

The Immigrant Advocate

Winter 2016



Message from ILRC Executive Director, Eric Cohen

The President-elect promised harsh changes to our nation's immigration system. His promises threaten 11 million undocumented immigrants and their families with deportation and family separation. We are prepared to engage in a strong defense of our nation's immigrants against the incoming anti-immigrant Administration. As recognized experts in navigating the complexities of immigration law, we will focus on establishing legislative and other key priorities that embrace and support the immigrant community. We will re-double our efforts to build capacity within the legal services and immigrant community and push back against the unjust and unfair proposals of the incoming Administration. United, we will work to protect immigrants and their families.



ILRC 2017 Key Priorities


Enforcement. Working with grassroots and local organizations, the ILRC will continue its critical work to disentangle state and local law enforcement from federal immigration enforcement and preserve federal funding for these jurisdictions. We are promoting community safety, trust, and accountability. Federally, the ILRC is fighting to scale back and end the nation's out of control deportation apparatus, including the Priority Enforcement Program, all 287(g) agreements, and the immigration raids that tear apart families and foster fear in communities across the nation.

Reforming and Ending Immigration Detention. Enforcing immigration laws through incarcerating individuals facing deportation is a barbaric practice that tears families apart and undermines due process. Earlier this year the ILRC co-sponsored SB 1289 (the Dignity Not Detention Act), and while it was unfortunately vetoed by Governor Jerry Brown, it brought a growing awareness to the need to reform and to end our badly broken immigration detention system. We will continue to pressure the Administration to reform and end immigration detention in an effort to protect human rights.

Deferred Action. Deferred Action for Childhood Arrivals (DACA) has been one of the most successful and hard-won victories in the last eight years, and the ILRC will fight to defend the program and pressure the new Administration to continue DACA. In an effort to assist allies and the immigrant community, ILRC released information to help quell immediate fears for DACA applicants and recipients.¹

Humanitarian Crisis in Central America. The ILRC will continue to defend immigrant children fleeing violence and persecution in Central America by working to ensure access to critical humanitarian protection. We are also advocating for steps that the Administration can undertake to appropriately aid these refugees, including expanding access to due process and ending detention.

Post-conviction Relief. We are a nation that believes in rehabilitation and second chances. However, legal permanent residents and undocumented immigrants are subject to additional punishment even after paying their dues: permanent deportation. The ILRC is advocating to ensure that noncitizens also have a second chance. Just this past year, we supported five bills and a ballot initiative in California that will offer post-conviction relief and help keep families together.

Under this new Administration, the ILRC will continue to elevate the needs and priorities of the immigrant community to ensure that immigrants always have a voice on the very issues that affect them. We will work to push the Administration to protect families and to ensure that reforms to the current immigration system align with the needs of the community. We will work to push the new Administration to protect families and to ensure that reforms to the current immigration system align with the needs of the community. 

¹ https://www.ilrc.org/sites/default/files/resources/post-election_talking_points.pdf

Joining the ILRC Board of Directors



Anita I. Martinez recently retired from 40 years of service on the Public Employment Relations Board (PERB), an administrative quasi-judicial State agency that adjudicates public sector labor law disputes. In May 2011, Governor Edmund G. Brown Jr. appointed her as Board Member and Chair of the Board. Prior to this appointment, she served as the PERB San Francisco Regional Director since 1982. Anita has also worked for the National Labor Relations Board in San Francisco and the Agricultural Labor Relations Board in Sacramento and Salinas. A contributing author of the Matthew Bender treatise, *California Public Sector Labor Relations*, she has also addressed management and employee organization groups regarding labor relations issues. A San Francisco native, Anita received her BA in Political Science from the University of San Francisco.

I am proud to serve on the ILRC Board because of its dedication and commitment to improving the lives of immigrants through its myriad of services that seek to inform, counsel, and advocate on behalf of this community.

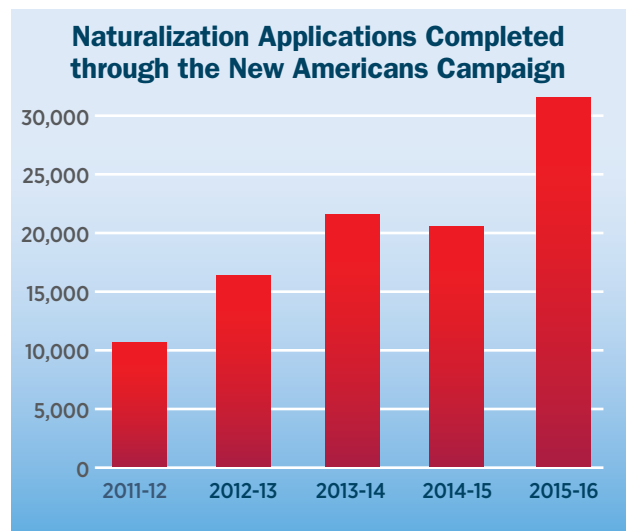
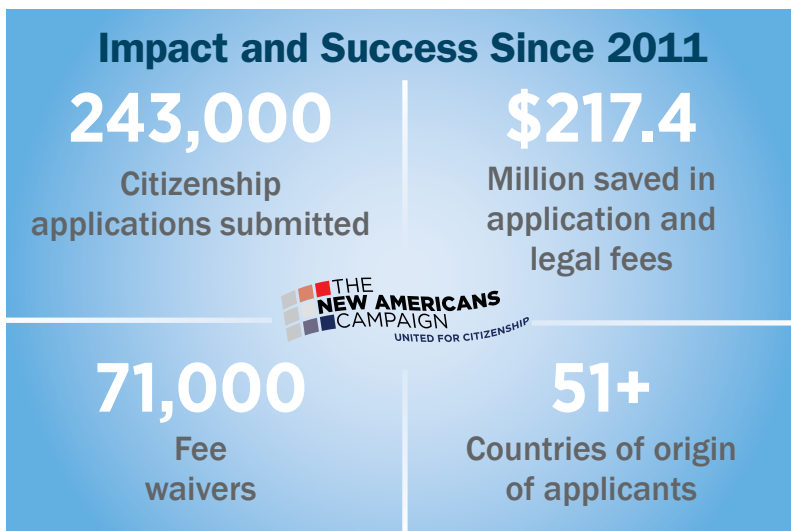


Rudy Ruano is an investment partner with Western Technology Investment (WTI). Prior to WTI, he founded or led a number of venture backed startups. Most recently, he served as Chief Executive Officer of Flint Mobile, a mobile payment service; Vice President of Business Development with iMediation S.A., an enterprise software company; and Senior Vice President of Corporate Development with Internet Pictures Corporation Inc., a provider of content infrastructure. Rudy also held a variety of venture, finance, and strategic planning positions with Intel Corporation. Rudy holds a BS in Finance and Economics from San Jose State University.

As a first generation immigrant, the ILRC's mission is deeply meaningful. I am excited to join a team that is providing real world solutions to problems impacting millions of people.

New Americans Campaign

Led by the ILRC, the New Americans Campaign is helping aspiring Americans reach their dream of citizenship. To learn more about the New Americans Campaign, please visit www.newamericanscampaign.org and follow the conversation at @NewAmericans.



Post-Conviction Relief and Protecting Constitutional Rights

In August 2008, Maria Sanchez, a long time lawful permanent resident, was convicted of growing a single marijuana plant in her back yard. Born in Mexico, Maria had lived in the United States for more than three decades, raising her children and grandchildren here. Maria suffered from arthritis and turned to the same remedy her mother and grandmother had used: she grew a single marijuana plant, soaked it in rubbing alcohol, and rubbed the alcohol tincture on her painful joints. This was Maria's first and only arrest. Her public defender got a good deal from a criminal perspective: four months of house arrest. However, unbeknownst to Maria that plea was the functional equivalent of signing her own deportation order. Considered an aggravated felony under immigration law, the conviction subjected Maria to mandatory deportation and mandatory detention, with no opportunity for discretionary relief. She suddenly faced the real threat of being separated from her family forever. Under the new Administration, people like Maria are the number one priority for deportation—President-elect Donald Trump has vowed to begin deportations of immigrants with convictions immediately after he takes office.

The ILRC's new immigrant post-conviction relief project will help protect immigrants like Maria and ensure that indigent clients can gain the benefit of these new laws.

An estimated 65 million people suffer the lifelong consequences of a prior conviction.¹ Immigrants face the same consequences citizens face plus an additional, compounding horror: lifelong banishment and permanent separation from their families. In the most immigrant-rich state in the country, where one out of every two children resides with a foreign-born head of household,² these convictions already have a uniquely destabilizing effect in California. Under the new Administration, we anticipate that immigrants with conviction histories will be even more vulnerable.

But, there is hope. The ILRC is helping to open up new pathways for immigration relief for people like Maria. In *Padilla v. Kentucky*, the Supreme Court noted that “deportation is an integral part—indeed, sometimes the most important part—of the penalty that may be imposed on noncitizen defendants,” and held that failing to provide immigration advice makes a conviction unconstitutional.³ In the past two years, ILRC's state policy efforts have helped California pass six new post-conviction relief laws that have particular benefits for immigrants.⁴ The most significant of these new laws, AB 813, provides noncitizens with a new legal vehicle to undo

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Criminal and Immigrant Justice Project Attorney Rose Cahn



I come to my career at the intersection of criminal and immigrant justice from a deeply held belief that we must center our work around protecting and defending the rights of the most vulnerable. Upholding the constitutional rights of the most marginalized and vilified, demonstrates the true strength of our legal protections and creates a barrier to those who may try to encroach on constitutional protections that we hold dear.

“...knowing my efforts helped keep families together—knowing parents can kiss their children goodnight because of our successful post-conviction relief efforts—fills me with a deep passion to keep fighting...”

I have been actively engaged in the movement for immigrant justice for nearly 20 years. Early in my career, I led “know your rights” trainings and helped janitorial workers naturalize. From this, I

learned criminal convictions can foreclose critical forms of relief for immigrants. I saw naturalization applications denied based on low-level offenses like turnstile jumping, and I resolved that my legal career would be dedicated to breathing due process into a system intent on denying it.

My career in educating people about post-conviction relief for immigrants and working with organizers to connect a platform for immigrant and criminal justice has been a rich and rewarding one. I have been fortunate to be a part of great policy victories that helped advance this platform, but knowing my efforts helped keep families together—knowing parents can kiss their children goodnight because

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² Pew Center on the States, “One in 31: The Long Reach of American Corrections” (Washington, DC: The Pew Charitable Trusts, March 2009), p. 4; National Employment Law Project, “65 Million ‘Need Not Apply’: The Case for Reforming Criminal Background Checks for Employment,” March 2011, p. 1.

³ See 2015 statistics Census Quick Facts at www.census.gov/quickfacts/table/PST045215/00.

⁴ See *Padilla v. Kentucky*, 559 U.S. 356, 363 (2010) (“Under contemporary law, if a noncitizen has committed a removable offense after the 1996 effective date of these amendments, his removal is practically inevitable . . .”).

⁵ Prop 47 (effective Nov. 8, 2014); SB 1310 (effective Jan. 1, 2015); AB 1352 (effective Jan. 1, 2016); AB 813 (effective Jan. 1, 2017); SB 1242 (effective Jan. 1, 2017); Prop 64 (passed Nov 2016)

Immigrants Benefit from California's New Marijuana Reform

“ Prop 64 is expected to decrease the number of immigrants at risk of detention and deportation. ”

This past election day, Californians cast their votes in favor of a proposition that will have surprisingly positive benefits for immigrants and their families—the legalization of marijuana. Proposition 64, the marijuana ballot initiative, addresses the treatment of marijuana possession within two government systems in desperate need of an upgrade: the criminal legal system and the immigration detention and deportation system.


From politics to popular culture, it's been widely acknowledged that the “War on Drugs” has been a massive failure resulting in communities of color suffering disproportionately. Simultaneously, laws passed in 1996 that doled out increasingly harsh punishments to immigrants in contact with the criminal legal system—along with an ongoing crisis of mass incarceration—have resulted in a destructive overlap of consequences for immigrants that include mandatory detention and deportation.

In September of this year, the ILRC released [Immigration Impact: the Adult Use of Marijuana Act](#)⁶, reporting on the impact of Proposition 64 on California's immigrant community and its resulting lessons for public defenders, legal service providers, and policymakers. ILRC reports that marijuana convictions can bring harsh consequences for both undocumented immigrants and legal permanent residents alike. They can render a person deportable, inadmissible (which may prevent you from obtaining legal status) or an “aggravated felon,” a federal immigration legal term that essentially means you'll be deported for life without a meaningful hearing.

Tangible benefits of Proposition 64

By decriminalizing minor marijuana offenses, which are currently classified as a misdemeanor or felony, for people 21 and older, Prop 64 is expected to decrease the number of immigrants at risk of detention and deportation. Proposition 64 provides an avenue to clear one's record of old marijuana convictions, which may eliminate some or all of the immigration consequences of those convictions. This means a potential increase in the number of immigrants (with prior marijuana convictions) who qualify for legal status in the future. Lastly, Proposition 64 will help ensure access to humanitarian programs like Temporary Protected Status and Deferred Action for Childhood Arrivals as long as those programs remain available.

The ILRC is committed to advocating for progressive legislation that prevents the destructive separation of families caused by deportation. Our comprehensive report on the immigration impact of Proposition 64 has helped raise awareness of the ways in which marijuana prohibition fosters increased deportation of immigrants. It additionally serves as a crucial resource on tangible ways to fight back for immigrant communities and the advocates who serve them.

President-elect Donald Trump is clear on his intent to deport two to three million undocumented immigrants with criminal convictions. The ILRC is fighting back to defend the constitutional rights of the most marginalized in our immigrant communities from overtly harsh consequences. Proposition 64 is poised to play a substantial role in reducing deportations across California and keeping immigrant families and communities together by mitigating the immigration consequences of some marijuana-related drug offenses. 



WHY WE SUPPORT PROP 64
IMMIGRANT-INCLUSIVE MARIJUANA REFORM

ILRC
IMMIGRANT LEGAL RESOURCE CENTER

PROP. 64 WOULD:

- ✓ Decrease number of immigrants subject to detention & deportation
- ✓ Increase number of immigrants able to obtain lawful status
- ✓ Ensure access to humanitarian programs for immigrants
- ✓ Help young immigrants remain eligible for DACA

“Prop. 64 is a critical opportunity to keep California families together by preventing our friends, neighbors and community members from being detained or deported for certain marijuana offenses.”
-Angie Junck, Supervising Attorney, Immigrant Legal Resource Center

“I support immigrant-inclusive marijuana reform because deportations triggered by marijuana offenses have destroyed and devastated California families and communities for far too long.”
-Kemi Bello, Communications Manager, Immigrant Legal Resource Center

“The immigration consequences of any drug conviction (including marijuana possession) are some of the most punitive and unforgiving penalties under federal law. Prop. 64 will provide much-needed reprieve to both lawful permanent residents and undocumented immigrants, lending a bold state solution to a broken federal immigration system.”
-Nikki Marquez, Law Fellow, Immigrant Legal Resource Center

LEARN MORE: BIT.LY/PROP64REPORT #YESON64

⁶ <https://www.ilrc.org/immigration-impact-analysis-adult-use-marijuana-act>

Harris County, TX: The “Deportation Capital” of the U.S.


Home to Houston, the nation’s fourth largest city, Harris County boasts a rich immigrant heritage and is consistently named one of the most ethnically diverse metropolitan areas. Unfortunately, Harris County also has a reputation of being the “deportation capital” of the United States.

In 2008, Harris County was the first jurisdiction in the country to pilot Immigration and Custom Enforcement’s (ICE) Secure Communities program, which relied on fingerprint sharing between ICE officials and local police agents to increasingly drive deportations to record numbers at the county level. Secure Communities spread to jurisdictions across the nation (eventually becoming mandatory) and tore thousands of families apart via deportation. Since then, Harris County law enforcement has dialed its engagement in deportation assistance to the highest level, and the county currently participates in all possible partnerships with ICE—both voluntary and mandatory.

Over the past year and a half, the ILRC has been working with a diverse coalition of local organizers and advocates in Houston to push back against the county’s long history of separating families through assisting with deportations. In early 2016, the ILRC partnered with United We Dream, launching the *Houston Beyond ICE* campaign to empower the immigrant community to put an end to all local law enforcement/ICE collusion across Harris County.

“ Harris County law enforcement has dialed its engagement in deportation assistance to the highest level, and the county currently participates in all possible partnerships with ICE—both voluntary and mandatory. ”

The ILRC has provided significant ongoing support to the campaign’s leadership, which is run predominantly by immigrant youth. In partnership with leaders on the ground, ILRC worked to develop organizing and communication strategies for *Houston Beyond ICE*. We built alliances with local racial justice and LGBTQ rights organizers and engaged key elected officials. As a result of the campaign’s work to date, we’ve been able to raise awareness of local law enforcement collaboration with ICE for county residents through local English and Spanish media—including multiple features in the Houston Chronicle. Additionally, we helped to make 287(g), one of the key tools used by the county to work with ICE, a local election issue. This work contributed to Harris County electing a new sheriff who campaigned on a promise to end 287(g) for good.

ILRC’s work in Harris County is more crucial than ever in the upcoming Administration, and it is poised to set a precedent for the nation to follow. Harris County is pivotal to our broader efforts to reduce deportations, keep families together, and build leadership to empower immigrant communities. Supporting the leadership development and civic engagement of the immigrant community remains a crucial aspect of the ILRC’s mission to advance immigrant rights. 



United We Dream and hundreds of undocumented youth rally in Harris County against local police involvement in deportations.

California has the opportunity to lead the nation with dignity, not detention

BY RICARDO LARA, GRISEL RUIZ AND CHRISTINA FIALHO

Mass incarceration and immigration are undoubtedly two defining issues of our time. Immigration detention – the civil incarceration of people facing deportation – lies at the juncture of these two contentious enforcement practices. Wrought with stories of abuse, immigration detention requires tremendous reform and it is time leaders have the courage to take on this for-profit industry.

We are in a unique moment in history where national officials are finally taking notice and action.

After decades of advocacy, private prison corporations, whose profits are driven by the number of beds filled, are finally receiving long overdue attention and scrutiny. In August, the Department of Justice announced that it would phase out its federal use of privately run prisons. A week later, the Department of Homeland Security announced the launch of a review committee to determine if it should follow the DOJ's direction and end private immigration detention.

In the wake of these announcements, California stands poised to tackle immigration detention through a bill we introduced earlier this year, which now sits a signature away from becoming state law. Senate Bill 1289, the Dignity Not Detention Act, would make it unlawful for California and local municipalities to enter into immigration detention contracts with private prison corporations. It would also ensure better treatment for those in facilities across the state and provide extra protections for LGBTQ-identifying immigrants.

Many of these immigrants are refugees or asylum seekers whose only option for survival was to embark on the perilous trek to the United States. Rather than profiting from their suffering, California can take a decidedly humane approach, one that treats immigrants with dignity and does not involve California as an accomplice in their abuse.

In 2015, California housed an average of 4,690 immigrants per day in detention centers across the state, according to a report by DHS's U.S. Immigration & Customs Enforcement. Of those immigrants detained each day, nearly 70 percent – or 3,294 immigrants – were housed in private facilities located in Bakersfield, Adelanto, Calexico and San Diego.


Critics have argued that ending private immigration detention could be costly and that alternatives to incarceration are limited. However, it costs taxpayers on average \$90.43 to detain a person in a private immigration detention facility per day, compared to about \$72.69 in a public jail according to the ICE report. We also know that allowing immigrants or refugees to stay with family members who live in California is a cost-effective alternative that helps keep families together. Estimates from DHS show that the costs of these alternatives range from just 70 cents to \$17 per person per day.

This movement to end immigration detention centers is driven by the immigrants directly impacted. In fact, the need for this bill was raised by immigrants at the privately-run Adelanto Detention Facility, who last year engaged in hunger strikes calling for humane treatment. For decades now, advocates have called for an end to all immigration detention, as it is critical that we move beyond reliance on mass incarceration. This conclusion is reinforced by countless reports of physical and sexual abuse, poor health care, limited access to legal counsel and overuse of solitary confinement. SB1289 would make sure that all immigration detention facilities – public or private – adopt

ICE's own standards of basic humane treatment as state law, making these standards enforceable.

Today, we are at a key juncture in this country's approach to incarceration and we urge Gov. Jerry Brown to stand on the right side of history. He has supported several pro-immigrant legislative proposals allowing immigrants to pay in-state tuition, apply for professional licenses and access driver's licenses – many of these first-in-the-nation laws.

Gov. Brown has a vehicle sitting on his desk that would continue California's immigrant integration leadership by making us the first state in the nation to say no to privately-run immigration detention centers. There is no room for delay; the mothers, fathers and children affected by detention cannot afford to wait – the time to take action against profiting off of suffering is now.

With the Dignity Not Detention Act, California has a concrete plan to end contracting with these private facilities once and for all. And with just one signature from the governor, we will. 


Ricardo Lara is a state senator, Grisel Ruiz is a staff attorney at the Immigrant Legal Resource Center and Christina Fialho is the co-founder and executive director of Community Initiatives for Visiting Immigrants in Confinement. Although SB 1289 failed to pass, it brought attention to the need to reform and to end our badly broken immigration detention system.

Ricardo Lara, Grisel Ruiz and Christina Fialho, "California has the opportunity to lead the nation with dignity, not detention," The Orange County Register (2016). Retrieved from www.ocregister.com/articles/detention-729156-immigration-immigrants.html.

Post-Conviction Relief and Protecting Constitutional Rights continued from page 3...

convictions when trial counsel failed to advise about the immigration consequences. This new law will help immigrants like Maria, whose time in criminal custody has ended, but whose convictions are unconstitutional.

The ILRC's new immigrant post-conviction relief project will help protect immigrants like Maria and ensure that indigent clients can gain the benefit of these new laws. By training state legal services providers and creating opportunities for immigrants to challenge unlawful deportations, the project will slow the expanding prison-to-deportation pipeline, ensuring that fewer families are senselessly, needlessly, and unconstitutionally torn apart.

There is much work to be done in this growing field, and we are keenly aware of the urgency of this work. We are thrilled to have Rose Cahn, our first post-conviction relief specialist, join the ILRC family as the Criminal and Immigration Justice Project Attorney. Rose will spearhead our policy efforts at the intersection of criminal and immigrant justice, and will help train attorneys on how to clean up immigrants' criminal records and eliminate immigration consequences. The ILRC is committed to ensuring that immigrants who are often overlooked in our justice system have access to due process and are a part of the discussion in fair and just immigration reform. 

NATURALIZATION AND U.S. CITIZENSHIP: THE ESSENTIAL LEGAL GUIDE, 14TH EDITION

The Immigrant Legal Resource Center continues to write the most accessible comprehensive guide on the naturalization process and citizenship. This indispensable guide thoroughly addresses the entire process of representing a naturalization applicant from the initial client meeting through the oath of allegiance.

This latest edition includes a detailed explanation of the nuances involved in determining whether a naturalization applicant has sufficient good moral character to qualify for naturalization, a clear and complete description of the myriad of ways in which an absence could affect one's naturalization application, and an explanation of the recently released N-400 form and how to best complete it.



One of the strengths of this resource is that it is very easy to read and understand for lawyers and other community advocates, including paralegals, community and labor organizers, and teachers. With dozens of examples demonstrating the legal concepts and thousands of citations to the law, regulations, and court cases, the reader will be thoroughly prepared to do the legal research necessary to successfully support clients towards applying for and winning naturalization.


Visit www.ilrc.org/store for a complete list of our publications.

Criminal and Immigrant Justice Project Attorney Rose Cahn *continued from page 3...*

of our successful post-conviction relief efforts—fills me with a deep passion to keep fighting, even in the most challenging of times.

Let us not be mistaken, there are challenging times ahead. I know and love many people with criminal convictions—who are undocumented or have legal status—who President-elect Trump has vowed to deport in the first hour of his first day in office. Our work to clean up people's criminal records is more crucial than ever. At the ILRC, we are vigilant at ensuring that those whose fundamental constitutional rights were denied on the front end of a criminal conviction, do not suffer irreparable, devastating, and permanent immigration consequences at the back end.

I am grateful to be at the ILRC with my brilliant and dedicated colleagues, as we prepare for this important and unprecedented fight. As the first immigration organization with a contract to help public defenders represent immigrant clients, ILRC has always been at the forefront of advancing solutions that lifts everyone up, regardless of their past. We operate squarely within the community lawyering model that animates my work and shares a fundamental commitment to supporting the leadership of the immigrant community.

As a mother of two young children, I cannot sit idly by as other families are regularly and devastatingly torn apart through the potent combination of discriminatory policing and overly punitive immigration consequences. I have developed a specialized skill that can make a broad difference. At the ILRC, I can expand the impact of my work and systematically bring solutions to immigrants whose convictions put their lives in the U.S. in jeopardy. 

Read more about Rose at <https://www.ilrc.org/rose-cahn>.

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SUPPORT ILRC TODAY

ILRC's work is even more important than ever today. In this upcoming Administration we anticipate harsh changes to immigration policy that will tear immigrant families apart. Your gift provides vital assistance to the immigrant community and the lawyers, advocates, and other allies working on their behalf.

With your help we will continue to fight for the civil rights of all immigrants.

Support the immigrant community and ILRC today by:

- Making a gift today at www.ilrc.org/donate;
- Contacting ILRC to donate monthly;
- Including ILRC in your estate plans; and
- Volunteering your time.

Thank you for your commitment to advancing the rights of immigrants.

Contact the ILRC today (415) 255-9499.