To the casual observer, it would seem that the federal government has made real progress in immigration since 9/11. And, in fact, some of the measures we've seen over the past two years are encouraging signs that immigration is again being taken seriously after decades of malign neglect, such as the shift of the immigration function to the new Homeland Security Department, progress toward developing a tracking system for foreign visitors, and registration of aliens from certain Middle Eastern countries.

But these are scattered moves lacking an overall strategy; the discussion of immigration policy in the political realm remains mired in the “give me your tired, your poor,” “America is a nation of immigrants” clichés. This drift in immigration policy has allowed the illegal-alien population to balloon to nine million, with two consequences: First, irresponsible proposals for vast amnesties (usually tarted up as guestworker programs) have been put forward by, among others, the White House, Sen. John McCain (R-Ariz.) with representatives Jim Kolbe (R-Ariz.) and Jeff Flake (R-Ariz.), and senators Edward Kennedy (D-Mass.) and Larry Craig (R-Idaho) joined by representatives Christopher Cannon (R-Utah) and Howard Berman (D-Calif.).

Second, the policy vacuum has enabled immigration policy to be set, by default, by state and local authorities, under the direction of the Mexican Foreign Ministry. Jurisdictions across the country are progressively enacting a series of measures that amount to a de facto illegal-alien amnesty — issuance of driver's licenses to illegal aliens, acceptance of Mexico's illegal-alien ID card, extending in-state resident tuition subsidies to illegal aliens, and enacting “sanctuary” measures prohibiting cooperation with immigration authorities.

There are many things the federal government should leave to lower levels of government or the private sector, but management of immigration isn't one of them. It's time Congress filled this vacuum, and with something other than the vacuities emanating from McCain, Kennedy, and their ilk.

Many public-spirited lawmakers have introduced bills to address specific problems — like Rep. Charlie Norwood's (R-Ga.) CLEAR Act to promote cooperation between immigration authorities and local law enforcement, or Rep. Tom Tancredo's (R-Colo.) bill to prevent state issuance of driver’s licenses to illegal aliens — no doubt calculating correctly that piecemeal measures have a better chance of passage. But what is the overall framework such measures should fit into? What should our immigration “meta-policy” be, the policy that determines our other policies?

We needn't go far to discover it. The popular wisdom on immigration, inchoate and incomplete as it is, should be our guide. The American people, in every survey taken, say they prefer less immigration and tighter controls, and with good reason given the economic, fiscal, social, and political problems caused by mass immigration. At the same time, we can be proud of the fact that we are the least xenophobic society in human history, making Americans out of people from every corner of the Earth. This recognizes the two parts of any approach to this issue: immigration policy and immigrant policy. The first governs the conditions we place on admission of newcomers, the second governs how we treat them once they're here.

Thus the answer: a meta-policy that combines low immigration and no-nonsense enforcement with an enthusiastic embrace of lawfully admitted newcomers. In other words, a pro-immigrant policy
of low immigration — fewer immigrants but a warmer welcome.

The conventional wisdom is that an immigration policy that admits a large number of newcomers is necessarily paired with pro-immigrant policies, and vice versa. In fact, what we have today is an anti-immigrant policy of high immigration, bearing the fingerprints of libertarian ideologues — admit huge numbers of people from abroad with very little control, but make sure they don’t get too comfortable.

What Is to Be Done?

The starting point of immigration policy must be adequate capacity, and willingness, to actually enforce the law, whatever the content of the law happens to be. Lack of enforcement has been the central problem of immigration policy — Congress can design the most elegant legal and administrative framework imaginable, but it won’t matter if the immigration authorities are not permitted to use it to enforce the law.

Let me be clear: The chief reason for the lack of enforcement of our immigration laws is not incompetence or malfeasance on the part of immigration authorities, though there is surely plenty of that to go around. The real problem is the firm determination in Congress and successive administrations that the law not be enforced.

For instance, when the INS conducted raids during Georgia’s Vidalia onion harvest in 1998, thousands of illegal aliens — knowingly hired by the farmers — abandoned the fields to avoid arrest. By the end of the week, both of the state’s senators and three congressmen had sent an outraged letter to Washington complaining that the INS “does not understand the needs of America’s farmers,” and that was the end of that.

So, the INS tried out a “kinder, gentler” means of enforcing the law, which fared no better. Rather than conduct raids on individual employers, Operation Vanguard in 1998-99 sought to identify illegal workers at all meatpacking plants in Nebraska through audits of personnel records. The INS then asked to interview those employees who appeared to be unauthorized — and the illegals ran off. The procedure was remarkably successful, and was meant to be repeated every two or three months until the plants were weaned from their dependence on illegal labor.

Local law enforcement officials were very pleased with the results, but employers and politicians vociferously criticized the very idea of enforcing the immigration law. Gov. Mike Johanns organized a task force to oppose the operation; the meat packers and the ranchers hired former Gov. Ben Nelson to lobby on their behalf; and, in Washington, Sen. Chuck Hagel (R-Neb.) made it his mission in life to pressure the Justice Department to stop. They succeeded, the operation was ended, and the senior INS official who had thought it up in the first place is now enjoying early retirement.

The INS got the message and developed a new interior enforcement policy that gave up on trying to actually reassert control over immigration and focused almost entirely on the important, but narrow, issues of criminal aliens and smugglers. As INS policy director Robert Bach told The New York Times in a 2000 story appropriately entitled “I.N.S. Is Looking the Other Way as Illegal Immigrants Fill Jobs”: “It is just the market at work, drawing people to jobs, and the INS has chosen to concentrate its actions on aliens who are a danger to the community.”

So, assuming we can actually muster the political will to act, what can we do with the nine million illegals and how can we prevent more from coming? The issue is usually presented as a stark choice — either arrest them all or give them amnesty. Since no one thinks we can, or even should, arrest nine million people en masse, the only remaining choice would seem to be amnesty, whatever fig leaves are used to mask that reality.

A Third Way. Amnesty and mass roundups are not, however, the only choices. There is a third way — squeezing the illegal population so that it declines over time, through attrition. The government estimates that each year, some 400,000 people leave the settled illegal-alien population, either by returning home voluntarily, being deported, or getting a green card. The problem is that 800,000 new illegal aliens settle here each year, more than replacing the outflow.

The enforcement approach we must adopt, then, is clear — put pressure on illegal immigrants so that more of them leave and fewer new ones come, and we will see the illegal population start to decline, allowing the problem, over time, to take care of itself. It would not be unrealistic to expect that a serious enforcement campaign would reduce the illegal population by perhaps two million people within the first year.

Nor is this mere wonkish speculation — we’ve actually seen it work on a small scale already. The immigration authorities recently concluded a “Special Registration” program for visitors from Islamic countries. The affected nation with the largest illegal-alien
population was Pakistan, with an estimated 26,000 illegals here in 2000. Once it became clear that the government was actually serious about enforcing the immigration law — at least with regard to Middle Easterners — Pakistani illegals (mostly visa overstayers) started leaving in droves, on their own. They essentially deported themselves to Pakistan, to Canada, and to Europe. The Pakistani embassy estimated that more than 15,000 of its illegal aliens have left the United States, and the Washington Post reported in May the “disquieting” fact that in Brooklyn’s Little Pakistan the mosque is one-third empty, business is down, there are fewer want ads in the local Urdu-language paper, and “For Rent” signs are sprouting everywhere.

**Broken Windows.** This example highlights the applicability of “broken windows” policing to immigration. As Michelle Malkin has pointed out, citing the famous Atlantic Monthly article by James Q. Wilson and George Kelling, ignoring “minor” immigration violations creates the same atmosphere of disorder as leaving broken windows unrepaired does in a run-down neighborhood. And, as Mayor Giuliani demonstrated in New York, the reassertion of control by the government over seemingly minor matters re-establishes a sense of order, leading to decreased lawbreaking in general.

To fix immigration’s broken windows the authorities need to start taking immigration violations seriously. To take only one example, people who repeatedly sneak across the border are supposed to be prosecuted and jailed, and the Border Patrol unveiled a new digital fingerprint system in the mid-90s to make tracking of repeat crossers possible. The problem is that short-staffed U.S. Attorney’s offices kept increasing the number of apprehensions needed to trigger prosecution so as to avoid actually having to prosecute anyone.

In fact, the law is now so widely disregarded by law enforcement officials themselves that even people who have been formally deported (rather than merely dumped back across the Mexican border) are not prosecuted when they come back, despite the fact that re-entry after deportation is a felony. On a recent visit to the border, I saw a Mexican illegal who had been deported just four days previously, whom agents had to simply send back across the line because the U.S. Attorney wouldn’t prosecute him.

It would be hard to exaggerate the demoralizing effect that such disregard for the law has on the Homeland Security Department’s own staff. Conversely, the morale of immigration workers would soar in the wake of a real commitment to law enforcement.

We’ve already seen a real-world example of this, too — I met recently with deportation officers in a newly formed “fugitive operations team” in Southern California who, unlike other immigration personnel I have spoken with, were actually excited about their jobs. They still have some legitimate gripes — lower rank than their counterparts in other agencies, for instance — but the clear political commitment to locating and deporting fugitive aliens communicates to them that their work is genuinely valued by their superiors all the way up to the White House. And it shows — the team I met with had apprehended three of the 10 most-wanted aliens announced in May by the Homeland Security Department.

The initiative that would yield the most bang for the buck would be enforcement of employer sanctions (the jargon term for the ban on hiring illegal aliens). Ideally, we need a national employment-eligibility verification system, which would allow employers to determine which new hires have the right to work in the United States. The INS developed, and its successor agencies continue to operate, several pilot programs along these lines, and participating employers are generally pleased with them.

**Less Comprehensive Measures.** Though there is currently legislation to expand the pilot programs, developing a nationwide system will take time, especially given that the immigration authorities are playing catch-up in putting together other large and complicated systems — to track foreign visitors’ arrival and departure, among other things. So, in the meantime, rather than letting the perfect be the enemy of the good, there are other, less-comprehensive, measures that can more easily be achieved and still have a very significant impact. For instance, the Social Security Administration sent out nearly a million “no match” letters last year to employers whose employees’ Social Security numbers didn’t match the accompanying names. Most of these mismatches are due to fraud by illegal aliens, and the initiative proved so effective at denying jobs to illegals that it has been nearly shut down this year, after complaints by pro-illegal immigration groups. Likewise, the Internal Revenue Service was recently reported to be exploring ways of sharing taxpayer information on illegal aliens with the immigration authorities, something it has long avoided because of post-Watergate privacy laws.

This same principle of requiring proof of legal status should be applied to other activities that most people engage in but that are infrequent enough not to bog down the business of society — for instance,
getting a driver's license, registering an automobile, opening a bank account, applying for a car loan or a mortgage, enrolling in higher education, getting a business or occupational license.

Other measures would also be helpful, some of them relatively uncomplicated:

- Zero-tolerance for immigration fraud. This is especially important for the State Department, because at some busy posts overseas the majority of visa applicants lie on their applications, but pay no price for their lies.
- An increase in assistant U.S. attorneys and judges in border districts, to prosecute illegals who return after deportation.
- Reaffirmation of state and local police authority to enforce federal immigration laws.
- Hiring more clerical staff to reduce the paperwork burden on sworn officers, who should be on the street or the border, enforcing the law.

Legal Immigration

Once an infrastructure is in place to enforce our immigration policy, what should the content of that policy be? Most immigration, regardless of the source or destination, has three components — family, employment, and humanitarian.

Family-Based Immigration. The family-based categories in current law account for nearly two-thirds of green-card recipients (and this does not include the family members of immigrants admitted under non-family categories). Currently, we offer special immigration rights to the spouses, children, parents, and siblings of Americans, plus the spouses and children of permanent residents. Since the number of immigrants admitted under many categories is limited, with per-country caps for some categories, the result is huge waiting lists; some four million people have been approved to immigrate, but must wait up to 40 years for their numbers to come up.

Simply reducing the number of people admitted under each of the family categories would serve to reduce overall immigration, but would do so simply by increasing the waiting lists, making our immigration process even more dishonest and opaque than it already is. Keeping all the family categories, but avoiding waiting lists, would require huge and continual increases in immigration. The only way to construct a transparent system which admits fewer family immigrants is to eliminate entire categories, and admit everyone in the remaining categories.

Thus, family immigration should be limited to the spouses and unmarried minor children of Americans. Husband, wife, and young children constitute the family core, and these should be the only relationships which should trigger special immigration rights. The other relationships — adult sons and daughters of citizens or permanent residents, parents and siblings of citizens — cover people who have their own families and their own lives, for whom the “family reunification” rationale for this element of immigration policy is a misnomer.

Admitting only spouses and minor children of Americans would reduce family immigration by about half. The average number of spouses and minor children of citizens admitted annually from fiscal years 1999 through 2002 was about 300,000.

Employment-Based Immigration. This second component of the immigrant flow selects people based on education, skill, or experience, often with specific offers of employment. An average of 129,000 immigrants a year were admitted under these categories from 1999 through 2002, accounting for about 14 percent of the total flow (though the majority of those admitted are actually the family members of skilled immigrants).

The five employment-based categories, with their numerous subcategories, are commonly imagined to provide for the immigration of the world's best and brightest — “Einstein” immigration, if you will. In fact, in addition to a handful of Einsteins, the employment-based categories admit a wide array of ordinary people who should not receive special immigration rights.

A cap of 25,000 would be more than adequate for a highly targeted subset of the current categories, described as “Aliens with extraordinary ability” and “Outstanding professors or researchers.” But even if such a reduction proves difficult for political reasons, a good starting point would be to keep only the first two categories of employment-based immigration, which admit the more highly skilled, and thus cut this category by more than half.

Humanitarian Immigration. This broad component of immigration has three parts: refugee resettlement (bringing refugees from overseas), grants of asylum (reclassifying as a refugee someone who is already here illegally or on a temporary visa), and cancellation of removal (a grant of amnesty to an illegal alien whose deportation would cause “exceptional and extremely unusual hardship” to a U.S. citizen).
The Refugee Act of 1980, which incorporated the international definition of a refugee into U.S. law, foresaw an annual intake of 50,000 refugees and asylees per year. Needless to say, the number always exceeded this target until refugee resettlement was all but shut down in the wake of 9/11. The average annual number of refugees resettled from 1997 through 2001 was about 75,000, and in 2002 about 30,000 people were granted asylum.

The number of refugees to be admitted in the coming year is set by the president in consultation with Congress and thus varies; but the number of asylum grants is largely out of the government’s control, since there is theoretically an objective standard by which to judge asylum claims. Likewise, cancellation of removal would appear to be potentially unlimited, depending on judicial interpretation of “exceptional and extremely unusual hardship,” though Congress in 1996 placed a limit of 4,000 such grants per year.

To introduce some predictability and control over the numbers, it would be advisable to set an overall limit for humanitarian immigration of 50,000 per year, with the element over which we have the most control—refugee resettlement—versely proportionate to the numbers of asylum grants and cancellations of removal. In other words, an increase in asylum and/or cancellation of removal would trigger a reduction in available slots for refugee resettlement; conversely, fewer grants of asylum or cancellations of removal would free up more slots for refugee admission. Not only would this introduce some control over a mushrooming category, but would force us to focus our refugee resettlement slots on those most desperately in need, rather than on those groups that have the most political influence in Washington.

Other Categories. The other major category in our permanent immigration system is the visa lottery, formally known as the Diversity Visa program. Under this scheme, 50,000 green cards are granted to people from “under-represented” countries which send relatively few immigrants, supposedly to help diversify the immigrant flow. The lottery was originally devised as an affirmative action program for white immigrants in general and specifically as an amnesty for Irish illegal aliens. (Ironically, very few Irish now come under this program.) With some 10 million people applying last year, the lottery does little but create new immigration networks and new opportunities for illegal immigration. It has no defensible rationale, no real political support, and should be discontinued immediately.

Any reconsideration of the legal immigration program must also include “nonimmigrant,” or temporary, visas, since they are the source of much of permanent immigration (in 2002, more than 60 percent of the green card recipients were already living in the United States, many of them on such visas). In FY 2002, 28 million nonimmigrants were admitted; though most went home (20 million came as tourists, 4.4 million as business travelers), hundreds of thousands of people use nonimmigrant visas as a prelude to permanent immigration, even though they have sworn to our visa officers that they have no such intent.

The main types of temporary visas that lead to permanent immigration are F visas (foreign students, nearly 650,000 of whom, together with their families, were admitted in FY 2002), H visas (temporary workers and trainees — 582,000), and J visas (exchange visitors — 325,000). To end this practice, long-term nonimmigrant visas (good for more than six months) should be made available only to those countries whose nationals seldom adjust status from temporary visitor to permanent immigrant. This would be modeled on the Visa-Waiver Program, which allows short-term visa-free entry to people from countries whose nationals do not end up overstaying their visas and becoming illegal immigrants.

Finally, guestworker programs should never be instituted; whether the guestworkers are tomato pickers or computer programmers, such schemes always fail — they inevitably lead to permanent settlement and they actually promote more illegal immigration.

Immigrant Policy

So much for immigration policy. What of the second component of the meta-policy — the “warmer welcome”?

The place to start fixing immigrant policy is the immigration office. The service side of the former INS, now called U.S. Citizenship and Immigration Services, has an abysmal record of dealing with applicants — absurdly long lines, surly staff, and applications lost in bureaucratic black holes. This should sound familiar to most Americans, because that’s exactly the way most state motor vehicle departments used to operate. But even as DMVs have gotten better over the past decade, the immigration service has not. This is wrong; one expects immigration enforcement to present a stern face to illegal aliens, but why are legal immigrants subjected to such caprice and discourtesy, especially since they’re paying for the privilege through fees?

The analogy with DMVs is not frivolous. “We consider ourselves to be the face of state government,” says Robert Martinez, New York’s DMV director, and the same idea applies to immigrants. Just as the DMV
is the one government agency that virtually all adult citizens are sure to have business with, the immigration service is, necessarily, the one agency that all immigrants have to deal with at some time or another. As a recent article in Governing magazine pointed out, DMVs have made significant strides both in technology (increasingly conducting routine transactions online, for instance) and in customer service (take-a-number lobby management, among other things). But the immigration authorities have barely begun inching in this direction.

Only this spring did the immigration service begin to permit electronic filing, and only of two specific forms, which account for about 30 percent of the total number of applications received in a year. But electronic filing doesn’t mean electronic processing — employees still have to print out the applications at their end and file them in color-coded, bar-coded folders with millions of others, filling row after row after row of bookshelves in service centers around the nation.

**Limits to Technology.** Although the government plans to permit e-filing of several additional forms in the near future, there are limits to how much technology can streamline the process. Immigrants are, by definition, strangers here and will always have even more difficulty navigating our bureaucratic mazes that we do. What’s more, because immigrants generally have little education and are likely to come from less-developed societies, there is only so much automation that will be possible — a peasant with a third-grade education is never going to be comfortable filing forms on line, and even if someone offers to do it for him, he’s still likely to prefer to touch and feel and hold tangible paper forms, rather than rely on the digital ephemera that modern society is increasingly based on.

This is where improving customer service comes in. Efforts are being made to modernize and professionalize customer service, a goal rightly stressed by President Bush in several public utterances. The immigration office in downtown Los Angeles, for instance, will soon be unveiling an overhaul of its customer intake operation, in an effort to avoid the spectacle of 2,000 people waiting on the sidewalk outside by six a.m. Better triage of the crowds is already underway, under the direction of the irrepressible Al Mills, director of public services there; for instance, just like at some crowded airline ticket counters, “line ambassadors” check with people in the queue to see if they can be served more expeditiously in some other way, and the use of appointments is increasing as a way to improve efficiency.

**Promoting Americanization.** After improving the bureaucratic process to make it more welcoming (or at least less forbidding), the next step is to help newcomers integrate into our society as expeditiously as possible. To begin with, all newcomers we admit for long-term residence must be admitted as Americans in training, and not as servants whose labor we rent at our pleasure and discard when convenient. That means no guestworker programs and no winking at illegal immigration, both of which allow foreigners to live here, but only on a contingent basis, at our sufferance.

Proactive efforts at assimilation have been sorely lacking during this latest wave of immigration, unlike at the turn of the last century. In his 1998 book, The Unmaking of Americans, John Miller described such efforts in the early 20th century, including the North American Civic League for Immigrants, a group of businessmen, philanthropists, writers, and others who promoted Americanization through lectures and pamphlets entitled “The Story of the American People,” “Abraham Lincoln,” and “George Washington.” After a bitter strike by immigrant workers, the public schools in Lawrence, Mass., developed an “American Plan for Education in Citizenship,” which included lessons in history to teach “love and loyalty for America” and promoted things “which the American spirit holds dear.” The very fact these phrases need to be put in quotes tells us much about how far we have strayed.

Nonetheless, there is much that can be done. At a practical level, there is merit in a recommendation by the U.S. Commission on Immigration Reform for...
orientation materials to be presented to new legal immigrants upon admission, almost like an instruction manual for life in America. This would include a welcome statement on behalf of the American people, a brief overview of American history and civics, and “tools for settlement,” including basic information on registering for the draft, paying your taxes, U.S. holidays and weights and measures, why you should wear seat belts, the importance of credit reports and paying bills on time, how to use the postal and telephone systems, a map of the country, etc. (A very limited version of this, specifically stressing the importance of becoming a citizen, is already in the works.) We take much of this for granted, but for a newcomer, having all this in one place can be a godsend.

Political psychologist Stanley Renshon in his upcoming book, The 50 Percent American, recommends that governments go farther and partner with businesses, civic groups, and others to set up welcome centers throughout the country to help immigrants and their families adjust to the institutions and culture of the United States, as a way of cultivating a deeper attachment to the national community.

Teaching English. Expanded English language instruction is also vital to a warmer welcome. Most of the debate on this topic has revolved around the relative merits of bilingual education for school children, but adult education is the biggest unfilled need. The 2000 census found that there were 21 million people who did not speak English “very well,” and this is a serious handicap both to the immigrant’s economic success and to his Americanization. A large number of people are already enrolled in English as a Second Language classes — there are more than one million people in Department of Education-funded ESL classes alone, not to mention classes run by various churches, businesses, ethnic associations, etc. But because of the unprecedented scale of today’s immigration, there remains a huge unmet demand; a 1997 Department of Education report found that the number of non-English speakers not in ESL classes but who were “very interested” in enrolling was half again larger than the number of people actually enrolled. By this measure, less than half the demand for English-language training is being met, something confirmed by anecdotal reports of thousands of immigrants on long waiting lists for classes.

How this demand should be met is open to debate: Increased funding from the Department of Education’s Office of Vocational and Adult Education? Or promotion of private initiatives by the Department of Homeland Security’s new Office of Citizenship? But however it is approached, the importance of such an effort is highlighted by Renshon: “A laissez-faire approach to helping immigrants learn English damages immigrant mobility and attachment.”

Less Immigration Helps Immigrants. The final component of the warmer welcome is counter-intuitive, but very powerful — immigrants will be helped by reductions in future immigration. The first beneficiaries of lower levels of admissions would be the immigrants already here; they would experience less job competition and thus higher wages, the schools their children attend would become less congested, and the medical facilities they need would stop drowning in red ink.

More difficult to quantify, but perhaps as important, lower levels of immigration would make less pressing the tough measures that have been taken or proposed to manage the burgeoning immigrant population — restrictions on access to welfare, stringent deportation rules, etc. With a smaller flow of new immigrants, and a gradually shrinking immigrant population, mass immigration will be allowed to recede into our nation’s history, permitting much more flexibility in the oversight of immigrants. We saw this with the retirement in the early 1980s of the requirement for every green-card holder to mail in a postcard at the beginning of each year notifying the INS of his whereabouts. Also, the public-charge provisions of immigration law — providing for the deportation of immigrants who go on the dole — ceased to be enforced as immigration faded from memory. Whether these are good ideas in principle is not the point; the fact that such issues will become less and less salient as immigration pressures ease means their resolution one way or the other will be a matter of much less consequence for the future. Getting them right won’t be as important and getting them wrong won’t be as dangerous.

Our immigration mess is politically unsustainable. Too many lawmakers from both parties have decided that amnesty and effectively open borders are the only way to solve this problem, despite overwhelming public opposition. This disconnect between the public and the elite represents an enormous opportunity for a political figure championing a pro-immigrant/low-immigration approach to reform.
Many public-spirited lawmakers have introduced bills to address specific problems with our immigration system — like the CLEAR Act to promote cooperation between immigration authorities and local law enforcement, or measures to prevent state issuance of driver’s licenses to illegal aliens — no doubt calculating correctly that piecemeal measures have a better chance of passage. But what is the overall framework such measures should fit into? What should our immigration “meta-policy” be, the policy that determines our other policies?

The answer: a meta-policy that combines low immigration and no-nonsense enforcement with an enthusiastic embrace of lawfully admitted newcomers. In other words, a pro-immigrant policy of low immigration — fewer immigrants but a warmer welcome.