

*and Legislation*

**The USA Patriot Act: In Search of Balance**

By Dr. Gabriela Lemus, LULAC National Legislative and Policy Director



Dr. Gabriela Lemus during a press conference at the National Convention in San Antonio, Texas. (Photo by Luis Nuño Briones.)

The 9/11 terrorist attacks on the Pentagon and the World Trade Center demonstrated that vital tools were missing from the arsenal of U.S. law enforcement’s ability to gather intelligence and analyze it from a multi-agency perspective. Anxious to assuage public fear and to redress the weaknesses and “do something,” Congress passed the USA PATRIOT Act on October 26, 2001. The paradox remains: does the PATRIOT Act responsibly update, strengthen, and expand laws governing the investigation and prosecution of terrorism within the parameters of the Constitution as the U.S. Department of Justice (DOJ) claims? Or, does the PATRIOT Act merely grant the Executive Branch sweeping new powers that undermine the Bill of Rights and are unnecessary to keep the country safe? The truth probably lies somewhere in between.

A July 2004, DOJ report about the application of the US PATRIOT Act highlighted the importance of the Act’s ability to revise “counterproductive legal restraints that impaired law enforcement’s ability to gather, analyze, and share critical terrorism-related intelligence information.” The report also highlighted the Act’s enhancement of criminal laws against terrorism, “in some cases increasing the penalties for planning and participating in terrorist attacks and aiding terrorists.” However, the report failed to mention that the Act also allows FBI agents to investigate U.S. citizens for criminal mat-

ters without probable cause of crime as long as they say it is for “intelligence purposes.”

U.S. Attorney General John Ashcroft has spearheaded efforts by the DOJ to enhance its abilities to investigate and prosecute terrorists and suspected terrorists. His efforts are mixed and include expanding guidelines that greatly diminish the oversight of FBI field offices by headquarters, while at the same time expanding the ability of the different agencies to talk to one another and thus

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eliminate the “wall” to sharing intelligence among each other. Nevertheless, though in principle it would appear to be not only a good idea, but a necessary one – in practice, according to the ACLU – Ashcroft basically provided new guidelines to use 21<sup>st</sup> century technologies to carry out 1960s style spying on domestic groups, not just terrorists.

The White House, in an effort to allay the concerns of civil rights organizations, including LULAC, and to shore up support for the PATRIOT ACT held a briefing on June 28, 2004 to discuss the different issues related to the PATRIOT Act and why it was important to not allow any of its provisions to sunset. The meeting was lead by the Honorable Alberto Gonzales, Counsel to the President; Alexander Acosta, the Assistant Attorney General for Civil Rights, US DOJ; and Asa Hutchinson, Under Secretary for Border and Transportation Security, US Department of Homeland Security. The main message from the meeting appeared to be twofold: first, the USA PATRIOT Act gave law enforcement adequate tools to do their job to counter terrorism; and second, that the power of rumor versus a clear examination of facts harms communities. During the meeting, both Assistant Attorney General Acosta and Under Secretary Hutchinson

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broke down different sections of the law and basically asked the organizations present to take their perspective into consideration when making their decisions.

Although it was an excellent opportunity to create a dialogue between those agencies charged with implementing the USA PATRIOT Act, many issues were not answered fully at the meeting. They could not clarify the extent to which racial profiling was taking place in Latino communities, particularly the profiling of immigrants, nor would they say that it was related to the PATRIOT Act. They also did not seem to think that there was a problem with the breadth of discretion individual agents had to undertake an investigation and tag it as terrorist, in fact when asked, they answered that it was a standard practice. It was also not clear whether or not any real progress had been made among the different agencies to coordinate their intelligence activities and use the information.

In conclusion, it is imperative that as a national civil rights organization that defends and protects those who have no voice, LULAC continues to monitor the progress of the USA PATRIOT Act and its impact on our community. On the one hand, it is clear that law enforcement agencies need adequate tools to do their job in the defense of the national security of the nation. On the other hand, government agencies and officials need to understand that if they feel strongly that they need additional new powers to thwart terrorism and other attacks, they must prove that the benefit of said power is greater than that of its contrary effect on our First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendment rights as both citizens and non-citizens.

## Civic Participation and the Hispanic Vote: LULAC's Role

By Dr. Gabriela Lemus, LULAC National Legislative and Policy Director

The 2004 elections are widely considered to be among the most contested since the race between Bill Clinton and President George Bush in 1992. On the surface, some of the issues are similar: job loss, the state of the economy, and a war in Iraq. Yet, much has changed, including the growth and importance of the Hispanic vote.

Between 1996 and 2000, the numbers of the Latino vote increased by 19 percent, compared to Anglos, which only grew by 4.3 percent. It is expected that by the year 2050, if not sooner, Latinos are expected to make up about 25 percent of the population. In the 2000 election there were approximately 7.8 million registered Hispanic voters of which about 5.6 million voted. Yet, there still remain an additional 8 million Latino Eligible Voters nationwide who are not registered.

Arizona and Colorado are among two of the battleground states that contain a significant portion of potential Hispanic voters who are not registered to vote. Texas presents a unique challenge in that although many Latinos are registered, they are not voting on par with their registration. In Arizona for example, Latinos are 15 percent of the total Voting Age Population (VAP) Citizens for a total of 510,488 VAP Citizens. Yet, only 268,361 are actually registered to vote. That leaves 242,127 an estimated Latino registration target. These numbers are repeated throughout the nation.

The question that Hispanic communities across the country keep asking is: what will it take to get Latinos to register and vote? The Pew Hispanic Center and the Kaiser Family Foundation offer some clues in their recently released report: The 2004 National Survey of Latinos: Politics and Civic Participation. The report revealed a complex combination of native-born and new immigrant citizens, coming from all over Latin America, the Caribbean, and Spain, from different socio-economic backgrounds and varying levels of education. It also demonstrated that Latino voters are more focused on bread and butter issues such as education, the economy and jobs, and health care, as well as a serious concern over the war in Iraq and the war against terrorism.

The report also highlighted some interesting attitudes regarding the United States and being part of American society. It indicated that the vast majority of Latinos view the United States as a blend of many cultures rather than a single core Anglo-Protestant culture, an opinion that is also shared by 92 percent of all Americans surveyed. Additionally, Latinos expressed that although it is important for them to blend into the larger society, it is even more critical that they maintain their distinct cultures and that they maintain the Spanish language in future generations. They feel that this is an important trait for all cultures and ethnicities. One point that was particularly poignant was that when Latinos were asked what it would take for an immigrant to become a part of American society, they responded that they would have to believe in the U.S. constitution, vote in U.S. elections, speak English and be a U.S. citizen.

Clearly, the groundwork is laid. Approximately sixty percent of Hispanics are native-born and many of these are part of the voting age population. Those who have become citizens have the unique opportunity to engage in their civic right and responsibility to vote. Candidates, political organizations, and the news media increasingly pay attention to the value of the Latino vote. On the one hand, this reflects the close nature of the current political races and the rapid growth of the Hispanic community. On the other, in states like Colorado, Hispanics have an opportunity for the first time in a long time to elect a Hispanic to the U.S. Senate. State Attorney General Ken Salazar won the Democratic Primary and will face Pete Coors, a brewery magnate to replace outgoing Native-American Senator Ben Nighthorse Campbell. Currently, there are no Latino Senators serving in Congress.

For the first time, LULAC National is setting specific goals in the states of Arizona, Colorado, and Texas that its organizers are supposed to meet in combination with our grassroots volunteers to do door-to-door and on-site voter education and registration. The goal is to register 15,000 voters in all three states. It may seem small. But,

more importantly, the goal is to ensure that LULAC turns out of at least 50 percent of the new voters that are registered and that each and every vote is counted. In so doing, LULAC will prove that Latinos are interested in the voting process; interested in being part of American society; and interested in being good citizens by setting the example for the nation.

### **Election Protection: LULAC Partners with People for the American Way Foundation (PFAW) and TracFone**

Since 2002, LULAC has partnered with People for the American Way Foundation to ensure that every vote counts. This electoral cycle, once again, LULAC and PFAW are engaged in making sure that Latino voters know their rights before going to the polls. TracFone Wireless has joined with LULAC and PFAW in an innovative partnership, providing poll monitors with prepaid wireless phones in order to report Election Day problems and solve them on the spot.

The Election Protection Program (EPP) is a non-partisan national partnership committed to encouraging civic participation and preventing widespread disenfranchisement in the electoral process. This partnership is the nation's most far-reaching voter information, advocacy and protection program in this election, targeting 15 states, with 18 non-profit partners. Latinos represent a crucial voting bloc in at least seven of the 15-targeted states: CO, AZ, NM, NV, IL, FL, and TX. EPP trains volunteers in both English and Spanish as poll monitors and voter advocates to answer voters' questions and address problems on site at the polls, as they occur. Voters can call the Election Protection Lawyers' Hotline 1-866-OUR-VOTE, if they are having problems at the polls. Remember, Know your Rights! Register to Vote! Vote Tuesday, November 2<sup>nd</sup>! It's Your Right!