctional officers working in state prisons and county jails, and state and county prosecutors. The directive mandates annual reporting by law enforcement on any assistance to federal civil immigration authorities for the purpose of enforcing federal immigration law and requires public disclosure of the report. While the directive does not include everything advocates had asked for – for instance, advocates had sought to include immigrants with first- and second-degree offenses rather than

just minor offenses in the directive and it does not have the jurisdiction to address county IGSA detention contracts with ICE – it nonetheless marks a major victory for New Jersey immigrants.

Universal representation. While people accused of crimes are entitled to government-funded counsel to assist in their defense, immigrants facing deportation have no such rights despite the high stakes for residents facing deportation – including permanent separation from their families and communities and sometimes life-threatening risks in their countries of origin. American Friends Service Committee (AFSC) has gathered data through its five-year universal representation pilot showing the vital importance of legal representation: New Jersey residents without legal representation avoided removal only 14% of the time, whereas detention clients in AFSC’s program avoided removal 48% of the time. The AFSC pilot program set the stage for the Murphy administration’s creation of a statewide legal representation program for detained immigrants, funded with \$2.1 million in the FY2019 state budget. New Jersey joined California and New York as one of only three states with a statewide representation program for undocumented immigrants.

Advancing Immigrant Inclusion

As New Jersey has instituted policies to protect New Jersey’s immigrants from federal detention and deportation, it has simultaneously made advances in welcoming and fostering the full inclusion of immigrants into New Jersey’s communities and institutions, although work remains.

Supporting higher education opportunity. Multiple studies have shown that access to higher education opportunity is a demonstrated pathway to increased earnings and upward mobility.²⁴ Opportunities to seek higher education advancement, however, have for too long been off limits to undocumented youth. In 2013, then-Governor Christie began to break down these barriers when he signed into law the “Dream Act,” which allowed undocumented students who grew up in New Jersey to attend public community and four-year colleges at in-state tuition rates. Last year, Governor Murphy further expanded opportunity for these young people by enacting a law enabling such students to qualify for financial aid, making New Jersey the ninth state to do so. The state recently announced that more than 500 undocumented college students received \$1.6 million in state financial aid last fall, the first time they qualified since the law was signed. The bulk of aid came from Tuition Aid grants, with more limited aid coming from the Education Opportunity Fund (EOF), NJ STARS, and the Governor’s Urban Scholarship program. The program is expected to grow in future years.

²⁴ Brookings Institute: [Promoting Economic Mobility by Increasing Postsecondary Education. May 12, 2009.](#)

Opportunity in New Jersey

Despite the defensive work and progress that has been made over the past two years, more remains to be done. New Jersey Alliance for Immigrant Justice is working in collaboration with New Jersey's immigrant rights advocates, including Fund grantees American Friends Service Committee, Make the Road New Jersey, Wind of the Spirit, and Faith in New Jersey, to advance a coordinated strategy to advance immigrant rights and immigrant inclusion in New Jersey. Twelve states and the District of Columbia have adopted laws to **provide access to driver's licenses to all residents**, regardless of immigration status. New Jersey has yet to act. New Jersey has the opportunity to **enact statewide fair and welcoming policies** through law and executive order, based on legislation recently passed in California, including key provisions that would: codify the Attorney General's Immigrant Trust Directive; prohibit state agencies from using state facilities or human resources to aid in immigrant arrests or deportation; prohibit NJ Department of Corrections detention based solely on immigration status; prohibit the denial of state agency services or public benefits based on immigration status (unless required by federal law); and provide free language assistance services to people with limited English proficiency. More progress remains to be made to **reduce – and improve conditions of – detention** and to **better immigrant working conditions**, including stopping wage theft, opening up state professional licensure to undocumented immigrants, and improving domestic worker conditions.

This time is ripe in New Jersey for significant policy change. There is reason for optimism in the current combination of strong policy organizations, effective statewide organizing, compelling communications, the increasing political influence of immigrant communities, and a favorable state political climate. More than 40% of New Jersey's residents are immigrants or the children of immigrants and they live in every part of the state. Policies that support immigrant inclusion are critical for New Jersey's well-being.