DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

SECOND SESSION

SUBCOMMITTEE ON THE DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES

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UNDOCUMENTED ALIENS

Printed for the use of the Committee on Appropriations

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WITNESSES

STATEMENTS SUBMITTED FOR THE RECORD

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS

FRIDAY, FEBRUARY 24, 1978

HEARING ON UNDOCUMENTED ALIENS

LOS ANGELES, CALIF.

WITNESSES

LEONEL CASTILLO, COMMISSIONER, U.S. IMMIGRATION AND NATURALIZATION SERVICE
JOHN PHALEN, INTERNATIONAL INSTITUTE OF LOS ANGELES
AL JUAREZ, ONE STOP IMMIGRATION CENTER, INC.
REMEDIO GAEGA, ASIAN DEMOCRATIC CAUCUS
DELFINO VARELA, MEXICAN-AMERICAN POLITICAL ASSOCIATION
KEITH COMRIE, LOS ANGELES COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES
MORRISON E. CHAMBERLIN, LOS ANGELES COUNTY DEPARTMENT OF HEALTH SERVICES
IRENE JACKSON BARANIUK, FOOD ACTION PROGRAM, NAPP
TIMOTHY BARKER, LEGAL AID SOCIETY, SAN DIEGO
DAVID IVERSON, LEGAL AID SOCIETY, RIVERSIDE
MATT MILLEN, LEGAL AID SOCIETY, LONG BEACH
JORGE BUSTAMANTE, EL COLEGIO DE MEXICO, PROFESSOR, RESEARCH CONSULTANT (SPECIAL ADVISER TO THE MEXICAN GOVERNMENT ON PROBLEMS ARISING FROM IMMIGRATION TO THE UNITED STATES)
ADMIRAL DAWSON, LOS ANGELES AREA CMTE. FOR TRADE UNION ACTION AND DEMOCRACY
JOSEPH A. O'SULLIVAN, DIRECTOR OF PUPIL PERSONNEL SERVICES, ORANGE COUNTY SCHOOL DISTRICT
SANTIAGO JACKSON, LOS ANGELES CITY SCHOOL DISTRICT
TOM BANCROFT, LOS ANGELES COUNTY SCHOOL DISTRICT
MANUEL GARCIA, PROFESSOR, HISTORY, UNIVERSITY OF CALIFORNIA AT LOS ANGELES
SHELDOM MARAM, PROFESSOR, CALIFORNIA STATE UNIVERSITY, FULLERTON
RODOLFO ALVAREZ, AMERICAN CIVIL LIBERTIES UNION OF SOUTHERN CALIFORNIA
MORRIS J. BALLER, MEXICAN-AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND
MAGDALENA DURAND, NATIONAL COALITION FOR FAIR IMMIGRATION LAWS AND PRACTICES
ELIZABETH BARBER, SHCJ, MEND: MEET EACH NEED WITH DIGNITY; IMMIGRATION CENTER OF SANTA ROSA CHURCH, SAN FERNANDO, CALIF.

INTRODUCTORY REMARKS

Mr. SLACK. The purpose of this hearing is to take testimony on the subject of undocumented aliens, including their impact on society, their treatment and their problems, as well as suggested solutions to those problems.

Before proceeding, I would like to introduce the members of the Committee.

On my left, we have Mrs. Burke of California, Mr. Roybal of California and Mr. Burgener of California. On my right, we have Mr. Alexander of Arkansas and Mr. Early of Massachusetts.

The Appropriations Subcommittee on State, Justice, Commerce and Judiciary has jurisdiction over funding for the Immigration and Naturalization Service, which service, in turn, has the responsibility for administering and enforcing the laws relating to immigration and naturalization. This includes inspection at ports of entry, patrolling boundaries to prevent illegal entry, investigating the status of aliens, and providing for deportation and removal of aliens found to be in this country illegally.

The budget request for fiscal year 1979 for the Immigration and Naturalization Service is $298,019,000. This represents an increase of $31,569,000 over the appropriations provided for fiscal year 1978, the current fiscal year.

We will discuss the details of the 1979 budget with the Department of Justice and INS in a hearing in Washington in a few weeks.

Today, however, we wish to discuss that portion of the INS program which deals with the apprehension and the treatment of aliens.

It is my understanding that the number of individuals apprehended by the INS is increasing at an annual rate of some 20 percent, and that in fiscal year 1977, there were more than one million apprehensions. Most apprehended individuals are immediately transferred back to the country of their origin; however, it is estimated that from four to six million individuals remain in this country illegally.

It is my belief that every level of Government is committed to humane treatment for these individuals; however, they do have a decided impact upon our schools, our health programs and other public services, as well as many other aspects of our society.

Today, we hope to hear from witnesses on all aspects of these problems, from differing perspectives, so that we can deal with legislation concerning these issues.

May I, at this time, recognize one of the most valuable and certainly dedicated members of not only this Committee, but of the United States House of Representatives, the Honorable Yvonne B. Burke, and I shall ask her to chair these hearings.

Thank you.

Ms. BURKE [presiding]. Thank you very much, Chairman Slack.

Before we proceed with the witnesses, I would like to recognize the presence of Lou Hoss from Senator Cranston's office and Jim Brown from Senator Hayakawa's office. There is also a representative here, from Congressman Jerry Patterson's office. As other members of Congress or their representatives come in, we would like to recognize them.

I welcome the members of this subcommittee to Los Angeles. I am very pleased that this hearing is taking place because it is very necessary.

Testimony of Commissioner of Immigration

Our opening witness will be Commissioner Leonel Castillo, of the U.S. Immigration and Naturalization Service. We welcome you also to our Subcommittee and are very pleased that you could come here from Washington to present your testimony. You may want to introduce those accompanying witnesses who are with you this morning.

Welcome to the Committee.

Commissioner Castillo. Thank you, Ms. Burke.

I am accompanied this morning by Mr. Ed O'Conner, the Regional Commissioner for the Western Region and by Mr. Joe Sureck who is the District Director of the Los Angeles District Office.

I appreciate this opportunity to appear before this Appropriations Subcommittee in one of the Immigration Services' trouble spot to tell you about some of our problems and about some of the progress we are making towards solutions.

As you may know, Southern California is a major area for the entry of undocumented aliens into the United States and the area, however, is also the foremost settling point for new legal immigrants to this country. This includes many nationalities, Vietnamese, Mexican and many others.

While the traditional patterns of immigration settlements have moved from the East Coast to the West Coast, the staffing of immigration officers and the formation of social and legal services to serve the immigrant populations have not kept pace. As a result, many problems have developed as INS attempts to carry out its responsibility.

Even before I was named Commissioner, I had heard of some of these problems. As a result, my first trip to any District was to this district in Los Angeles. I was here within a week after being sworn in. The situation that I found was as serious as I had been told and, perhaps, even more so.

People were lining up at midnight in hopes of being seen the next morning. Many telephone calls were going unanswered or callers received only a busy signal. Information and forms were difficult, if not impossible, to obtain, without a trip to the office, and, oftentimes, an all-day wait in line.

The blacklogs of pending cases to be adjudicated, even simple ones, were so great that it took months or even years to reunite relatives, to obtain adjustment to permanent resident alien status, or, in some cases, to receive a simple extension of a stay for a student.

The typewriters that I saw in the office as I toured the facility were old and, in many cases, broken. Some employees had brought their own typewriters to use. I saw cash registers used to collect fees that were very old and these cash registers required writing on the tape for each transaction.

The holding facility for undocumented aliens, located in the basement of the building, was dark, dirty, overcrowded and foul-smelling. We used Port-a-Cans.

In short, the Los Angeles District Office typified problems that exist throughout the Immigration Service, except here all the problems exist and in a dimension that it outstripped any other location.

Some examples or some ideas as to how this developed would be in order.

Since the 1960's, the number of applications and petitions received in our offices nationwide have more than doubled from 58,000 monthly to more than 123,000.

In Los Angeles, the monthly average increased from 6,900 to over 10,300.

Nationwide, the backlog in January of 1960 totaled less than 20,000. Last June, it totaled 240,000, and, in Los Angeles alone there were more than 40,000 cases pending.

While we have been falling steadily behind for some years, the situation became critical in January 1977, after the Western Hemisphere Bill became effective. That legislation permitted aliens from this hemisphere to adjust to permanent resident alien status without having to leave the United States. It also allowed persons here to petition for other family members from the Western Hemisphere to join them. Both of these impacted heavily on INS, especially Los Angeles where many of the non-citizens are from Western Hemisphere countries.

Nationally, our receipts, since passage of the legislation, increased about 25 percent, from 99,000 a month in calendar '76 to 123,000 monthly in '77. In Los Angeles, monthly receipts increased by more than 10 percent in '77.

At the same time, this office was besieged by thousands of applicants who were here without documents, but who were covered by benefits resulting from a Chicago Court Decision in the Silva case. All of these additional workloads were to be dealt with with almost no additional staff.

Last May, we determined a way to deal with this problem to the extent that it was possible. And while we have a long way to go, I am proud to tell you that I think we have made a very good beginning.

The problem that seemed the most troublesome and, at the same time, most amenable to solution was the backlog situation. We developed a plan to do so.

We created a mobile adjudications task force of personnel from smaller offices and asigned them to temporary duty at larger problem offices. We increased the number of adjudications sent to ports of entry to be performed by inspectors during the standby time when traffic is light and, at this point, about 50 percent of all of our applications are handled by inspectors at airports and ports of entry during their down time.

We began to streamline processes where possible by simplifying and combining forms. I will say a little more about that in a few minutes.

We expanded our outreach program in which we trained community volunteers to assist persons in completing forms and applying for immigration benefits and we began to introduce modern automated word processing equipment.

Putting these methods into action has contributed greatly to our operations.

From June through October, while receipts rose one-third over the preceding year, we cut backlogs by 20 percent from nearly a quarter of

a million to 190,000. With no increase in people or dollars, we increased productivity more than 40 percent, completing 136,000 cases monthly compared with what had been our normal rate of 94,000.

In Los Angeles, where we have concentrated these efforts, the backlog of pending cases was chopped nearly in half from 40,000 to 21,000.

To insure that we don't lose all of the ground that we have made up, we have also done some new procedures. We combined some forms to enable non-citizens to apply for two benefits in one action instead of two separate transactions. This will save time for them and will speed processing by us.

The three forms that are most used by the Immigration Service are the I–130, the I–140 and the 485. Essentially, these forms call for giving of benefits to legal immigrants who are here and who want to enter either on relative basis or on an occupational basis and then the adjustment of status was a separate form.

I have taken these forms and now, rather than completing nine separate—or dealing with nine separate pieces of paper, they will deal with four. The significance of this is going to be tremendous when you consider that we receive over a half million of these per year and so we have cut that paperwork—or we are cutting that paperwork by that percentage, from nine to four. And, although I won't go into the details of those, I will have this available for anyone that would care to look at it.

We are also looking—and it is not in the statement I gave you, but we are also looking at the idea of granting benefits to foreign students who are here for a period of years to study through use of a single application at the start of their time in the United States.

Under the current procedure, we grant them a visa for one year and then they apply for an extension every succeeding year. So, if a student is here to study petrochemical engineering, he fills an application for the first year, second year, third, fourth year, and when you have 250,000 foreign students in the United States, that is a lot of paper.

On the other hand, that student could complete that visa application for the first year. We could simply call the school and see if the students are still there, still studying, passing and so on, and reduce the paperwork by more than half in that operation.

Now, these two things that I just mentioned, the combining of these most-used forms and the possibility of a similarly dramatic action with foreign students will go a long way toward helping us become fully current in processing the benefits for legal immigrants.

In addition, when these applications are filed in person, an interview date now is to be arranged before the applicant leaves the office. This will eliminate the uncertainty and the doubt for the applicant and will reduce inquiries to our office in status cases.

We have also recently identified which areas of our workload in this District could be most helped through automation. The prime targets are alien file control and application and petition tracking. This will mean the development of an electronic system that will enable us to instantly find the location of a file or the status of a case being processed.

We have installed such a system in Houston, a much smaller office, where we have tested the program and we are now ready to move it to

Los Angeles on a much larger scale. We are hopeful of having it fully operational within six months. This will be the first automated equipment to be used in Los Angeles for INS.

In the meantime, last week, we installed in the District Office a terminal that allows direct inquiries to our master files or master index in Washington. This tells us immediately what the location of a file is and this will be necessary before action can begin on adjudication or application.

We now have additional space in the area most used by the public and we are adding fingerprint stations to reduce the lines and to reduce the waiting time.

Through the cooperation of the City of Los Angeles and other cities throughout the United States, we are adding CETA employees to our offices. Here, we have added 76 persons through CETA manpower training programs and these people are helping us in clerical and other jobs such as fingerprinting that is necessary for identification cards and other documents.

It is still very difficult to reach this office by telephone. We are to solve that through automation, some new systems and we hope some additional people.

One development which will have a beneficial effect upon this office is that the applicants for benefits under the Silva Decision, which I mentioned earlier, have declined to about 1.800 monthly. They had been averaging 15,000 a month, but, apparently, the impact of that legal decision is lessening to such an extent that we can begin now to have a little more control over the flow.

Earlier this week, we opened two satellite offices in this area, one in El Monte and the other in Santa Ana, both suburban locations. These are service offices only with no law enforcement functions conducted from those locations. They are extensions of the District Office and they will handle adjudications and processing, respond to inquiries and distribute forms which will be available from self-service wall racks, again a new innovation.

They are staffed with experienced officers who are fluent in Spanish and English.

They have opened in temporary quarters pending some completion of work on the permanent sites. They will make access to INS a lot easier and then it will relieve some crowding and parking problems downtown.

We have also done some other things. We have renovated the area in the Federal Building where we hold undocumented aliens awaiting removal from the country. That will open March 6 and will be a clean, more comfortable facility with recreation equipment and television for use by the detainees. It will also include separate quarters for females.

Parenthetically, I might add that that project was delayed somewhat because GSA's first contract included 16 employees who were working on our holding area and we found that 15 of those employees didn't have documents to be in the United States.

We closed several weeks ago the temporary holding area that we were using during the renovation period at the Bell site after conditions at that site were called to my attention by Congressman Roybal and others.

Through some hard work and cooperation of the court, we have also begun to reduce the waiting time for naturalization applicants. It is down, I am told now, to four months. It had been over a year and more.

Earlier this week, we naturalized 2,000 people in two court sessions, morning and afternoon, but this double session has helped us to reduce the number of people awaiting final court action on citizenship and the applications are now down to less than 3,000. They had been 8,000 at the start of the year.

As another service, we are handling the preparation of citizenship certificates for the court so that these can be presented at the time of swearing in. Previously, people had to wait four months for them to be mailed.

In the past few months, we have emphasized improved service to the public, but not at the cost of law enforcement. We have strengthened the enforcement in several ways. We added border patrol personnel to the heavy crossing point in Chula Vista here in Southern California. We developed an anti-smuggling program and we began some planning for some technological improvements that will reenforce our capabilities.

Before closing, I would like to tell you about one smuggling case that was broken here in Southern California recently. This case illustrates particularly well the exploitation that undocumented aliens are subjected to.

A smuggling ring had been bringing in families from Mexico and Central and South America at a charge of $200 a person. The adults are smuggled in first and then the children. However, when the parents attempt to obtain their children, they were told that the price had gone up. The children were being held hostage until additional money was paid. In this case, a seven-year-old girl who was freed when we broke the ring had been held for more than a month while her parents tried to obtain the money to gain her release. The smugglers first demanded $750 in addition to their original smuggling fee and then later increased this to $900.

The principals in this operation were arrested two weeks ago.

We are going to continue to emphasize anti-smuggling activities in the hopes of making it very difficult for these smuggling operations to continue.

We have begun specialized training of 170 assigned investigators who will later, hopefully, become permanent. At the moment, they are now on 60-day period assignments.

I am proud of these achievements that the INS personnel have made in the past few months. Of course, we are not satisfied that we have progressed far enough either here in Los Angeles or nationally, but we are making improvements and, in the first seven months, all of these improvements were made with no additional people and no additional dollars.

We are making these improvements quite rapidly; some are evident already, such as the satellite offices and the reduced time for applications. I expect to see an acceleration of the rate of change in the next few months and then many more improvements will be visible.

I hope that we will have a later opportunity to demonstrate these to members of the Subcommittee.

I thank you.

Ms. BURKE. Thank you very much.

Commissioner Castillo, first I will recognize Chairman Slack.

Mr. SLACK. Thank you, Madam Chairman.

Mr. Commissioner, what impact did President Carter's amnesty proposal have upon the influx of illegal aliens across the Mexican border into the United States?

Commissioner CASTILLO. There had been some news reports that the President's message stimulated the flow. Our apprehension figures don't reflect any noticeable change from prior months or prior years of continued increase, but not in any higher percentages.

One survey made in El Paso indicated that out of 200 persons that we apprehended and deported to Mexico not one had ever heard of the President's amnesty program. Other surveys made indicated that a few had heard, but that is not what brought them over. They were coming over as before, to work primarily.

So, we don't see any real impact. Apparently, people in other countries are just as aware as the people in this country are that the program is still a proposal before the Congress.

Mr. SLACK. Thank you, Mr. Commissioner.

Ms. BURKE. Thank you.

Just for a matter of clarification, the order in which I will recognize Members for questions will be in the order of seniority on the Subcommittee and then I will go to the other members of the Appropriations Committee, if there are no objections.

I recognize Mr. Alexander of Arkansas.

Mr. ALEXANDER. Thank you very much, Ms. Burke.

Mr. Castillo, thank you very much for the testimony that you have have given the Subcommittee this morning. I have one or two short questions that I would like to ask you.

Assuming the proposal of our President is implemented, does the Service have an estimate of the number of undocumented aliens that would take advantage of this offer by our country to obtain the new status that would be derived from this proposal?

Commissioner CASTILLO. We have presented to the chairman of the judiciary committee for planning purposes some numbers and I would be happy to provide you with that full set of numbers, but just right now, briefly, we estimate that the high number of persons that might be eligible for permanent resident alien status would be a half million to 700,000 and the range of numbers of persons who would be eligible for temporary resident alien status would be two to three-and-a-half million.

Mr. ALEXANDER. Two to three and-a-half million?

Commissioner CASTILLO. Yes, sir.

Mr. ALEXANDER. Have estimates been made of how much revenue in taxes would be derived from this change of status from undocumented alien to a legal status?

Commissioner CASTILLO. Not that I know of. There have been some small studies in different communities that indicate that at least 77 percent of all of the undocumented aliens pay all the taxes and that fewer than two percent are on welfare. So that the best data we have indicates that they are already paying their taxes, so that there would be very little change in the overall economic status of the United States.

Mr. ALEXANDER. I would request, for later submission, information which the Service might derive from that inquiry.

And one follow-up question. Has the Service made estimates of the impact on the labor market, particularly in Los Angeles County, of a change of status from undocumented to legal?

Commissioner CASTILLO. The proposal that the President has suggested to the Congress would not reduce or change the size of the labor force in the United States. People affected are already here so that there would be no change in the labor force.

Where there might be a change and where we expect there would be some complaints would be if we had more enforcement, as the President recommended, more people at the borders, ports of entry, airports and so on, and then some U.S. employers, we expect, would be complaining because they couldn't find their workers because they wouldn't be able to get in as easily.

Mr. ALEXANDER. I can't resist asking you about the smugglers and I commend the Service for prosecuting these people. Now, what sort of success have you had from your attempts of prosecution and what kinds of penalties are imposed upon people who have preyed upon these unfortunate individuals?

Commissioner CASTILLO. Last year we apprehended 12,000 smugglers—a little better than 12,000. The average sentences, though, of those much smaller numbers that actually end up with prosecution are one to two months, $200.

Mr. ALEXANDER. Two hundred dollars?

Commissioner CASTILLO. Yes, sir. And we are looking now into more cooperative efforts with the U.S. Attorneys, judges and other parts of the judicial enforcement community to see about increasing these penalties.

Mexico, on the other hand, has very severe penalties against the smugglers and there are five-year and six-year sentences for smugglers in Mexico. They usually give them six years because you don't get paroled if you get more than five. They are holding about 600 people in Tijuana for smuggling.

Mr. ALEXANDER. Have you concluded that the laws which would discourage smugglers from taking advantage of people are ineffective?

Commissioner CASTILLO. I think that they could be effective if we were, one, more vigorous in prosecuting, and, two, had a little better relationship with our own other law enforcement and judicial agencies.

We expect to see more apprehensions, more prosecutions.

And I must add, we are not concentrating strictly in Southern California because the person that enters in Southern California may be smuggled to Vermont, so we have to develop a nationwide network and we will make prosecutions all over the country.

Mr. ALEXANDER. I don't want to monopolize this hearing and I will ask but one more question.

We have all heard these horror stories that emanate from smugglers taking advantage of people trying to come to this country for one reason or another, I am appalled that our own laws are not sufficiently prosecuted to discourage this type of activity. Has the Service looked into the reasons why the various U.S. attorneys are unable or unwilling to prosecute these people at the various points of entry?

Commissioner CASTILLO. They usually have enormous backlog problems of their own with thousands of cases and they only—as you would expect, they have priorities in their cases. We hope to give them better cases, more airtight, that they could move more quickly on.

We also have some quirks in the law that we are hoping can be changed. But, for example we are recommending that we have authority to seize and impound vehicles used by persons to smuggle people. We have authority to impound a vehicle used to smuggle contraband, but if it is used to smuggle people, we can't impound it. So that we have apprehended some people using the same vehicle twenty-five times.

Mr. ALEXANDER. Well, Mr. Commissioner, the experience of a $200 fine does not indicate to me a backlog. It indicates an unwillingness on the part of the United States Justice Department to prosecute these people and an unwillingness on the part of the judges that try these cases to impose penalties that will discourage this type of activity. I would like to look further into the matter.

Thank you very much, Ms. Burke.

Ms. BURKE. Thank you very much.

Mr. Early of Massachusetts.

Mr. EARLY. Thank you, Ms. Burke.

Commissioner, I appreciate being here and I appreciate your statement.

On page 4 of your statement, Commissioner, you suggest that you have cut the backlog and you have had no increase in personnel. I thought last year that we had a freeze on almost every area for additional personnel and I thought this was the area that Ms. Burke had prevailed upon.

Mr. SLACK. That is correct.

Mr. EARLY. Didn't we have a considerable increase in personnel in your agency last year?

Commissioner CASTILLO. I arrived at the Immigration Service in May and was met with a freeze that had been imposed by the President.

Mr. EARLY. I know we had the freeze because I think it was on one occasion, Ms. Burke—that we were voting against each other. I was against the increase of personnel and you were for adding the people.

Commissioner CASTILLO. So that the freeze and various ceilings—at one time, we were only allowed to replace three of every four people that I started this on, but they weren't really lifted until the end of the year.

Mr. EARLY. Well, do you say this decrease in your backlog from a quarter of a million to 190,000 was because of the reduction in forms from nine to four?

Commissioner CASTILLO. That hasn't even started yet.

Mr. EARLY. That has not started?

Commissioner CASTILLO. That is from these other things. That is from the task force——

Mr. EARLY. So that this Committee can look forward to a larger reduction in the backlog?

Commissioner CASTILLO. I expect to see a much larger reduction as a result of these form consolidations.

Mr. EARLY. Do you have any estimated time in which we would have the backlog completely removed?

Commissioner CASTILLO. Well, I think clearly in seven months.

Mr. EARLY. Seven months; fine.

Also, in your statement you suggested in these forms that the interviewee now establishes a date when he or she will come back to the office. You didn't suggest how long that time is.

Commissioner CASTILLO. I think it will vary from office to office and how current or——

Mr. EARLY. Is it a reasonable time?

Commissioner CASTILLO. It is not reasonable nationwide yet. We are trying to cut it down.

One of the benefits of that is that in the past, we wouldn't give them a date at the time they came in. We would have to contact them later, which means you have to make two transactions with the individual, once when they are in front of you and then another time by mail to call them in and you just usually lose that much time. Now, we do it all at once. The time here in Ios Angeles is three months.

Mr. EARLY. Is there pending legislation to increase the penalties for these convicted smugglers?

Commissioner CASTILLO. There is no legislation that I know of to increase the penalties for smugglers. There is already a number—there are already a number of statutes now that would enable judges to impose penalties that would be more severe.

Mr. EARLY. Well, it doesn't seem adequate that, if they are, from your testimony, charging $200 per person to be illegally smuggled into this country and then the smuggler pays a fine of only $200. That there is no deterrent to terminate the activity.

Commissioner CASTILLO. It is a big money proposition and some of them view that as the cost of doing business.

Mr. EARLY. I see.

I have no further questions, Ms. Burke.

Ms. BURKE. I would like to pursue this whole question of the personnel. You say there is a freeze by the President.

you say there is a freeze by the President.

Commissioner CASTILLO. There was.

Ms. BURKE. Was that on the Border Patrol or on immigration personnel working in the processing of applications?

Commissioner CASTILLO. That was on all personnel. We were allowed a total level that we could not exceed.

Ms. BURKE. One of the areas of my concern was the airport. Was there a freeze on INS personnel assigned to Los Angeles International Airport?

Commissioner CASTILLO. Yes.

Ms. BURKE. Has that been lifted now?

Commissioner CASTILLO. Yes.

Ms. BURKE. When was it lifted?

Commissioner CASTILLO. We are now hiring individuals nationwide. Of the '68 budget, benefits are just now beginning to be felt of service wide.

Ms. BURKE. When did the President lift the freeze on the personnel?

Commissioner CASTILLO. The freeze was lifted, for our purposes, in August/November. We were then hit a few weeks later with a Civil Service ruling that we could not hire anyone under our then existing system of merit promotion in employment. And so there we had an-

other freeze, in effect, for some weeks. That went through Christmas where we had to negotiate with the union and settle—decide on a new system.

Finally, at the start of the year, we were able to start hiring the people. So, it has only been since January that we have really been hiring the new people that have been authorized in the '78 budget that really took effect in October.

Ms. BURKE. I will now recognize Congressman Roybal of Los Angeles a member of the Committee on Appropriations who serves on the Labor-HEW and Foreign Operations Subcommittees. We are pleased that you would join us here today.

Mr. ROYBAL. Thank you, Madam Chairman.

Mr. Castillo, you stated that the problems in Los Angeles were in a dimension that outstripped any other location.

Commissioner CASTILLO. Yes, sir.

Mr. ROYBAL. You came to the conclusion that the Los Angeles District typified the worst problems that existed throughout the Immigration Service.

Commissioner CASTILLO. Yes, sir.

Mr. ROYBAL. You also stated, correctly, that you have made some changes.

Commissioner CASTILLO. Yes.

Mr. ROYBAL. Now, how does the Los Angeles Office now compare to other offices? Is it still the worst in the Immigration Service?

Commissioner CASTILLO. I think it has some of the most serious problems. Not all of the problems are the most serious now.

But, historically, immigrants arrived on the East Coast and so, Immigration Service placed its resources on the East Coast. And now, the largest workload is on the West Coast, but our District Director has only 444 people on board, whereas, in New York City, we have 800.

Mr. ROYBAL. Well, I called this problem to the attention of your predecessor several years ago and I told him then that the Los Angeles Office did, in fact, typify the worst problems that existed throughout the Immigration Service.

Now, why hasn't it been possible then, since you have a freeze on employment, to make transfers of individuals to the area where there is greatest need and that would be in Los Angeles?

Commissioner CASTILLO. Well, we did. We started with these task forces immediately to get a better picture on just what kind of workload problems we had and what sort of backlog and we reduced the hiring along the eastern seaboard and set first priority on hiring on the western part of the country.

Mr. ROYBAL. Well, in Los Angeles, for example, I remember going to visit the Immigration Service and saw that there were only four clerks trying to take care of thousands of people during a 1-week period. Now, there are seven clerks.

Commissioner CASTILLO. Well, there should be more than that because we authorized just seven for fingerprinting alone.

Mr. ROYBAL. Well, perhaps in fingerprinting you have, because it is my understanding now that an individual can go directly to the fingerprinting line. But, if he wants any information or anything at all with regard to immigration, he has to stand in one line, he gets to that window and then he is directed elsewhere.

Now, isn't it possible to some way coordinate this so that those who need only information or need an application form get into one other line so you could have maybe three or four lines to expedite this situation?

Commissioner CASTILLO. Yes. The Immigration Service operated under what we called a take a number system. Everybody who walked in took a number and got in line, regardless of what they were there for. This meant that complex cases sometimes were given the same——

Mr. ROYBAL. Well, this would be all right in a grocery store, but not everyone in the Immigration Service is seeking the same relief.

Commissioner CASTILLO. So, what we did, because this system is not the best system, is that we have changed it and now we have more contact reps, more people handling various types of activities.

We also have a group of people whose job it is to go up and down the line and see if there is someone that we could handle right there on the spot with giving them an application or something that could be done quite simply.

There are a couple of other innovations that we want to try on those lines; one of them, of course, is to not even have the line, to have a better answering service and to move to the satellite offices, but I did increase the number of contact reps. Mr. Sureck informed you the number is now from four to fifteen.

Mr. ROYBAL. I would like to go into another area of the problem and that is with regard to the Immigration Department's policy regarding detention. Now, we have had many complaints and, after investigation, we find that they are true, that people are detained not only overnight, but have been detained for ten days to two weeks.

What is the present policy with regard to detention?

Commissioner CASTILLO. I have had a complete review of our detention facility policy and, essentially, the new policy will call for upgrading of facilities for reviewing to protect legal process or due process for all persons being held and to move people through as quickly as we can so that the average stay per person per—in facility will be reduced. The average time now is three days at our service processing centers, but only a number of hours in the holding areas.

There is a problem we have in holding of material witnesses for crime in the United States and here the U.S. attorneys usually want us to hold someone for a period of time so they can testify later.

Now, we are really not allowed to hold people over 24 hours unless we can have an order to show cause.

Mr. ROYBAL. When you hold them over 24 hours, where do they sleep? You said they have temporary detention centers. You have already described the detention center at 300 North Spring and described that as one of the worst you have seen. Where do these people sleep if they are kept over 24 hours.

Commissioner CASTILLO. We have arrangements in the urban areas whereby they usually sleep at a local correctional facility.

Mr. ROYBAL. In other words, they are incarcerated that night, and sleep in a local correctional facility. By a local correctional facility, it could very well mean that it is a county detention facility.

Commissioner CASTILLO. Yes, sir.

Mr. ROYBAL. Now isn't it also true that many of these people are taken into a cell by the County of Los Angeles and that they sleep in,

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the same cell that the prostitutes that are picked up during the night are held during the course of the night?

Commissioner CASTILLO. We do use the local facilities and the local authorities subject the aliens to the same quality of services.

I might add that, in this community, I am told the average cost per female is $102 for the first night.

Mr. ROYBAL. Well, for $102, they could be sequestered in one of the local hotels.

Incidentally, this is my district and I can assure you that there are hotels in the downtown section that have a 52 percent vacancy factor and that they would be very happy to have these people there, to give them a clean room, have them eat at their own cafeteria and be treated like human beings.

Commissioner CASTILLO. I would be more than happy—and I have a group nationwide that is looking for alternatives to the use of local jails or correctional facilities, both for financial reasons and for reason of humane treatment.

For example, in Chicago, for females we use the House of Good Shepherd which is an operation run by the nuns there.

We have looked at some facilities here with the Catholic authorities and we are looking at some other facilities in some other cities, because we think that, if we can resolve the security questions—we are required to have security so people don't escape and so on—that we can do better.

We do hold people at El Centro and we hold people, when it is near the border, at facilities that we maintain ourselves.

But, we have a task force that is looking at alternative facilities.

Mr. ROYBAL. Well, Mr. Castillo, there is no doubt about the fact that these problems have existed and did exist before you took command. There is also no doubt of the fact that you have done a very good job in trying to remedy the situation, but we must also stipulate to the fact that the Los Angeles office, in all its aspects, can still be considered one of the worst in the United States.

I am not going to ask you to confirm that, but I am making that as a statement of fact.

Now, I would like to go into another area because we can't spend too much time on one particular subject matter.

Now, you have described the smuggling rings. Isn't it true that, when this matter was uncovered, there were at least eight immigration officers employed by the Immigration Service who were part of that ring?

Commissioner CASTILLO. Well, we did have some undercover work, but——

Mr. ROYBAL. No. Not undercover work. What I am saying is that these immigration officers who were participating in that smuggling operation who were charging $250 for each person coming across and they were members of the Immigration Service. Now, this was, of course, before your time, but I remember very well that this took place and this was a matter of great concern throughout the country.

What I am saying is this, that the Immigration Service has also been very lax in the smuggling operations in the United States and there has been active participation on the part of Immigration officers, some of whom are now in jail. Now, I don't know how long they got, but I am sure that had they been on the Mexican side, they would be in jail for six years.

We here in the United States apparently give them a $200 fine and then release them.

Do you have any recommendations with regard to what the Administration can do with regard to smugglers?

Commissioner CASTILLO. Well, the first thing we did, of course, was set up these anti-smuggler efforts to put more people and more resources into it and to develop the links nationwide.

We did strengthen and, under the direction of the Attorney, we hope, improved what we call the office of professional integrity in the Department of Justice, that is, to do our own internal investigations of our own employees where there are allegations of misconduct or abuse or participation in criminal activity.

We are moving for better cooperation with Mexican and other governmental officials. Some of these rings go all the way into Ecuador or even into Southeast Asia.

We are also trying to develop a section that we are going to call the Fraudulent Documents Laboratory that will be able to check for the authenticity or genuineness of documents used by smugglers and other groups.

And we are tremendously increasing the amount of training given to our staff for anti-smuggling work. All of this we hope to have operational.

Mr. ROYBAL. Mr. Castillo, I have asked these questions just to try to emphasize the fact that the Administration talks about human rights and makes quite a deal about human rights all over the world when there is a complete violation human rights right here in the United States and right here in Los Angeles.

I believe that the present proposal of the Administration with regard to immigration, the so-called Rodino bill, is a very clear example of the Administration's position with regard to the violation of human rights. In that particular proposal, you make second-class citizens out of one particular group, you put another group in limbo with all of the privileges of working, paying taxes, but none of the privileges that any other legal alien would have to collect the benefits of the taxes that he pays. I think that is an injustice.

What disturbs me is the fact that the President has said, on many occasions, that the foundation of this nation is the family and, in his own recommendations with regard to illegal aliens, he makes it impossible for a person who has resided in the United States between 1970 and '77 to be united with his family. So, I really don't understand what the position of the Administration is.

Now, I am not going to ask for your position because I think I understand your position very well. But I am making these remarks, hoping that you can get this to the President. I have tried, in writing and in various other ways. And I think that I speak, particularly on this particular issue, for everyone in this room and the vast majority of people who have any interest in problems of immigration.

And I am just asking you, Mr. Castillo, as a friend, to try to relay this information to the President of the United States.

[Applause.]

Ms. BURKE. Thank you very much, Congressman Roybal.

We will now recognize Congressman Burgener of San Diego, California.

Mr. BURGENER. Madam Chairman Burke and Chairman Slack and my colleagues on the Committee, before we engage in a brief dialogue, Commissioner Castillo, I would like to commend the committee, under Mr. Slack's leadership for arranging this hearing. Particularly the thrust of this, of course, came from Yvonne Burke and Ed Roybal who really put this thing together. I, for one, feel that the Federal Government has been remiss for a long time in not coming out into the field.

I think the Congress ought to do a whale of a lot more domestic travel for this sort of thing and go to the scene of the action.

The County of Los Angeles is limited. The Counties of San Diego and Imperial and Riverside, that I represent, legally don't have any responsibility about the border and cannot. That is a Federal/United States responsibility.

Now, I have a very special, personal interest. I am privileged to represent an area that covers about 200 miles of the Mexican-American border. Everything east of San Ysidro to Arizona. All of Imperial County and most of San Diego County. I hope, and I feel, that I have a very special interest in Mexico. My mother was born and raised there, and live there until she was married. And we are going to talk about minorities here today and I know what that is like. I am one. I am a Republican.

But the Feds truly have the primary responsibility and I really think we have dumped an awful lot of it onto local government and then ignored it.

Now, Mr. Commissioner, I have read your statements and your speeches and your attitudes and I like them. I think we could have two extremes about the border. We could build the Great Wall of China or something akin to it from the Pacific Ocean to Brownsville, Texas and we could mass all of our military might and just plain seal it off. And the other extreme would be to open it up and tear down the fences and the gates and such—which is kind of what we have. Some might appreciate that, but I believe, having read your statements, that you, Mr. Commissioner, would reject both of those extremes. Am I correct?

Commissioner CASTILLO. That is correct.

Mr. BURGENER. Well, you know, I think what we ought to do, and I would like your reaction in a moment, is to make legal a lot of things and to make illegal a lot of other things, but to really do it.

Now, like it or not, we need a lot of these people from Mexico and we need their help badly.

I have asked a lot of my farmers in Imperial County, "What in the world," I have said, "shall we do about this incredible illegal or undocumented alien problem?" And many have said, "Absolutely nothing. Don't rock the boat. We couldn't survive without them."

It appears that we have a lot of our own people unwilling or unable to do the work. I am talking now about agriculture and I realize that undocumented aliens are all over the landscape—I suppose in all 50 States, but certainly in the Lower 48 all over the country—doing all kinds of work, only part of which is agriculture.

So what I would like to see happen is to make legal a lot of this. Now, I will differ with some of my colleagues here on the committee, I am sure. We have honest differences of opinion.

I personally would like to see the bracero program reinstated and I don't happen to think that is a demeaning term. I have great respect for people willing to work with their hands and their minds and these people are willing to work. They come over here for one reason, to work, to improve their standard of living, to aid their families back in Mexico and that is what most of our forefathers came for—the very same reason.

But, unfortunately, when they get here, they don't have the protections of the law. I think many employers treat them well. But, unfortunately, I am told that many do not.

Now, I think I can defend a contract labor program and I have here—Mexico would like it. The Ambassador made a strong statement yesterday or the day before.

First of all, in order to do it, we have to guarantee that we can't find local labor. We have to advertise, we have to seek, we have to try and I think that is proper because we have got to protect the American citizens first. I really think we must.

Well, failing to find American laborers, then we can enter into a contract arrangement. And if you enter into a contract arrangement, it is open and above-board, first of all; it is legal you can guarantee decent housing and good working conditions and medical care and you can withhold taxes; and the Mexican national doesn't bring wives and children, but they return to Mexico after the work and they take with them money which, heaven knows Mexico needs.

But I think they take with them something else. I think they take skills learned about argiculture and agri-business and that is what I am speaking of because of the county I represent.

And I just think that, no matter whether we like it or not, this intercourse, this interchange is going to happen. It is going to happen. So, I say make it legal, make it work.

Now, we will never solve it if it is perfectly legal for everybody to hire these people, which it is. There is no penalty on the employer and yet it is illegal to be here and that is a very serious flaw in our approach and in our laws.

I will make one final point after I get your reaction, Mr. Commissioner, on the possibility of contract labor, which we did do recently in Texas.

But what are your general observations on that?

Commissioner CASTILLO. Well, the United States currently has a program called the H–2 or temporary worker program that allows U.S. workers—or U.S. employers to bring in foreign nationals if a U.S. worker is not willing and able and if there is no adverse effect on the U.S. labor market and if adequate conditions are met. Very much of the conditions that you outlined—the first crack was for U.S. workers.

For reasons that I am not able to explain, or perhaps the Department of Labor could better explain it, very few H-2's are allowed in from Mexico. There are more H–2's allowed in from Canada than from Mexico. There are many more H–2's allowed in from the British West Indies than from either one of those two.

Mr. BURGENER. Why? Do we know?

Commissioner CASTILLO. The Department of Labor makes a certification that there is no U.S. worker willing and able and that certifi-

cation then comes to us afterwards. We rarely disagree with them because we don't do labor certifications.

The H–2 program does allow a worker to bring the family with them and the H–2 program does require that adequate work conditions be met for that worker.

Last summer, we allowed a group in Presidio, Texas, over the objections of the Department of Labor. We were promptly sued by many U.S. labor unions or groups representing labor interests.

Later we found some discrepancies among the employers, reported them to the Department of Labor. They eventually sued the employers for $200,000 in back wages due workers.

But I think that shows a monitoring of a condition—work condition and I think a proper use of the H–2 and maybe some adjustment of regulations would enable us to bring folks in and treat them with dignity and yet not abuse rights of either U.S. citizens or foreign nationals.

Mr. BURGENER. So you think, perhaps in a limited fashion, it could be made to work not to the detriment of our citizens and certainly to the benefit of the workers coming across the border?

Commissioner CASTILLO. We currently allow less than 1,000 Mexican workers into the United States on H–2 visas.

Mr. BURGENER. Per what?

Commissioner CASTILLO. Per year?

Mr. BURGENER. Per year?

Well, then, this is really a meaningless program at the present time.

Commissioner CASTILLO. I really should defer to the Department of Labor as to why that is so because they make the certifications of labor need, but that is the number of applications we get.

Mr. BURGENER. My final point, Madam Chairman, has to do with staffing. This Committee has provided the full Appropriations Committee substantial increases, but that isn't enough. That isn't the whole story.

Take the county of Imperial. First of all, you have to have a bachelors degree to get a job on the border. You have to have a four-year college education to be an agent and we have eight vacancies out there and that eight vacancies means that the others have to work overtime and people jam up at the border. And coming from Mexicali, which I would call the Los Angeles of Baja, there are 700,000 people living in Mexicali and across the border, on our side, in Calexico, there are some 12,000, and all of our businesses are supported by Mexican nationals, probably 80, 90 percent. And so with eight vacancies, we have long lineups on the border.

When the white card is lost—that is the card that permits you to come over to do business; not to work, but to do business; I think it is limited to 25 miles and 72 hours—if you lose your white card, you wait like 13 months to get a new one. And at noon and in the early morning hours, they line up for a long time to get across the border.

Now, I commend your Service for trying their very best to help solve these problems. We work with them daily. We have got an excellent program instituted by your people with the San Diego State College out in Imperial County. Let me just briefly touch on it, because it offers a ray of hope.

First of all, as I mentioned, it takes a bachelor's degree or a pretty good education to get one of these jobs. They are sensitive jobs. They are jobs of importance. But a lot of people come from other areas and they can take the jobs and, then, as soon as they learn their trade and if they didn't grow up in Imperial County, they don't think that is the best place in the world to live, so they apply for San Diego and for Washington and the Canadian border and other climes which appear to be better for them.

So, what we want, we want local people to get those jobs because they will stay because they like the Valley. There are 83,000 people out there and they are great people and they like it.

So, we have a recruitment thing going with the College where we permit a student to work six months for the border and then go to college for six months, get paid for it adequately and go back to college. And then when they graduate, they go with us full time. And we need to do a lot more of this kind of thing because those are the ones that are going to stay.

Do you subscribe to that sort of business?

Commissioner CASTILLO. For our border patrol jobs, for example, if we have 100 openings, we normally have 5,000 applications nationwide. That is a relatively common occurrence, that many applications for 100 openings.

And we have agreements with our unions and groups of employees that the employees within the Service should be allowed to compete for jobs that are available within the Service. There is constant debate about how available a job may be to everybody within the service.

But we are looking now at bringing in people through programs such as COOP where you hire local students to work at periods of time. We hope that some of these CETA employees that we are hiring now, which are, again, all local positions, will later develop into permanent, full-time positions for those individuals and we hope that, through a few other programs of that sort, we will be able to bring on more local people.

But, for national-type jobs, that is, certain types of inspectors, supervisors—border patrol, the competition is very keen and it is nationwide.

We do think that many of the positions within offices will be progressively filled more and more with local individuals from local labor markets.

Mr. BURGENER. Well, Mr. Commissioner, you have one of the toughest jobs in the country. I don't think anyone could do it better. You are working with an inadequate body of law, inadequate funding and great misunderstanding on the part of a large segment of the public and if this Committee can help you with those problems, I am sure we all want to do it.

Thank you, Madam Chairman.

Ms. BURKE. Thank you very much. We have gone over so far in time that—I will reserve my questions of the Commissioner until a later time.

What I would like to say, though, is that I seriously question whether or not the money that we are spending is really being spent effectively. I have heard again and again that the same people we deport come right back. I wonder whether or not we should move more

of our effort toward the smuggler, rather than concentrating on the individual who comes across the border. And this will be my future line of questioning, whether or not we shouldn't spend more of our resources in trying to apprehend those who are making money exploiting undocumented persons and stop those who are selling illegal Social Security cards, that are providing transportation, who are, then, in many instances, getting the undocumented worker here to exploit that person. I would like to go into that in detail when you come back before our Committee.

We are so far behind that I am going to stop right here.

Thank you very much for your participation. We will be working with you.

Commissioner CASTILLO. Thank you. I appreciate the interest. I know that many of you are real experts. You have been at this for quite a while.

And I will say that, even though it may sound like one of the hardest jobs, or at least thankful jobs, it is actually a place where you learn a lot about the United States. I have interviewed hundreds of persons that we have either deported or dealt with and, when you see the drive and ambition of someone who has walked two hundred miles across the desert to come here to take any job, you develop a great sense of respect for them and a great question about what this country is really doing.

Thank you.

Ms. BURKE. Well, thank you very much.

TESTIMONY OF OTHER WITNESSES

Our next witness will be Mr. John Phalen, Executive Director of the International Institute of Los Angeles.

I am sorry we are getting so far behind. In order to expedite the hearing, I am going to ask that witnesses summarize or insert their statements, so that some time is left for questions. We do have witnesses here this morning that may not be able to come back this afternoon.

Welcome to the Committee, Mr. Phalen. Do you wish to read your statement? We have your statement before us.

Mr. PHALEN. Let me put it in the record and summarize my statement very briefly and be open to questions.

Ms. BURKE. Very good.

Mr. PHALEN. May I first welcome you all and the Committee, as a group, to Southern California. It is a rare opportunity which we appreciate to share with you some of our concerns about a matter of great impact and great concern here in Southern California.

The person with me is Agnes Matica, my assistant, Executive Director. She is a very knowledgeable technician in the field of immigration law and, if you have questions of administrative procedures, day-by-day, here, questions about operations, you might want to refer them to Agnes Matica.

I would underscore what I am sure many citizens and community organizations would underscore as the need for an increased Immigration and Naturalization Service in Southern California and in Los Angeles.

If any of you who are not from this area have the opportunity to visit the INS office any morning early when you are here on this occasion or another occasion, you will see the long multicultural line, as I call it, of people waiting hour upon hour upon hour for services.

I think it is a matter of realism, though, to note that we cannot, even with the fullest support of this Committee, expect a massive increase in the budget. But I do think it is possible that this Committee, in dialogue with INS, can begin to delineate or understand how money is being spent in support of various components of the Immigration Service: what percentage is being spent for the border patrol, what percentage is being spent for investigations, what percentage is being spent for deportations, what percentage is being spent for administration, and, finally, what percentage is left over for the service dimension of the INS activity. And perhaps this Committee, while it is too much to expect a doubling in the size of the budget, and without real information, maybe that is not a bad guess to begin to meet the need here, some careful examination of how the money is spent by those percentages would be worthwhile for you to look at and, perhaps, influence.

I recall that the former Immigration Commissioner publicly made a comment that he felt enforcement was a priority. I am pleased that our current commissioner has not made such a prioritizing statement, but has given a great deal of attention to strengthening the administrative capacity of the service. You have seen evidence of that today. He has the capacity for that and I think we are most fortunate to have a man like that with that experience and background on that position.

But I think it behooves this Committee of elected officials to have some say about what the priorities for the Service are and I hope that you will keep that thought in mind as you look at the budgetary matter.

Another type of thing that our Commissioner has pointed to that I feel can be a cost-saving, humanizing approach dealing with many of the problems has to do with cooperation with us private sector agencies. And let me say that my remarks reflect just not my own point of view but dialogue with some of my colleagues in this community from organizations such as the Immigration Service, the Catholic Welfare Bureau, the Archdioses of Los Angeles, with Lutheran Social Services of Southern California; also with my colleague, Mr. Juarez, from One-Stop Immigration, whom you will be hearing from shortly, that there has been, perhaps, a difficult and painful relationship at times between us and the Immigration Service in terms of expediting or facilitating new services or mutually understanding and supporting each other.

We had a situation just last Spring when they put out a request for proposal that was to involve private sector agencies in expediting some outreach, involving volunteers to get forms and information out into areas of the community where there were concentrations of refugees and that thing kind of got mixed up in a little bit of politics and, sometimes, the message we would get from Washington ain't quite the message that we would get from the local scene. While we are part of a bureaucracy ourselves, we understand that, but I feel, if we can strengthen some understanding between ourselves and the

INS, that we, as private sector agencies with a sense of cost-efficiency, community service providers, help them deal with some of the problems effectively that Congressman Roybal, for example, pointed to today and I would encourage this Committee to look for identifying funds for alternative services, models for service, which can involve volunteers, provide core funding for it and we can show you a delivery that is cost-effective which can support demonstration models for alternative confinement facilities and we can, tomorrow, provide you the social workers to relate to families who are held in vacuums for two, three, four and five days with prostitutes and with fear, with uncertainty. We can work with INS if, at least, core funding is identified and if we aggressively work together for some alternatives to the horrendous problems of confinement, abuse of people, misunderstanding, fear, that we are encountering in this community right now.

And here are two short-term suggestions that I share with you and I want to quickly point to a long-term one.

The short-term being the matter of priorities of funding, the matter of some demonstration models for improving services.

I have to say, with all due respect to the Commissioner, to Mr. Sureck, who I know personally, both of them, that I believe that the enforcement and the service dimension of INS should be separated. I think there is a question of ethics. I think there is a question of the guardianship of human rights when we have an enforcement and a service component in the same entity.

In my mind, it naturally happens that, as people apply for jobs, come up the ladder, so to speak, we have ended up with many people administering service areas that were former enforcement officers. I am not clear in my mind that they have had the kind of training, the kind of professional guidance which enables them to be service delivery administrators. I say that. I myself happen to be a clergyman and I assure you I had to go through some cross-training and some formal education to be running a community service organization. That didn't happen.

And I believe with a separate service entity, with a clear statement of mission, as our military has a statement of mission, we can see a continuing and more aggressive approach to service delivery such as our Commissioner is outlining today. Out of a clear sense of service mission, decided, by the way, by the elected officials of this country rather than administrators, from this flows the kind of job descriptions that are written, the kind of education that is required, the kind of professionalism related to service mandates; we have now former law enforcement people making quasi-legal judgments about cases, including—I will refer to one where I have some knowledge—including what constitutes a legal marriage.

Now, I promise you, I can bring a Buddhist monk, a Roman Catholic priest, a Rabbi, and several Protestant clergy to sit with me here and we can discuss with you, as clergymen, what constitutes a valid marriage for the rest of the afternoon.

At least some professionalism, in terms of the legal and moral judgments that are being made, has to come out of a clear sense of mission and training.

I leave it there and I thank you very much for your time.

Ms. BURKE. Thank you very much for that excellent statement.

I recognize Chairman Slack.

Mr. SLACK. I have no questions.

Mr. BURKE. I recognize Congressman Early.

Mr. EARLY. Just one question, Madam Chairman.

From your comments, I am getting the impression that you are suggesting your alternative is similar to what the leading scientist submitted to the HEW Subcommittee just this past week as far as identifying their problems in health. They said they had their 3–D's as far as discovery, delivery, and development. The delivery would probably be in enforcement in this area.

Do you think we should spend more resources in the development of alternatives to address the problems?

Mr. PHALEN. I would say this, I think when you see a specific problem, say, of confinement, where you are spending $100 to——

Mr. EARLY. Alternatives to that?

Mr. PHALEN. Alternatives, for example, we have finally just been able to improve an information desk for the private sector agencies here at INS. Now, I can assure you that we are going to be able to help those long lines and we are going to be able to give confidential information to people as to their rights and where they stand in terms of access to the law. This kind of thing.

Mr. EARLY. I think you make a very valid point.

I have no further questions.

Ms. BURKE. Thank you.

Mr. Roybal.

Mr. ROYBAL. Madam Chairman, the organization that the witness represents has, for years, offered to be helpful in the Immigration Service.

I made an attempt several years ago to have Mr. Chapman, the former Commissioner, to acknowledge the fact that there are organizations in Los Angeles that could very well serve, without compensation and relieve the situation.

What witness is suggesting is nothing new. It is something that his organization and others have been trying to do now for years without anyone in the Immigration Service even listening to their requests.

But I have one question I would like to ask you, Mr. Phalen.

You suggested that priorities be set up. You also stated that people, particularly in Los Angeles, remain in limbo because of inadequate services. Don't you think that the first priority should be strengthening the administrative functions of the Service here in Los Angeles?

Mr. PHALEN. Absolutely. I, myself, do not understand why we still have 800 employees in New York and 400 here. That doesn't make any sense to me.

To underscore the reality, the former District Director once was reported to have said to—he had a good sense of humor—those about to be deported, "Would you extend me the common decency of not getting back to Los Angeles before the bus arrives back in this town."

Now, realism, to me, says dollars, in terms of priorities, might well be spent to alleviate the problems of people in terms of services that are awaiting a year or more. I indicated that I am a man of faith and

I will have faith that maybe things are really going to reduce in seven months and that there is no waiting, but I tend to doubt it.

I think dollars are better spent to alleviate the service problem, than running the cycle back and forth to the border, and relieving a problem that holds families—holds people in limbo and it is counterproductive to the unification and intent of the law of our land.

Mr. EARLY. Thank you, Madam Chairman.

Ms. BURKE. Thank you very much. And we certainly appreciate your appearing before us.

Mr. PHALEN. Thank you.

[The complete statement of Mr. Phalen follows:]

THE HOUSE OF REPRESENTATIVES
APPROPRIATIONS SUBCOMMITTEE

Congressional Hearing on the Problems Relating to Undocumented Aliens
Los Angeles, California
February 24, 1978

COMMENTS ON THE SERVICE EFFICACY OF THE IMMIGRATION AND NATURALIZATION SERVICE

John R. Phalen
Executive Director
International Institute of Los Angeles

SUMMARY

"In summary I urge this Committee to support the resource need for adequate research and assessment of the complexities involved in the massive migration from Mexico to the United States. It is a simplistic but direct premise that an understanding of need must be the basis for determining the quantity and type of service response that is appropriate. Even the roughest estimate of need suggests that service activities of the Immigration and Naturalization Service should be expanded. If realism dictates that massive resources will not be immediately available to the Service, I strongly recommend that this Committee begin to bring its influence to bear through the budgetary hearing process upon the manner in which current resources are being used by the Immigration and Naturalization Service, recognizing the pragmatism of accomplishing services as compared to the inefficacy of a massive enforcement effort at this moment in history. Finally, I recommend that the service and law enforcement components which now exist within the Immigration and Naturalization Service be clear and distinct entities, opening the way for the service component to develop a clear sense of mission from which can flow a higher degree of professionalism and an aggressive commitment to provide services responding to the immigration law of this land as determined by the Congress and the President of the United States."

Mr. Chairman, Committee members and esteemed guests of the Committee, it is indeed a pleasure to welcome the House of Representatives Appropriations Subcommittee to Southern California and the Los Angeles area. I know that I speak on behalf of many citizens as well as representatives of public and private sector community service organizations when I express appreciation for this opportunity you have provided our community to be heard on a matter that has so many profound implications for life in the Southwest and Southern California. You are, by the way, visiting the largest international community that has ever existed in the history of civilization where one out of every seven persons, well over a million persons, is foreign born.

My remarks will be addressed to some aspects of the service organization of the Immigration and Naturalization Service as viewed by one who is the Director of a community service organization that is concerned exclusively with the acculturation and adjustment problems of foreign-born persons from throughout the world. No doubt some members of the Committee are aware of the International Institute-Nationalities Service Center movement throughout the country that has been in existence for over 60 years. The person with me, Agnes Matica, is the Assistant Executive Director of the Los Angeles Institute and, I might add, a person with extensive experience and knowledge in the field of immigration law. You may also be aware of our national organization, the American Council for Nationalities Service, and its newsletter, Interpreter Releases, which is viewed as a key information vehicle by persons involved in various aspects of immigration and immigration law. My remarks also reflect a dialogue with my peers from companion organizations concerned with the welfare of immigrants and refugees such as the Immigration Service of the Catholic

Welfare Bureau of the Archdiocese of Los Angeles and Lutheran Social Services. You will also be hearing this morning from Alberto Juarez who is my colleague and the Director of the One-Stop Immigration Center.

I doubt that any appropriations committee would expect to hear a "less is required" appeal when it comes to the matter of providing resources for a particular service or program. I readily join the ranks of those who appeal for more adequate support of Immigration and Naturalization services in the Southwest and California. But my first concern is to identify the need for providing resources related to more adequate research and planning assessments of the dynamics involved in the mass migration from Mexico to the United States. Fortunately, some members of the academic and intellectual communities in the United States and Mexico have made extensive commitments to this research study concern and I believe you will have the benefit of hearing from several such persons during the course of the day. However, I suspect that their comments, plus the observations of representatives from social, health, welfare and educational organizations who are scheduled to testify, will underscore the fact that there is a very inadequate research and information base for assessing exactly what we are dealing with in terms of the humanitarian, social, economic and international implications of a migration involving millions of people. There is a crucial need for resources to expedite planning and research projects in the Southwest which hopefully can provide some objective basis and understanding of a migration which may be an active dynamic in Southwest life for the rest of this century. Without such studies we are, at best, making judgments and reckonings on the basis of assumptions and assessments beginning with a wide range of guesses as to the number of persons actually in the United States and in the Southwest without documents. Such studies might best, of course,

be sponsored through mechanisms which are distinct from the Immigration and Naturalization Service.

There is no doubt in my mind that a very broad consensus of persons and organizations in the Southwest support the need for increased resources being made available to the Immigration and Naturalization Service. Thousands upon thousands of persons are in limbo with regard to documents simply because the Immigration and Naturalization Service is not able to expedite relatively simple administrative procedures related to the adjustment of status. While many of the private sector agencies, such as those mentioned above, which provide immigration counseling services, would like to indulge in the niceties of the currently popular debates regarding appropriate immigration law, we find ourselves overwhelmed by large client case loads, delays of a year or more in facilitating the adjustment of status, abuses of clients, fear, misunderstanding of the law, all in terms of existing law, and thousands of situations which could be readily eased if there were a quantitatively adequate Immigration and Naturalization Service in our community. In a way it can be said that the lack of adequate services is counterproductive in terms of the law of the land which has the intent of facilitating family reunifications.

Realism, I think, suggests to all of us here that we cannot expect a major and substantial increase in the appropriations to the Immigration and Naturalization Service in this area, however supportive the Appropriations Subcommittee might be. This realism gives focus to the appropriateness of examining the manner in which resources currently made available to accomplish the overall responsibilities of the Immigration and Naturalization Service are used. Quite simply, the Immigration and Naturalization Service has both a

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service and an enforcement mandate. With limited resources available, how is the decision going to be made as to the priority for Immigration and Naturalization Service activity? At this moment in history, is it of greater importance to initiate a massive enforcement effort when thousands are able to return to this country in a matter of hours after deportation or to expedite waiting lines at the Immigration Service and delays of a year or more in adjustment of status procedures which keep the matter of reunification with loved ones in limbo and can often delay immigrants in taking the necessary steps to attain the fullest of their potential in terms of economic and social self sufficiency? The previous Commissioner established a priority of law enforcement. Our new Commissioner, I am pleased to say, is most concerned with strengthening the efficacy of the service dimension of the Immigration and Naturalization Service without publically making some sort of prioritizing statement. I contend that it is the business of a Congressional Appropriations Committee, constituted by elected officials, to have part in a process of determining priorities for resource utilization. Therefore, in examining the Immigration and Naturalization Service budget I would suggest that this Committee ascertain the percentage of the overall budget, nationwide as well as in this area, that is devoted to (1) the border patrol; (2) investigators; (3) deportation; (4) administration; and (5) what remains and is related to the service mandates of the Immigration and Naturalization Service. Perhaps in examining the history of that resource deployment this Committee can have some influence in determining the immediate operational priorities of the Service, making some judgment external to the Service as to the realism of providing needed services as opposed to the realism of border enforcement and deportation. I am reminded of the comment of a former District Director of the Immigration and Naturalization Service

who was known to suggest to those being deported that they have the common decency not to get back to Los Angeles before the bus which was taking them to the border.

Hopefully what I am suggesting points to some immediate steps which can be taken in an attempt to enhance the service capacity of the Immigration Service. As I have already indicated, there is no doubt in my mind that Mr. Castillo is deeply concerned for that service capacity. I believe there is much that private sector agencies involved in immigration counseling and work with immigrants and refugees can do to facilitate and support the goals of family reunification which are implicit in our nation's immigration law. The Commissioner and his representatives from Washington have attempted to establish relationships with the private sector which might facilitate a closer partnership in providing family reunification related services. In all candor, I must admit that that relationship with some of the major service providers in Los Angeles has had its painful moments. For example, a process of requesting proposals for private sector agencies to facilite a voluntary oriented outreach program of augmenting the Immigration Service mechanisms became somewhat, in my opinion, involved in politics and ended up not coming to pass. This unfortunate situation occurred last spring and summer. We were recently asked on one day by a Washington representative of the Commissioner to assist in expediting another voluntary recruitment and training program that had the purpose of augmenting Immigration and Naturalization Service services. Resources for the coordination and supervision of such a program in the private sector were not identified. On the next day at a second meeting one of our community service agencies was informed by regional and local representatives of the Service that it would be a conflict of interest for

the agency to administer a program of augmenting local Immigration and Naturalization Service staff with a CETA Title VI funded contract because such administration would represent a conflict of interest. Perhaps it is fair to say that if the private sector finds it difficult to relate to public sector entities, it must be no less of an intricate affair for public sector organizations to establish easy relationships with their private sector counterparts that are serving the same client population. I am convinced that there are many cost saving approaches to outreach services which can decentralize the immigration services currently being provided in downtown Los Angeles, to confining people in warehouses, to holding witnesses in jail for four days without their families being able to find them, that private sector agencies can take an active role in expediting. I would underscore the cost saving possibilities and suggest that the Committee encourage both the Immigration and Naturalization Service and private sector concerned agencies to initiate demonstration service models related to outreach and perhaps even alternate approaches to confinement with supportive social and human services.

An examination of dollar priorities within the total Immigration and Naturalization Service budget, along with efforts to demonstrate some cost saving methods in cooperation with the private sector, are two suggestions which this Committee might wish to consider as approaches which can augment the humanitarian and service dimensions of the very large and complex matter of the presence of undocumented persons in our community. In other words, there are thousands of persons in limbo, not because of law but because of the lack of adequate services. These approaches might bring relief without having to envision increases in the Immigration and Naturalization Service budget that are beyond the scope of realism. But there is another issue which I

believe to be very basic to the question of effective service that might not appear to be a matter that can be easily resolved within the immediate future. That issue relates to the fact that the Immigration and Naturalization Service has both an enforcement component and a service component within the same entity. The very fact that an enforcement and a service component are seen as being in competition for the same dollar as I have inferred above is, in itself, most unfortunate. I think some serious questions of ethics and the guardianship in daily practice of human rights can be raised of an entity that has two components in its responsibility that can be at crossed purposes with each other. The practical effect of this uncertain marriage is that many persons who have come up the ranks of the border patrol and enforcement systems of the Service have achieved positions of authority and responsibility in service areas. Persons who entered the Service in entry level positions requiring minimal education have risen through the ranks to positions where they are making quasi-legal judgments. While such an upward mobility is commendable, it must be balanced by a professionalism which maintains high standards in terms of the formal training as well as the on-the-job training required for persons to achieve key professional types of positions, especially positions which involve areas of discretionary judgment and interpretation of law in an adjudicatory process. Many of those appearing before you today could provide countless examples of judgments which reflect unrecognized cultural values rather than professional training, attitudes which are judgmental rather than helpful or facilitating and approaches to accomplishing administrative procedures which reflect something less than a service oriented motivation.

In essence, the mixture of the law enforcement and service components within the Immigration and Naturalization Service has made that Service appear

to have a confused or mixed purpose and mission in relation to its activities. No organization can be clear as to its direction and aggressive in accomplishing its activities without a distinct understanding of its mission. The American military, for example, speaks often of its mission and I would add that its mission is not defined by the military itself but by the President and Congress. Likewise, our Immigration Service should be distinct from law enforcement activities and have a clearly defined service mission that is shaped by Congress and the President of the United States. Such a mission begins to determine the types of service activities that an organization undertakes, the kinds of job descriptions that are written, the education or training required to accomplish specific functions, the ongoing training necessary for an organization to accomplish its operational activities, the motivation, the direction, the philosophies, the attitudes of the persons involved in that operation. An organization with a clear sense of mission and purpose can develop positive, efficient and cost effective activities in accomplishing that mission. In the case of the Immigration and Naturalization Service, it can be a service mission directed by a life experience of service rather than enforcement.

In summary I urge this Committee to support the resource need for adequate research and assessment of the complexities involved in the massive migration from Mexico to the United States. It is a simplistic but correct premise that an understanding of need must be the basis for determining the quantity and type of service response that is appropriate. Even the roughest estimate of need suggests that service activities of the Immigration and Naturalization Service should be expanded. If realism dictates that massive resources will not be immediately available to the Service, I strongly

recommend that this Committee begin to bring its influence to bear through the budgetary hearing process upon the manner in which current resources are being used by the Immigration and Naturalization Service, recognizing the pragmatism of accomplishing services as compared to the inefficacy of a massive enforcement effort at this moment in history. Finally, I recommend that the service and law enforcement components which now exist within the Immigration and Naturalization Service be clear and distinct entities, opening the way for the service component to develop a clear sense of mission from which can flow a higher degree of professionalism and an aggressive commitment to provide services responding to the immigration law of this land as determined by the Congress and the President of the United States.

Ms. BURKE. The next witnesses are Al Juarez, One-Stop Immigration Center, Remedio Gaega, Asian Democratic Caucus, and Delfino Varela, Mexican-American Political Association.

Welcome to our subcommittee, and we certainly appreciate your appearing before us today.

May I ask, in view of the fact that our time has slipped by—we spent more time on the Commissioner than we anticipated—that instead of reading your entire testimony, that, if you would, summarize your prepared remarks. Your entire testimony will all be part of the record, as will any other statements that are provided for us today.

Thank you very much for being here.

Mr. JUAREZ. Thank you so very much.

Unfortunately, as it occurs quite often, at that point in time in which the people come to speak forth, there always seems to be those time constraints and, in all due respect, Ms. Burke, I am sure this is something that is more of circumstance than design.

This morning, ladies and gentlemen, we have heard a tremendous amount of testimony as it relates to many of the problems that the Immigration and Naturalization Service has been encountering.

Let me, if I may, draw your attention to a report, which I will make available to this committee, that was prepared by the Los Angeles County Bar Association. It is a report on the deportation and removal of aliens.

This unprecedented report by the bar association came at a time in which the deportation of aliens and the violation of the civil rights of Mexican-Americans, Latinos, and persons who were out of status of this country, reached epic proportions. Unfortunately, and in all due respect to my learned colleague and friend, Leonel Castillo, under his current administration, many of the good things that he is attempting to do are still very far removed from the people. By that I mean the following:

In our community, at this point in time, we find that we are under siege by the Immigration and Naturalization Service and the border patrol in the same manner that our fathers and grandfathers were in the 1930's when massive deportation of Mexicans and their Mexican-American children occurred in the County of Los Angeles.

In the 1950's, shortly after the Korean War, when we no longer needed undocumented labor to help in the war effort, we saw again massive deportations taking place.

Now, in recent months, and in spite of the human rights program of the Carter Administration and in spite of the spirit of the Carter proposal in that we would allow certain persons with undocumented status to remain in the country, we are seeing sweeps through our factories and our communities and specifically within our places of work, which I charge brings serious constitutional violations to mind and civil rights violations.

Ladies and gentlemen, do you realize that, at this point in time, the undocumented has become so dehumanized that we could go back to the Dred Scott Decision and find that where once black Americans were treated as chattel, we find in the search warrants used by the Immigration and Naturalization Service again the language of chattel, of furniture and property.

If I may, let me indulge you for a second.

On or about December 29th of 1976, warrants were issued here in Los Angeles for a searching of premises on 110 East 10th Street. It reads as follows:

To any criminal investigator of the United States Immigration and Naturalization Service—et cetera—that he has reason to believe that at such and such a place, there is being concealed—and I read—certain property, namely persons, namely illegal aliens which are the fruits and instrumentalities and evidence of violations of Title VIII, United States Code, Sections 1324 and 1325.

We go on to further find out that the particular fruits and instrumentalities and property, in effect, were human beings that were working in that factory at that point in time.

Let me go one step further.

We have seen, in the Los Angeles District and throughout Southern California and parts of the Southwest, efforts on the part of the Immigration and Naturalization Service to, in effect, undertake what they call operation/cooperation whereby you induce employers to reveal the employment records of employees so that they can make a search to determine as to whether these people are out-of-status aliens in the United States.

Ladies and gentlemen, I suggest to you that the most basic human right in this country is one in which, in the pursuit of life, liberty and happiness, you do not go around revealing to Federal authorities, unless they have proper warrants, any employment documents.

By the same token, many of these individuals, and I am speaking now about employers in the Los Angeles area, have resisted these efforts. So, therefore, they receive a letter in the mail, signed by my friend and colleague, Mr. Sureck, which indicates the following:

I wish to take this opportunity to advise you that, under Section 2805 of the State of California Labor Code, can provide penalties to an employer who knowingly hires an illegal alien who is not entitled to lawful residence in the United States.

This particular letter was issued in September 16th, 1976 and they continue to be issued.

Interesting note: We find out from the Department of Industrial Relations who is charged with the responsibility of enforcing said section that, May 11th of 1976, nearly a year before this particular letter was issued indicating that employers would be in violation of 2805—we find that—and I read now a letter from Mr. Donald Viled (phonetic):

My legal staff has advised me that the U.S. Supreme Court in *Decannes* v. *Peaka* (phonetic) determined that the States have the right to legislate in the regulation of employment of illegal aliens, provided that such legislation does not run counter to the Federal scheme and meets other tests in constitutionality.

The decision requires that California Appellate Court to answer the questions as to whether 2805 is in conflict with Federal law.

The important part of the letter is the following:

The Division of Labor Standards Enforcement, the division charged with the enforcement of said section, has been permanently enjoined since 1972 from enforcing said section. *Delores Canning Company* v. *Howard*—and I won't read the citation—the U.S. Supreme Court decision does not disturb the injunction. We are awaiting further clarification from the courts. Until such clarification and final court determination, we are not making plans for procedural enforcement of the section.

Ladies and gentlemen, I submit to you that, in the face of such search warrants, in the face of such fraudulently misleading corres-

pondence to employers where we are coercing them into cooperating with authorities that still have not established whether or not there are, in fact, persons who have been adjudicated to be in the United States without status, that we, in effect, are not only violating the spirit and the letter of the law, but we are engaging in the type of tactics reminiscent of the Gestapo tactics of Nazi Germany and I kid you not.

At that point in time, in which we deprive citizen children of their parents who are undocumented, at that point in time in which, in the fact of the spirit of Mr. Carter's plan, we, in effect, are continuing deportations and sweeps of our community, we are visiting a new holocaust on the Mexican people of this community and the other cities of the Southwest.

Ladies and gentlemen, I submit to you that we have to take judicial and congressional notice that, while my good colleagues are asking for additional funds, the violation of the law is going on in a manner which I think is not either in keeping with our constitutional requirements or what this Nation is all about.

Thank you and I would be glad to entertain any questions that you have.

Ms. BURKE. Thank you very much for your statement.

Mr. JUAREZ. Congresswoman Burke, I will be leaving for my duties in the City Civil Service Commission. If there are any questions, I would gladly take them.

Ms. BURKE. All right. Would you prefer that we take questions from you first?

Mr. JUAREZ. Yes.

Ms. BURKE. All right. Chairman Slack.

Mr. SLACK. I have no questions.

Ms. BURKE. Mr. Early.

Mr. EARLY. Just one comment, Madam Chairman.

I get the impression that you are suggesting that we are spending too much in enforcement rather than in service?

Mr. JUAREZ. Undoubtedly and, unfortunately, the quality of the enforcement that we are engaging in right now really raises questions to whether or not this is the type of enforcement that the Department of Justice wants to be involved in in the face of, you know, our own President's stand on human rights.

I really do think that, unfortunately, due to whatever circumstances, this element of the Department of Justice is really the backwash of the system at this point in time, and I think it has already been stated by the good Commissioner that spoke this morning, quite candidly, I would say, that we do have problems in that particular area.

Mr. EARLY. You are also suggesting strong support—for President Carter's amnesty program?

Mr. JUAREZ. I would say at this point, for the record, that one must compliment the President that at least he has had the courage and tenacity to address this issue, but I do feel that his plan falls far short of the constitutional and human requirements that we would envision in a plan that would equitably provide relief to these individuals.

Mr. EARLY. I have no further questions.

Thank you.

Ms. BURKE. Mr. Roybal.

Mr. ROYBAL. I would like to make further inquiries with regard to the search warrant. This is strictly for the record.

Mr. JUAREZ. Yes, sir. I certainly hope so.

Mr. ROYBAL. The search warrant, as I read it, indicates that the INS has reason to believe that the premises in this particular instance known as 1100 East 10th Street, Los Angeles, California, which is a single-story, factory-type building, constructed of red and yellow brick has certain property, namely persons who are illegal aliens residing or working within that premise.

Mr. JUAREZ. Yes, sir.

Mr. ROYBAL. Does that mean, then, that the INS only has to go to a court, say that they have reason to believe that certain illegal aliens are in that particular property and they get a search warrant, even though they do not have to prove or show that there is, in fact, certain evidence giving them at least probable cause for getting the search warrant? What is the situation, Mr. Juarez?

Mr. JUAREZ. The affidavit that is attached to the warrant indicates the manner in which the warrant was obtained in which the magistrate finally issued—and all of this is hearsay evidence on the part of a couple of persons and it reads:

> The person is currently an employee as a machine operator and that she works with a group of 18 other female Latins, and that based on her daily conversations with them, she does not believe that any of them have immigration papers.

I would submit to you that, if we look carefully, and I certainly hope that we are still guided by the rules of criminal procedure as issued by the United States District Court, this type of hearsay evidence is not what the court holds to be the type of evidence under which you would issue this type of warrant.

Furthermore, if you can stop to consider that, in how many situations we have Latin-looking persons in factories in the City of Los Angeles, who you would, first of all, go in and harass; secondly, deprive them of their wages by virtue of the fact that you are stopping production lines where people are paid by piecework, where, in fact, you are depriving the owner of the factory from his profit, if you will, in terms of having this line, on a warrant that is as flimsy as this—and unfortunately, these warrants are yet to be challenged within the courts, but I expect that the problem will——

Mr. ROYBAL. Well, Mr. Juarez, does that mean, then, that this search warrant would apply also to American citizens who should be working in the same location?

Mr. JUAREZ. Most certainly.

Mr. ROYBAL. If they happen to be——

Mr. JUAREZ. Latin-looking.

Mr. ROYBAL [continuing]. Latin-looking, this particular place may have had 150 working and, on the basis that someone suspects that 18 of them may be there illegally, the——

Mr. JUAREZ. That is exactly it.

Mr. ROYBAL [continuing]. Search warrant, then, is issued and it does, in fact, affect everyone in that particular building whether they are American citizens or not.

Mr. JUAREZ. Exactly.

Mr. ROYBAL. Which means, then, that the Immigration authorities may question everyone in that building.

Mr. JUAREZ. That is correct.

Mr. ROYBAL. Now, I suppose it would be difficult for Immigration officers, or anyone on this Committee, to prove at this moment that they are American citizens. I don't think that there is anyone here who can come up with documentation proving that they are American citizens.

Mr. JUAREZ. Probably not to the satisfaction of an Immigration judge or an Immigration officer.

Mr. ROYBAL. But, nevertheless, a judge that does grant this search warrant just takes hearsay information as the gospel truth and does, in fact, issue the search warrant.

Mr. JUAREZ. That is correct.

Mr. ROYBAL. Thank you, sir.

Ms. BURKE. May I just ask one question and then I will recognize Mr. Burgener?

Mr. JUAREZ. Certainly.

Ms. BURKE. You have occasion to work with the Immigration and Naturalization Service by representing clients?

Mr. JUAREZ. Yes.

Ms. BURKE. We have heard the Commissioner testify today that there has been a marked change in backlog, in quality of service and the actual operations of the Los Angeles Office. Would you comment? Have you observed that as well?

Mr. JUAREZ. Yes. I think conditions have gone from worse to bad and I think that, sooner or later, they will get to a point that they are a little better than that.

In all due respect to the Commissioner and to the District Director, I think that they are making efforts in that direction, but they are so far behind and the system is so archaic that there is no way to effectively reverse the trend that has occurred, you know, within such a short period of time.

Quite frankly, many of us suspect that, in many instances, there is a great deal of paper shuffling going on. It is going from the outbasket to the throw-out basket type of a situation. So, I will be very frank with you. Things have not reached the level of mediocrity right now that we would expect of some of our government services and, unfortunately, it is still causing the type of aggrivation, exasperation and encouraging undocumented immigration that we have had in the past.

Ms. BURKE. Thank you very much.

Congressman Burgener.

Mr. BURGENER. Thank you, Madame Chairman.

Mr. Juarez, I am sorry I missed most of your testimony.

We have a body of Federal law relating to who works and we have some state law. What is the difference? What does the State of California do versus the Feds about so-called undocumented worker aliens and do they conflict with each other?

Mr. JUAREZ. There are approximately 18 states, at the present time, that are attempting to enact legislation independent of the Federal legislation as it relates to work.

In the State of California, we attempted—we did pass and we did, for a time, enforce the Dixon-Arnett Bill or Section 2805 of the Labor Code. But this ran afoul of Federal law. It was enjoined and, since that time, there has been no further clarification by the lower court as

to whether or not there was, in fact, a conflict with Federal law. I suspect that probably most state laws will run afoul of the Federal requirement.

As it stands right now, per se, there is no law that indicates that an employer is subject to penalties for hiring a person that is out-of-status alien. As a matter of fact, the probable reason for that is most people feel it contrary to our own work ethic in this country.

Mr. BURGENER. Do you feel personally that we are far better off making the Federal thing work or improving it rather than having states get in the act, so to speak?

Mr. JUAREZ. Very definitely, but I think that, once we start looking in the area of sanctions, we are immediately running back into the problem that we had for years and that is in terms of discrimination against persons of color or persons that, to an employer, may not seem like a person that is, in his own mind, constituted as being a legal whatever, you know.

Mr. BURGENER. Yes.

Mr. JUAREZ. And I think that this is the danger that we are running on here.

I do think, Congressman, if I may, that, if, in fact, we were to be vigilant and enforce existing laws that we now have on the books—in other words, statutes as they relate to Internal Revenue provisions, withholding tax, as it relates to minimum work laws, or, that is to say, minimum wage laws, if we look at OSHA laws and state laws in terms of health and safety, we begin to eliminate the types of employment conditions whereby you would attract persons to be into this type of area and where they could be easily exploited.

In effect, what I am saying is that we don't need any additional laws as it relates to peoples' right to work. What we have to do is to enforce the laws that are currently on the books. I think that, in effect, provides us the kind of shelters that we are looking for in that particular area. (Applause.)

Mr. BURGENER. I think, in concert with Ed Roybal here, whatever laws are enforced or enacted must apply to all of us, no matter how we look or what our last name is.

Mr. JUAREZ. Undoubtedly, Congressman, but I do think that there is one major thing that we have to look at as we consider all of this testimony and as the debate continues into the halls of Congress, and that is the fact that, in this particular instance, we are talking about a nation-state—nations that have a tremendous and unique—special interest to this nation, number one.

Number two, the dependence that this nation has become reliant upon in terms of that labor.

And, thirdly, the fact that we may be at that point in time in which our definition of borders and frontiers may have taken on a new and different meaning. So, that is to say that we may have to start looking at a new body of immigration laws that realistically takes into account the type of relations that exist between ourselves, sister-nations and the rest of the world. And I think the very evidence of satellites dropping in on our back yards begin to show that there is no longer the sanctity or the sovereignty of frontiers in the manner in which people thought in years past, and, therefore, we have to rewrite,

recodify the law into those requirements of human rights, constitutional rights, civil rights and the special commercial and foreign relations that we have with nations of this particular hemisphere.

Mr. BURGENER. Thank you very much.

Mr. JUAREZ. Thank you, sir.

Ms. BURKE. Thank you.

[The complete statement of Mr. Juarez follows:]

22 FEB 1978

ONE STOP IMMIGRATION CENTER, INC.
1443 wright street • los angeles, california 90015 • telephone 748-5511

February 17, 1978

Yvonne Brathwaite Burke
Congresswoman
Inglewood City Hall
1 Manchester Boulevard
Inglewood, California 90306

Dear Congresswoman Burke,

Enclosed you will find a copy of the proposed testimony that I would like to deliver before your committee's hearing to be held in Los Angeles on Friday, February 24, 1978.

Given the fact that on Fridays I am normally sitting on the Los Angeles City Civil Service Commission, I would appreciate the opportunity of testifying early on the agenda if at all possible.

Respectfully yours,

Alberto Juarez, Jr.
Director

cc:
Congressman Ed Roybal
Manuel Cons

In the midst of this nations's worst energy crisis - which has been further aggravated by the record number of unemployed Americans and the deepening crisis of a runaway inflation, excessive property taxes and the unchecked cost of living, elements within goverment, industry and labor have sought to escape any responsibility for the country's continuing economic crisis by effectively launching a legislative and propaganda program through Congress and the news media against the presence of undocumented families and other foreign born immigrant workers in the United States.

The current outcry against the undocumented and other immigrant workers, who are depicted as "Illegal Alien Hordes Pillaging America" and "Robbing Jobs from Americans," demonstrate a recurring phenomenon throughout American history in which, during times of economic turmoil, the racial and cultural prejudices of American workers are provoked. The xenophobic reactions which not infrequently have given vent to racial violence have obscured the real causes of the nation's economic difficulties and underscores the irony posed by a nation which during its recent bicentennial grudgingly noted its being founded by the countless millions of foreign born immigrants.

Without having to recant the whole litany of horrors that haunt the history of the slave and the immigrant laborer in America, we cannot easily dismiss the racial, cultural and class prejudice which has been directed against the foreigner. This prejudice has unfortunately characterized the isolationist and exclusionary posture of American immigration policies, which by erecting unrealistic barriers, have invited defiance.

Precedent for the current campaign against the foreign born and undocumented workers in American history can most clearly be illustrated

by the compaing that was waged against the Chinese at the close of the 19th century. Although they had been the primary work force that completed the main railroad arteries in the Western U.S., after they began to acquire property and sucessfully compete with the anglo merchant. they were dealt with severly. The Chinese Exclusion Act of 1882 was passed and enforced in California by vigilantes that randomly lynched innocent Chinese residents.

The shortage of Chinese coolie labor produced by the exclusion act was offset by the increased numbers of Mexican miners, railroad section hands and agricultural laborers that were contracted by American companies and farmers, In addition to the increased numbers of Mexican workers, the United States contracted thousands of Japanese laborers to work in the western farm lands.

Druing the first twenty years of the 20th century countless thousands of Russian, Italian and Southeastern European immigrants were contracted to work on the U.S.' eastern seaboard. But following World War I increased immigration gave rise to a wave of anti-immigrant sentiment which was embodied in the so-called "American Nativist Movement." The Nativist Movement, which effectively lobbied against further immigration from Southeastern Europe and non-white Anglo-Saxon countries, realized its greatest success in the enactment of Immigration and Naturalization Act of 1924,(which to date continues to be the foundation of American immigration law and policies in the United States).

The depression of the 1930's brought new concerns regarding the presence of the foreign born and the accompaning economic disaster (which saw countless thousands of immigrant workers go on relief with the rest of the nation), caused authorities in manu areas of the country, such as Los Angeles, to seek deportation as a remedy to the country's economic plight. It is estimated that in Los Angeles County alone, the then Department of Charities and Fedreal immigration authorities "repatriated over 100,000 Mexican families and their U.S.

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born childred, legally residing in the county, back to Mexico.

The Japanese and their American citizen families, for perhaps not unrelated political and economic reasons, survived the depression only to find themselves incarcerated in prison camps for the duration of the Second Workd War, a fact that seemed to arouse little or no moral outcry or concern on the part of the nation.

The increased need for manpower during WW II ironically drew the U.S. back to Mexico, Through the Bracero program thousands of Mexican workers provided needed agricultural laborers. The program brought under goverment regulation the historic pattern of migrant labor which had flowed between the two sister republics for generations. The Brecero program continued on after the War. Due to depressed economic conditions and labor's reaction to "Wetback laborers" the program ended in the late 1950's. The continued flow of Mexican labor has never receded, a fact which is graphically illustrated each morning from Brownsville, Texas to San Ysidro, California, as thousands of Mexican workers cross the border to work and shop in the United States.

Our national leadership's current attempt to resurrect the specter of the undocumented and foreign born workers as the cause for increased umemployment problems in the nation gives rise to two tragic consequences, Ond. the intensification of cultural and racial tensions which can provoke the violent prejudices of past generations; and two, the seduction of the American poeple into thinking that full employment and their economic well-being will be guaranteed by repressive immigration policies and legislative pogroms against undocumented and immigrant workers.

The millions of unemployed Americans today must comt to the realization that the greatest threat to their future economic well-

being is not the foreign worker or immigrant-most of whom today occupy positions within the domestic labor force that either do not attract other American workers or require skills not readily available in the work force-but rather the real threat is an internal one that allows for the flight of American business and industry to "illegally emigrate" billions of dollars in wages to foreign subsidiary companies that compete to the disadvantage of American made products as they reenter the United States consumer market as foreign imports.

The hypocritical efforts to make the undocumented and foreign-born workers the scapegoats during our current economic malaise reveals that real legislative action is needed to contain the steady flow of capital from this country into countries that promise cheaper labor. It is the American dominated multi-nationals which are relocating factories and businesses abroad that demand the rage of the American poeple, There are no legislative barriers to this phenomenon.

As a case in point we have a number of companies in the clothing manufacturing industry which have fled the United States and have relocated in Korea, Taiwan and Hong Kong. And as a consequence, the garment industry and its workers in the United States face a greater peril in lost wages than that which has alledgedly been posed by undocumented workers coming in from the Caribbean and Latin America.

International cartels and multi-national corporations(increasingly domination the world trade market and our own domestic activity) are for all intents and purposes private commercial goverments that measure human concern and national loyalities based on profit margins. The need for increased profits and dividends to shareholders has spurred scientific advancement and technology showering society with space-age marvels but conversely automating out a vast segment of the

American domestic work force.

The automobile industry seems to have followed suit. As a case in point: Chrysler-Plymouth has view the example of the garment industry withsome interest and recently established a compact automobile assembly plant in Japan. Therefore, despite the lact of work and increased automation that has caused crippling layoffs in the auto industry in the U.S., Chrysler will import U.S. designed compacts for the American consumer.

The point is this: the presence of foreign or undocumented workers is niether new nor unique, Their presence has been acceptable to this nation depending on how economically or socially advantageous they have been to the economic climate or mood of the nation.

In those periods of economic turmoil. similar to the situation today, that suggest ridding the nation of foreign workers neither goverment, industry not labor have had the candor or the courage to shoulder the responsibility for the absence of any contingency plan or economic forecasting.

While the debate between various schools of economists continues as to whether a free enterprize system can survive which utilizes all of the existing manpower within the society, govermental inaction whether by circumstance of design will have to cast about for a scapegoat. The irony to the increasingly bleak umemployment picture and increased welfare and human costs is that the depressed economic situations in the United States have an exponential effect on the economics of our sister nations in the Western Hemisphere, if not the world. As a consequence, recessions in the United States often have a depressing effect on our neighbors -(a prime example being Mexico). It continues to suffer in the economic rain shadow of the United States. Depressed economic conditions in the United States are perhaps the single most causative force in driving workers from Mexico into the

United States - a paradox that is complicated further by the vital dependence that American cities and businesses have on Mexican consumers and trade relations along the over two thousand miles of border. This fact was made startling clear when Mexico was forced to devaluate the peso in 1976 and literally drove into near bankruptcy hundreds of American businesses from San Diego to Corpus Christi, they could no longer attract the Mexican consumer and business investor. It would thus appear that the concern over the undocumented Mexican worker creating a tax drain and undermining the work force the work force might easily be countered when viewed as a consumer of goods and services in the United States and specifically in the border cities of the Southwest.

This is of course to suggest that the United States does not live in economic isolation in relationship to the rest of the world and specifically to Mexico, Canada and the rest of Latin America. The inability of this nation to adequately plan for full employment and utilizarion of its work force. which ultimately underwrites the stability of the nation's economy, will continue to imperil not only its domestic tranquility but will hinder the further development of the disadvantaged countries within the hemisphere and thereby induce increased migration and displaced worker.

The nation has and can continue to accomodate immigrant and migratory workers from abroad and specifically Latin America and bring into fruition a hemispheric common market which in the long run would have a far healthier economic impact on the Americans than many existing foreign aid programs, Such relationships will only be developed when goverment, business and labor in the United States can initiate joint efforts to plan for the economic wellbring of the nation and its labor force, Such efforts will require far more legislative courage and integrity than has been exhibited within each respective

community of national leadership, especially when we continue to rediscover that money not only talks but can buy goverments lock. stock and barrel. The unemployed taxpayer pays the tab which he can't write off as business expenses or a business loss- and the undocumented and foreign immigrant worker takes the rap for a depressed economy and high unemployment where tax dollars, under the guise of subsidies to business, are being spent on foreign bribes abroad instead of being invested in new jobs and human services.

As suggested by this discussion, the solution to the current economic crisis in the United States today will in itself have a positive effect in regulating the number of foreign workers, especially from the Western Hemisphere that will migrate to find work. But the solution to our own economic dilemma will be incumbent on the ability of goverment, labor and industry to seriously begin to set vested economic interest aside and begin the development of comprehensive manpower and economic planning which can adequately provide full employment and insure the economic well-being of the nation.

Ms. BURKE. Ms. Gaega.

Ms. GAEGA. I am delighted to be a witness to speak for and in behalf of the Asian Pacific people, but with more emphasis to the Filipino community.

I believe that basic to this public hearing is your concern for human rights. While this administration preaches the doctrine of human rights, it is but proper that we should practice it. I say this because I feel that there is evidence of this discrimination against the Asian Pacific people in regard to the establishment of satellite offices of the Immigration and Naturalization Service in Los Angeles.

While some ethnic groups have already been provided with sub-offices and two more offices are about to be established, I would like to call the attention of this honorable hearing panel that the Asian Pacific people do not have this.

The problems of varied languages and different political backgrounds are special needs that have to be met in a sub-office staffed with qualified bilingual Asian Pacific personnel because the long hours of standing in line at the main office, even for a simple clarification of status, filing petition or asking for application forms could be avoided if sub-offices are available.

In the case of Filipinos who are fleeing the martial law regime of the dictatorship in the Philippines, the Federal Government is inconsistent in the treatment of refugees from Communist countries.

It is a much publicized fact that the State Department of the United States classified the Philippines as a dictatorship that is number two in the oppression of human rights. Filipinos who seek political asylum in this country are denied the privileges that other refugees from similar governments are enjoying.

In spite of appeals to the United Nations on this particular issue, the American government has dragged its feet in the political refugee problems of Filipinos.

Thus refugees turned illegal aliens are deprived of their inalienable rights to life, liberty and pursuit of happiness, a basic philosophy of the United States Constitution.

I, therefore, appeal to the honorable members of this Congressional panel to consider equal treatment the Asian Pacific people by initiating the following:

1. Authorize creation of an INS sub-office to be staffed by Asian bilingual persons.

2. Resolve, through legislation, the status of Filipino political refugees and overstaying visitors due to the martial law government in the Philippines.

3. Formation of an Asian Pacific Advisory Council to advise the INS on matters affecting the Asians.

4. And I would like to ask this honorable panel—to strongly urge this congressional panel to endorse and support the Amnesty Bill of President Carter which is pending in Congress of the United States.

I thank you.

Ms. BURKE. Thank you very much.

I am going to suspend our hearing briefly to introduce our host this morning. He is Supervisor Kenneth Hahn and he was so courteous and so helpful and his staff has been wonderful. They have extended to us

all the courtesies, allowing us to use their hearing room, and their facilities. I want to thank the Board of Supervisors.

I want to particularly thank Supervisor Hahn for coming by to say hello to us and for the courtesy that he has extended to us.

Thank you very much.

Supervisor HAHN. Thank you.

Did you hear what Ed Roybal said? "They would cut off our revenue sharing if we didn't do this."

(Laughter)

Ms. BURKE. Oh, we would never do that.

Supervisor HAHN. Ms. Burke, let me tell you—I hate to break into your proceedings, but Mr. Roybal and I served in the City Council of Los Angeles together in 1949.

Ms. BURKE. Your loss was our gain.

Supervisor HAHN. And he has never changed. He is still a fighter and he still fights for the things that are right and we always kidded each other that we never had one vote that we didn't agree on all the time we were on the Council. But, he was lucky; he got promoted to Washington and I have still been stuck here in Los Angeles County.

[Laughter.]

Supervisor HAHN. We are delighted and if our Board can do anything for you—we have already given orders that anything that you want, we are at your service.

Ms. BURKE. Thank you very much, Supervisor Hahn.

I am going to recognize now the representative of the Mexican-American Social Services and of MAPA, Mr. Varela.

Mr. VARELA. Thank you very much.

I really want to commend this committee for coming out to Los Angeles to hear how it is in the affected area.

I haven't had the good fortune to meet most of you on the Committee, but we do have—I am acquainted with Congresswoman Burke and with Congressman Roybal and I think that all of us in Los Angeles consider ourselves fortunate to have these two Congresspeople on this key Committee with such sensitivity and interest to what I consider is a fundamental problem that affects not only the Mexican and Latin communities, but, in fact, the country as a whole, because you cannot have a working force of several million who are here without any legal status whatsoever and not have it affect the entire social and economic fabric of the country.

I think what we have been discussing this morning, really, is an immigration system that has failed, failed both legislatively and administratively.

The reason why it has failed, in my opinion, is that it is so far out of touch with the realities of the actual situation that it just simply has not worked and will not work.

And I think from the point of view of the Appropriations Subcommittee, which you represent here, that you will see, as the years go by, that if this system is left unchanged, that you will be asked year after year after year for more and more and more money and that the problem of the people here without documents will increase and not decrease. I think we have seen this long-range trend developing and we have seen, since the qualification of the Immigration and Nationality Act in 1952, where the first restrictions of any importance was first placed on Western Hemisphere immigration.

You know, that is not so long ago in 1952, for, up to then, we had relatively free immigration.

The 1952 Act was followed by the amendments to the Act in 1965 which, for the first time, imposed a quota on Western Hemisphere immigration. Also, it introduced the concept of labor certification into the law which had actually been in practice through decree for two years, applicable only to Mexico.

We then saw the 1976 Amendments which further restricted legal immigration from Mexico and from the Western Hemisphere, which, basically, completed the process of what is, to me, the elimination of the possibility of legal immigration, except for a very few persons.

I think the reasons why thelaw has gone the way it has, into more and more restrictive immigration policies that permit less and less people to come in to the country as legal immigrants—the reason is, I think, as I mentioned in the statement that I submitted to your Committee is the fact that the thinking that has gone into the immigration system has been what I would call, for lack of a better name, Eastern thinking. It is the kind of thinking that sees immigrants as coming into the country on ships from across the seas, through easily controlled ports of entry, where nations can be assigned numerical quantities and where the type of immigrants can be defined and controlled through the visa process.

Well, that situation doesn't pertain at all, you know, in the West Coast and the Southwest and now, as you have heard from Mr. Castillo, this situation is now affecting the whole United States because we have between Mexico and the United States a huge 3,000-mile border that, in my opinion, is virtually unprotectable, you know, barring the kind of a Chinese Wall that Congressman Burgener said was one of the extremes of the thinking.

On the two sides of this huge border, you have two completely disparate economies: one relatively healthy and expanding economy that, up to now, has needed seemingly endless numbers of workers and has attracted the workers; on the other side, a developing capitalist economy which is developing very unevenly and which is so controlled by the economic interest in the United States that almost anything that happens here, in terms of an economic dislocation, is magnified four or five times, you know, in the Mexican economy. So that if we have been having economic problems here, the economic problems that have developed in Mexico in recent years have been five or six times ours.

The current unemployment rate in the Mexican economy, I understand, runs around 50 percent.

Their inflation rate, which is——

Ms. BURKE. We will be having a witness later that will be——

Mr. VARELA. Right, so I won't get into it.

But all this is to say that I believe that the kind of immigration system that is going to work for this area has to recognize these realities and we believe that, although President Carter has taken an initiative and, MAPA congratulates him for this, to recognize that the problem exists and has put forward proposals, we believe that they are very weak, that they are inadequate; that, even though they might be, at least, good in terms that they put the issue on the agenda for discussion, that they are not going to resolve the problem.

For instance, the proposal of President Carter that people here from 1970 continuously have their status adjusted is going to affect anywhere from fifteen to twenty-five percent of the people who are here without documents. The others would be placed on a very limited, five-year status without any rights, without the possibility of having their families join them here and, at the end of five years, we don't know what would happen.

The employer sanctions, in my opinion, would create a huge underground illegal labor market that would be far more exploited than is the case at present and I think that, given the situation that exists between the Western Hemisphere and the United States, such employer sanctions are unenforceable.

We see that even the more comprehensive and more humane parts of the labor code covering such things as labor conditions and minimum wages and so forth throughout history have been unenforced. So we have no reason and no likelihood to think that the employer sanctions can be enforced or are going to work.

I think what they are going to do is create a lot of hardship, put a lot of people off the—the employers will put a lot of people off the payrolls, pay them in cash and that their living conditions will become much worse.

Plus, what Congressman Roybal has pointed out, the wholesale discrimination that will occur to people of Mexican and Latin and black descents who apply for jobs for whom employers are not sure of their status.

We recommend, finally, what we have to have in an immigration system is an ability for people to immigrate legally to the maximum extent that the economy can absorb.

We recommend 100,000 visas per year for Mexico. We recommend the elimination of labor certification. We recommend that people who immigrate be able to become citizens in their own language without the need for a waiting period. And we are also in favor of the approaches taken by the bills now in Congress by Congressman Roybal and by Senator Cranston.

We have other things to say, but I appreciate the time problem that you are running into here, so I am hurrying along and I am going to end my statement at this point.

Ms. BURKE. Thank you very much.

Are there any other questions by Committee members?

If not, thank you very much for your very impressive testimony.

Mr. BURGENER. Just one quick one, Madam Chairman.

Ms. BURKE. Yes, surely.

Mr. BURGENER. If I am reading my charts right, about 14.5 percent of the current legal immigration comes from Mexico, and it is my impression that we admit some 400,000 legally per year from all over the world with a strong change from Europe to Latin America, Asia and Africa in the past 25 years—a big change. It would appear that we are admitting, legally, about 60,000; and if that is in error, please correct me.

Mr. VARELA. Well, Congressman Burgener, I want to say, first of all, just in passing, that one of the things that you said that I was impressed with earlier is that we ought to bring the immigration system into conformity with what is actually happening.

Mr. BURGENER. Yes.

Mr. VARELA. Let me say that this figure is pre-Eilberg. The Eilberg Bill, by eliminating the special approach to Western Hemisphere immigration, which that Subcommitteee has abandoned, put Mexico and all of the Western Hemisphere on exactly the same par, supposedly, as the Eastern Hemisphere, although they reduced the number of visas. In other words, the visas available to the Western Hemisphere are 60,000 less than to the Eastern Hemisphere.

Mexico is now limited to 20,000.

Mr. BURGENER. I think these figures are inaccurate then.

Mr. VARELA. Yes.

The Eilberg amendments cut visas for Mexico by sixty percent overnight.

Mr. BURGENER. So you think a realistic figure would be around 100,000 legal at the moment.

Mr. VARELA. Yes.

Mr. BURGENER. Thank you, sir.

Ms. BURKE. Thank you very much.

Mr. VARELA. One last item, please.

We also are very strongly of the opinion that, whatever legislation is enacted, those who are here at the time of the legislation be granted an unconditional amnesty so that we start the slate clean.

(Applause)

Ms. BURKE. Thank you very much.

Our next witnesses are Keith Comrie, Los Angeles County Department of Public Social Services, Morrison E. Chamberlin, Los Angeles County, Department of Health Services and Irene Baraniuk, Food Stamp Program, NAPP. I understand that Mr. Sanchez of Orange County Human Relations Commission will not be with us.

Will those witnesses please come forward.

Welcome to the Committee, and I will ask the same thing with respect to summarizing your statements. Let me explain why we are trying to expedite the hearing. We are going to take a recess at about 12:30 for lunch. We will resume at two o'clock. There is one other panel to testify before 12:30 in order for us to be sure to be back here at two o 'clock to hear Dr. Bustamante. That is the reason why I am trying to expedite, as much as possible.

Thank you very much.

If you would like to summarize, your total statement will be part of the record.

Mr. COMRIE. Thank you, Madam Chairman.

I am Keith Comrie, Director of the Department of Public Social Services in Los Angeles County. We administer the welfare and social services program for this area.

I have extra copies of the statement I will leave with your staff. I will summarize.

To my understanding, you requested we present specific information on the cost of undocumented persons and welfare.

Federal and state regulations are clear. Undocumented persons are not eligible for the welfare programs. Only citizens and people with the right to remain permanently in this country are recognized in the Social Security Act.

However, in California, there is a clearance system for persons who have lost their papers, their green card, as such. Those persons, rather than being denied assistance immediately are allowed to fill out an affidavit and certify they are here legally which we present to the Immigration Service for clearance. This is how we gathered the following statistics on cost to the welfare system of undocumented persons.

In 1976, we embarked on a pilot to review every case that came back to us from the Immigration Service. They sent some 6,000 people back who did not have their papers when they applied for aid. Eleven hundred of those were determined to be in the country legally and had just lost their papers. Forty-nine hundred, however, were determined to not be here legally for two reasons; first, two thousand who did not show or failed to cooperate with the Immigration Service, and, second, 2900 actually were determined, through an interview process, to not have the right to remain permanently.

The cost in Los Angeles County is $1.4 million per year of aiding these people temporarily while Immigration clears them. That amounts to two-tenths of one percent of the $700 million AFDC budget, a very small portion of it.

I do have to indicate also that Immigration was working from a large backlog at that time and the statistics this year show that the figures will be even lower, significantly lower.

One other aspect your staff mentioned the other day you wanted to comment on was not just persons who are undocumented on welfare, but children who were born here and, as a result, are citizens but their parents are undocumented. That is a larger category. We estimate some 8,500 citizen-children of undocumented parents are receiving aid in Los Angeles County. The cost of that would be just under $10 million per year or roughly 1.5 percent of our AFDC budget; again, a low figure.

Thank you.

Ms. BURKE. Thank you very much.

Mr. CHAMBERLAIN. Madam Chairman, good morning. My name is Morrison E. Chamberlin. I am the Director of the Department of Health Services for the County.

I have submitted written testimony to your Committee. I think that what you have, and in light of the time constraints, covers everything that I would want to say to your Committee this morning.

Ms. BURKE. Would you like to emphasize some parts of it, however?

Mr. CHAMBERLAIN. Yes, I would.

Our Department operates seven hospitals. We have the responsibility for total inpatient and outpatient care, public health as well as mental health. We have some 130,000 admissions per year through our hospitals. It is an all-inclusive total health system delivery.

We have a major portion of the non-residents or the illegal aliens that avail themselves of the services in our facilities and our policy has been to address their emergency needs and preventive needs and to provide care to that group of citizens or to non-citizens.

We do feel that the Federal Government has a responsibility to take the burden of that cost off the local taxpayers and we would urge your Committee to pursue that to its end.

Ms. BURKE. I noticed that on page 5 that you estimate that the estimate of value of care is approximately $40 to $58 million offset by insurance payments of $5 to $7 million. Would you tell us how you arrived at that?

Mr. CHAMBERLIN. Last year we did a study of random samples to try to assess the patient load within our facilities and, through a systematic statistical analysis, arrived at a percentage that we felt, through personal interview and contact, were those who present themselves for care. It could be identified as the nonresident. Based on that percentage and in an extrapolation of the annual operating costs of the Department, we arrived at these figures.

Ms. BURKE. And most of that was for emergency care; is that it?

Mr. CHAMBERLIN. Yes. There is elective care involved in that too.

Ms. BURKE. All right Thank you very much.

The next witness is Mrs. Baraniuk.

Is it true that you are the sister of a very famous mayor?

Ms. BARANIUK. He is my brother. I am a few years older than he is.

Madam Chairlady Burke and members of the Committee, I am Irene Jackson Baraniuk, Director of the Food Action Program, not Food Stamp Program—Food Action Program, a Food Stamp outreach now because it is the program of the Neighborhood Adult Participation Project.

I would like to thank Congressman Slack and members of this House of Representatives Appropriations Subcommittee for this opportuity to give input into these hearings on undocumented aliens vis-a-vis their impact on social services in the Los Angeles County area.

I will confine my remarks to the areas relating to the Food Stamp Program.

The so-called "illegal alien", whom I shall henceforth refer to as the undocumented alien, causes negligible, if any, cost impact on the Food Stamp Program. Existing Federal and state food stamp regulations prohibit the participiation of undocumented persons or ineligible aliens in the Food Stamp Program since December, 1974.

Households which contain some undocumented alien members may participate as in the case of U.S.-born children. However, the undocumented members of the household may not be included in the budget unit.

Unfortunately, however, to the contrary, since Los Angeles seems to be suffering from a serious mental illness I choose to call "alien paranoia", the aliens themselves, both eligible and ineligible, documented and undocumented, are often the victims of the repression and paranoia of the social services system.

It is a common practice in many districts to over-verify, routinely required excessive documentary proof, deny clients food stamps on emergency basis until documentation and proof are provided, which is against the law, totally ignoring the Food Stamp regulations in terms of presumptive eligibility, emergency needs and verification required under normal application process, simply because of the applicant's surname, color of his or her skin and a "foreign accent".

The victims of this hysteria are most often Latinos, especially Mexicanos.

In July of 1975, we requested and received a letter of clarification from the State Department of Benefit Payments in regard to the Food Stamp regulations dealing with verification of alien status, and I am referring to attached All County Letter No. 75–152, which is part of my written testimony and will be submitted into the record.

I would, however, like to read a very brief excerpt of that letter, which refers to the fact that documentation beyond that of income and resources, is not ordinarily required except in cases of so-called questionable cases. And we asked for a definition of what questionable cases are. And I quote from this letter:

> In reference to aliens, a "questionable case" requiring documentation shall only be one of the following: the existing Welfare Department records indicate that one of the individuals in the household is an illegal alien who may or may not be under order of deportation. This information could be contained in records for food stamps, AFDC, Medical, general relief, social services, et cetera.
>
> Two, notification by another governmental agency that one of the individuals in the household is an illegal alien who may or may not be under order of deportation. This information could be received from the Immigration and Naturalization Service, the border patrol, the FBI, the District Attorney, et cetera.
>
> It is clear that the information provided by the household on their application is internally inconsistent with oral information provided by them.
>
> Four, notification by EDD that a member of the household is an illegal alien or legal alien only in the country temporarily,

and we refer to Food Stamp section 63–2207,

> and whom they cannot legally refer for employment.
>
> Five, an employed household member who fails to report a Social Security number on his application, whose pay verifications do not show his Social Security number and who refuses to allow an employer to be contacted for this information.
>
> It should be understood that the mere fact that an applicant speaks no English or is of non-white descent shall not be considered sufficient evidence to label an applicant as questionable and require documentation.

And if I may make a personal reference, I am very often mistaken for Latina because I am fluent in Spanish and it is a second language, although I am black. So I know it happens to people. It has happened to me before too.

We commonly use food as part of our foreign policy inducements, shipping foodstuffs and grain even to our political adversaries, yet are constantly guilty of negligence when it comes to feeding those who are hungry within our own territorial boundaries.

Not only do aliens, both documented and undocumented, suffer hunger because of these stringent and restrictive practices, but often U.S. citizens of Mexican descent feel the brunt of this kind of discriminatory practice.

And one thing we must keep in mind when we talk of the "burden on the taxpayer" is that even undocumented aliens are taxpayers and very rarely are recipients of the services they help to pay for.

Taxation without representation was clearly forbidden by our Constitution and yet it is practiced every day and perpetrated upon those who have no means to defend themselves.

This Committee has a charge to do all it can at the Federal and State levels to present these biased and discriminatory practices that deprive people of basic needs and labels our society as non-humanistic and totally insensitive to the basic human needs of those who are indeed economic refugees in our own nation and in our own state.

Since the Food Stamp law, which goes into effect next year, clearly prohibits the reporting of any undocumented persons to INS, I

strongly suggest that the state and federal legislature mandate that no social, state or federal agency shall act as a reporting arm of INS and, therefore, remove one of the roadblocks of participation in the Food Stamp Program by U.S.-born children whose parents may be undocumented.

I would like to quote two resolutions from the California Conference on Immigration and Public Policy held at East Los Angeles College, October 15th, 1977:

> There are public agencies on all levels of government we urge to resist the pressures from the Immigration and Naturalization Service to institute a system of reporting to its office or documenting the names of aliens with uncertain status to whom they provide services and that a show of revulsion toward this onerous policy be made by concerned persons in groups to elected officials and agency-decisionmakers; that public agencies which assess the cost of providing services to undocumented aliens take into consideration the tax contributions indicated in such reports as the survey conducted by the Department of Labor and that the media, elected officials and others who shape public opinion adopt this policy as well so a balanced view can be presented to the public and taxpayers.

And the report referred to herein is the Characteristics and Role of Illegal Aliens in the U.S. Labor Market, an exploratory study by David S. North and Marion I. Houston, Litton & Co., Inc., Washington, D.C. March, 1976.

And if I may, I would like to leave this final thought with you.

I am quoting from Article 25 of the Universal Declaration of Human Rights from the United Nations:

> Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family, including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

I thank the Committee for this time.

Ms. BURKE. Thank you very much.

Chairman Slack?

Mr. SLACK. No questions.

Mr. EARLY?

Mr. EARLY. One brief question, Madam Chairman.

Mr. Comrie, welfare constitutes what percentage of your total county budget?

Mr. COMRIE. It is about a third of the total budget.

Mr. EARLY. A third? Thank you.

Mr. COMRIE. It is $1.2 billion out of over a $3 billion budget.

Mr. EARLY. Thank you.

Ms. BURKE. Did you have any questions?

Mr. ALEXANDER. No questions.

Ms. BURKE. Mr. Roybal.

Mr. ROYBAL. I have a couple of questions.

Mr. Comrie, you have stated that the survey that you made was based on 6,000 total responses from INS. You also indicated that finally the responses amounted to 2900 who were determined by INS not to be legally present.

What disturbs me is the fact that these 2900 are included in the 4900 responses with negative results.

Now, if there were 4900 with negative results, is that conclusive enough to determine that they were here illegally or could it possibly

be that the Immigration authorities haven't been able to find their files or many other problems?

How do you come to a conclusion that there were 2900 of the 6000 here illegally?

Mr. COMRIE. There are a number of groups of people in that category you are referring to, the 2000 that failed to cooperate. Undoubtedly, some of those are people who are normally moved out of the country.

However, in our discussions with Immigration, many were people who they have the current address off the form we send. They did contact and they refused to come in to continue the process. They just didn't want to cooperate later in the point after they had received the initial aid.

We can't separate which of the 2000 moved away versus which of those that didn't cooperate.

Mr. ROYBAL. Then you really do not know that there is a specific number that were here illegally based on your own survey.

Mr. COMRIE. Well, the 2900 very specifically went through the process and Immigration found they did not have the right to remain here permanently.

Mr. ROYBAL. But did your survey clearly substantiate the fact that they were here illegally?

Mr. COMRIE. Immigration assures us they did, yes.

Mr. ROYBAL. But did you? You were conducting the survey?

Mr. COMRIE. No. I have no access to Immigration's records. I accept what they told us.

Mr. ROYBAL. Well, I think Immigration records are a matter of public records and something that a person making a survey can very well have access to.

Now, another question with regard to your survey. You have indicated the total cost of illegal aliens to the County of Los Angeles is $1.4 million.

Mr. COMRIE. That is right.

Mr. ROYBAL. Is that based on the same survey?

Mr. COMRIE. That is on that survey.

Mr. ROYBAL. All right. Now, have you taken into consideration the fact that the Chief Administrative Officer of the County of Los Angeles, testifying before Supervisor Schaubarum's Committee did, in fact, testify that illegal aliens, in one year, may well be paying $120 million in Federal, state and local funds.

Mr. COMRIE. Yes, sir. I am aware of that.

Mr. ROYBAL. Was that taken into consideration when your survey was made or is the $1.4 million an amount that is not accounted for insofar as income is concerned?

Mr. COMRIE. I am aware of those figures. I think our disagreement in policy goes to the fact that, although there are taxes paid by undocumented citizens, they go to the federal income taxes and Social Security taxes. On the other hand, locally, we provide health and welfare services which come out of the property taxes and there is not a reimbursement there.

This is why the bills we have had before Congress propose that, since immigration is a national policy, that the local cost be reimbursed.

Mr. ROYBAL. Well, what I am trying to determine is whether or not local authorities do, in fact, receive more in taxes than the so-called costs of illegal aliens.

Mr. COMRIE. That I can't answer.

Mr. ROYBAL. Based on your own survey, I can't very well see where you can substantiate it unless you have more accurate figures than you have given us.

Mr. COMRIE. Actually, the welfare system, because of the federal rules, has very limited costs in terms of undocumented system. The real costs are in the health system in this county. Those are where the large costs are, but your question, have we weighed the two revenues—no, we have not, but, from my perspective, most of those revenues are going to another level of government while the local level picks up the costs.

Mr. ROYBAL. Well, that is not necessarily so because it is my understanding that these people are also counted when it comes to revenue sharing and many of the other little goodies that the federal government makes available to the county, the city and to the state.

Now, we happen to be on the Committee that handles all those funds. We know exactly what comes out here.

So, when the statement is made that these taxes don't actually benefit the local community, that is really not based on fact.

Now, one more thing——

Ms. BURKE. Would the gentleman yield on that point?

Mr. ROYBAL. I will yield.

Ms. BURKE. Are you familiar with a study from Orange County that indicates that there is a net receipt and that more revenues are received than expended?

Mr. COMRIE. No. They haven't shared that report with us yet. It was just on the news this morning, I believe, and we are trying to get a copy of it.

Ms. BURKE. You have none of the information on that report?

Mr. COMRIE. No.

Ms. BURKE. Do you have any of that information, Mr. Chamberlin?

Mr. CHAMBERLIN. No. I just became aware of it also in a newspaper article.

Ms. BURKE. All right. Thank you.

Mr. ROYBAL. Well, Madam Chairman, that is exactly the next question that I was going to be asking.

Ms. BURKE. Oh, I am sorry.

Mr. ROYBAL. I am and have been aware of this particular study now for several days and I am sure that it is not a matter of public record as of yesterday, but it is as of today. And that is something that should be taken into consideration when further studies are being made.

The point I am trying to make is that the $1.4 million, based on a survey in which only 6000 were studied, is not necessarily conclusive; not only based on the results of that study, but it is not conclusive if you don't take into consideration the asset side of the ledger. We must consider not just the credits, but also the assets, the incoming versus the outgoing. And it is at that particular time that a determination can be made as to whether or not there is a deficit and whether or not the County of Los Angeles is, in fact, suffering a $1.4 million deficit insofar as the payment to illegal aliens is concerned.

Thank you, Madam Chairman.

Ms. BURKE. All right. Thank you very much.

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Mr. Burgener.

Mr. BURGENER. Madam Chairman, I will be brief, I hope.

Mr. Chamberlin, do you deal with hospitals?

Mr. CHAMBERLIN. Yes, sir.

Mr. BURGENER. Now, putting aside money considerations and the subjective business about what is right and wrong, good and bad, which depends on the eye of the beholder, do you have an idea of about how many babies per year in Los Angeles County are born of undocumented mothers?

Mr. CHAMBERLIN. Somewhere in the range of probably 50 to 70 percent in county facilities.

Mr. BURGENER. Well, what does a percent mean? Numbers, I am talking about.

Mr. CHAMBERLIN. At Women's Hospital, which is located at County USC Medical Center, one out of every twenty infants born in the State of California is born there. One out of every 200 nationally is born at Women's Hospital. We expect to have about 14,000 deliveries in that facility this year.

We will have about 3500 deliveries at Harbor General Hospital and about that same number at Martin Luther King, Jr. Hospital.

Mr. BURGENER. What does all that add up to—I am trying to make a point here and ask you a question—in numbers of babies born of undocumented mothers, about how many is it? Is it 1000, 5000? I don't have any idea.

Mr. CHAMBERLIN. If that figure totals around 18,000 to 19,000 and if it was 50 percent, it would be somewhere about 8000 or 9000.

Mr. BURGENER. All right. And now, it is true, is it not, that these new babies are American citizens?

Mr. CHAMBERLIN. They are.

Mr. BURGENER. Now, most reasonable people, and I hope that is most all of us, would agree that mothers and their children belong together.

As a practical matter, now, what happens to these new babies and their mothers? What we do? What happens to these 8,000.

Mr. CHAMBERLIN. When a woman in labor presents herself to one of our facilities, they are rendered care, obviously. That is the policy. That will remain the policy. That is not only appropriate medically, but is the humane thing to do.

Mr. BURGENER. True, and I think none of us would quarrel with that.

Now, I want to get to what happens after that, if you know.

Mr. CHAMBERLIN. I do not know specifically. I would assume that many of them remain within the community.

Mr. BURGENER. I think we ought to know.

Ms. BURKE. I think that we are going to have to probably ask that question of someone from INS.

Is Mr. Sureck here still?

Mr. BURGENER. Well, while we are looking for him, I did have a case in San Diego of a young, undocumented mother who was promised by a young service man that certain happy things would happen and didn't happen. She had the baby in our county and the immigration people wanted to keep the baby and send her home. Of course, we prevented that, as we should have, but it is a real serious problem.

Ms. BURKE. Mr. Sureck, would you come forward, please? We just have one question that has come up that we did not go into at the time of the testimony. If you would like to have a seat there.

The question that has been presented by Congressman Burgener is: What is the INS policy after a mother who is an undocumented gives borth to a child that is an American citizen? What is your policy and what happens from that point forward?

Mr. BURGENER. To the family.

Ms. BURKE. To the family.

Mr. SURECK. Well, it all depends upon the circumstances. You are talking about a mother who is here in an undocumented status. If she has no equities—in other words, if there is no visa petition pending for which she can receive some benefit, we will take the necessary steps to have her sent from the United States.

Ms. BURKE. What do you do with the child?

Mr. SURECK. Well, the child is a U.S. citizen. Normally, the child follows the mother. In other words, this is what normally happens. We don't separate—the parent, normally, removes all the children, whether they are citizens or not citizens.

Ms. BURKE. Well, now, your policy, as I gather, would be to pay or provide transportation for the mother back to the country, if you deport the mother, of origin.

Mr. SURECK. And also the children.

Ms. BURKE. Is there a question of whether or not you even have a right or any basis for transporting an American citizen in that situation?

Mr. SURECK. No. We don't consider it any particular problem. We consider it a necessity under the Immigration laws where the—if the child is going to accompany the parent, to pay for the transportation of the child out of the Immigration Service appropriation.

Ms. BURKE. Congressman Burgener, go ahead.

Mr. BURGENER. Well, not editorializing or passing judgment, is it not true that the child must achieve majority or some later years in life before the child can take steps to immigrate the parents; is that not true?

Mr. SURECK. That is true in the present law. Before the child may petition for the parent, the child must be 21 years of age.

Mr. BURGENER. So we have got a little minor problem of 21 years to be concerned about.

Mr. CHAMBERLIN. May I make a comment——

Ms. BURKE. Surely.

Mr. CHAMBERLIN [continuing]. Because I would want the Committee to be made very clearly aware that we do not report these births to Immigration and Naturalization. We do not participate in that.

Ms. BURKE. All right. One last question.

How many children did you require to be deported last year with their parents—their mother?

Mr. SURECK. Well, I can't answer it. I do have some statistics here as to Mexican mothers and children who were sent out, but they were here illegally. But, at this time, I have no statistics as to the number of U.S. citizen children that may have been sent out or accompanied an undocumented alien parent.

Ms. BURKE. Would you provide that for the record for us, please?

Mr. SURECK. I will do that.

Mr. ROYBAL. Madam Chairman, may I clarify or try to understand the policy of the Immigration authorities?

Ms. BURKE. Yes.

Mr. ROYBAL. It is the policy of the Immigration authorities, as you have stated it, that a mother who is here on an illegal status basis be deported to her country of origin and, if she has one or ten children, regardless of the number, who are born in the United States, that they too are deported; is that correct?

Mr. SURECK. Well, they are not necessarily deported because that is a term of art. But they may be removed with their parents.

Mr. ROYBAL. Well, what difference does it make whether you use the word "remove" or "deport". Let us take your terminology. They are removed. Aren't you, in fact, making illegal aliens out of American-born children?

Mr. SURECK. Mr. Congressman, this is——

Mr. ROYAL. Well, answer the question. Are you making illegal aliens out of children who were born in the United States going to Mexico or any other place?

Mr. SURECK. No. We are not.

Mr. ROYBAL. Why aren't you? Are they there legally?

Mr. SURECK. No. We are not——

Mr. ROYBAL. Did they get a visa? Did they go to the Immigration Service to get a proper visa, a visitors visa—or whatever it happens to be—to leave their country origin? And go to a foreign country.

Mr. SURECK. No. But we are not removing them in a sense that we are forcing them out. They are merely accompanying their parents.

Mr. ROYBAL. But they are still being sent to their parents' country of origin as American citizens and they do, in fact, become illegal aliens of their parent's country of origin; isn't that correct?

Mr. SURECK. The parent may leave the child here if the parent desires.

Mr. ROYBAL. Now, let us reverse the process.

Supposing that an American citizen who is born here in the United States is sent back to the parents' country of origin, as it was true during the early 1930's and the early 1950's, isn't it true that if they go back with their parents, whether they are removed or whatever word you want to use, that they are, in fact, not citizens of the country that they have to go to?

Mr. SURECK. That is not necessarily true. They may be dual citizens.

Mr. ROYBAL. How can there be dual citizenship? Now, there hasn't been dual citizenship with Mexico now, that I know of, for many years.

Mr. SURECK. I merely said that it may be depending upon the law of the state or the country to which they are being sent.

Mr. ROYBAL. Supposing that, of last year, the 8,000 people who were born here—supposing that a couple—one an American citizen and the other here illegally had one child born in Mexico and five other children born in the United States, can you say that they have dual citizenship?

Mr. SURECK. There is such a thing as dual citizenship.

Mr. ROYBAL. I know there is, but I am talking about this particular instance. You know very well that there is no such thing as dual citizenship under this basis.

Mr. SURECK. Well, I do not know.

Mr. ROYBAL. Yes, you do.

Mr. SURECK. No, I do not know.

Mr. ROYBAL. As an Immigration officer, you are well aware of the fact that there is no such thing as dual citizenship under these circumstances.

Mr. SURECK. It is possible for a child born in the United States whose parents are citizens of another country to acquire the citizenship of that country at the time of birth.

Mr. ROYBAL. Well, we are talking, Madam Chairman——

Ms. BURKE. Yes. I believe that the question, as asked was: Assume that the parent was from Mexico, will that child be a citizen of Mexico?

Mr. SURECK. I am not an expert on Mexican law and I don't choose to answer that question. I do not know whether that child acquires citizenship of Mexico at the time of birth.

Mr. ROYBAL. Well, Mr. Sureck, but you are an expert on American law. And the only thing we are trying to determine is whether or not——

Mr. SURECK. I can tell you that that child acquires U.S. citizenship at birth, but I cannot tell you if the child acquires Mexican citizenship.

Mr. ROYBAL. In order to prevent this argument, Madam Chairman, let us recapitulate.

You stated that it is the policy of your department to send back to the parents' country of origin any of their children, even those born in the United States.

Mr. SURECK. Let me make a correction. I didn't say that was the policy. I said it is up to the parent——

Mr. ROYBAL. But you do that, don't you?

Mr. SURECK [continuing]. To decide if the child is to accompany that parent.

Mr. ROYBAL. Yes, but you still pay for their transportation and you finance it. Therefore, you, in fact, send them back.

Mr. SURECK. Well, I disagree in the conclusion that you have reached.

Mr. BURGENER. Well, if the gentlemen will yield and I can recapture the last 30 seconds of my time.

These people are stuck with the laws that we pass.

[Applause.]

The Immigration and Naturalization doesn't have all that much latitude. I think what you are telling us is that you permit the child to go with its mother.

Mr. SURECK. That is right.

Mr. BURGENER. And for all we all know, as a practical matter, they are going to probably go . But I have a strong suspicion that they don't go and I will bet you that, when we dig into it, they stay here. I am not passing judgment on whether they should or not, but I will bet you they stay.

Mr. SURECK. What you say is true because we know of many instances where we locate the undocumented alien and they say they have

no family here when, in fact, they have family here because they do not want them to get involved.

But I really want to answer one thing that should be clarified. The issue raised here as to whether or not the U.S. citizen child or even a U.S. citizen spouse or lawful, permanent resident spouse may challenge the removal or deportation of an alien has been answered many times in courts and the courts say, as a general rule, that they have no challenge—no standing to challenge that. This is generally the position that has been taken.

But, keep in mind, that we never reached that situation with many of the undocumented aliens who were married to U.S. citizens—spouses—lawful, permanent resident spouses because they are eligible for some relief under our laws and, so long as they have taken steps towards getting that relief, we are not going to take steps to remove them.

The way the law is written, an infant child or a minor child cannot bestow any benefit upon the parent. And, as Congressman Burgener said, we are stuck with that law.

Mr. BURGENER. That is right.

Mr. ROYBAL. Madam Chairman, may I make just one comment? I suppose we can belabor the situation.

But back in 1950—in the early 1950's, almost four million undocumented aliens were sent back to their country of origin. These are people that came in with the Bracero Program, most of them, that lived in the United States.

Now, we as a government, probably felt at the time that these millions of men who were coming to the United States, after taking a complete physical examination, were the cream of the country sending these men in. These healthy men, I suppose were expected to be reading the Bible every night and were not going to go out in the community in general.

The truth of the matter is that while they may have read the Bible, there were also children born during that time. And of the four million that were sent back to their country of origin between 1950 and 1955, it could well be estimated—since most of them were Catholic, that they had three children. It is also estimated that our Immigration authorities send back to their country of origin approximately 12 million American citizens.

Now, it is also concluded that while there was a potential of 12 million, not all of them went back. What actually happened was that these men went back to their country of origin and then came right back again and perhaps this is the reason why the present administration is now suggesting amnesty for those who came in before 1970.

So, again, I think we can commend the Administration for giving the opportunity of unifying the family of those who came in before 1970. Now, those who came in after 1970, are given a legal residence status without the same rights.

What I do want to point out is that one can use statistics most anyway, but no one really knows—Mr. Sureck, Castillo or anyone else how many illegal aliens there are in the United States.

The problem is, Madam Chairman, that we constantly refer to illegal aliens as those coming from the Western Hemisphere. That is not necessarily the truth. If one wants to be fair about it, we have to conclude that—and again using guesstimates, not estimates—that five

million perhaps are here from the Western Hemisphere, but 4 million are here from the Eastern Hemisphere.

Now, those that come from the Eastern Hemisphere are people in the lower middleclass. They come here with an airline ticket or they come by boat, but, nevertheless, they are people who have a working knowledge of English. They are usually blonde, perhaps blue-eyed; but, nevertheless, as Europeans get lost very quickly in the general community.

The people coming from the Western Hemisphere, on the other hand, are the poorest of the poor. They are here because they are starving in their own country.

Now, this gives me an opportunity, Madam Chairman, to make a pitch for a provision in my particular bill.

I think there is a partial solution to this problem, that the bill that I have presented now in the Congress of the United States for the last 12 years—be taken up by Mr. Eilberg and his subcommittee on judiciary.

One of the provisions that should be adopted is that a high-level Commission be established in the United States, headed by an Ambassador. That that Commission invite a similar representation from Mexico and other countries in this Hemisphere to study the problems of immigration. But, above all, to study the economic development of the underdeveloped countries in this hemisphere because, since these people come here because they are starving in their own country, it seems to me that we have a responsibility to help develop the economic situation of countries in this hemisphere. Just since we have taken the vast responsibility of providing $2 billion a year to Israel and other aid to countries in other sections of the world, we should do the same for the Western Hemisphere.

I think that this is a must and that, unless this is done, in a cooperative spirit nothing is going to be done. I constantly take the position, Madam Chairman, that the reason we are in this dilemma, and I think it has been clearly illustrated by the testimony today, is that we as a country don't want to do anything about it and neither does the sending country. And unless both countries get together, nothing is going to happen. We will continue to have hearings and we will continue to have Rodino Bills presented in the Congress of the United States and if passed and these bills will definitely not solve the problem, but just make matters worse.

Ms. Burke. I would just like to say one final word. I recognize what the law is and the mandate INS has. However, I also believe that there are provisions in that law for visas in hardship cases. All of us have occasion to call upon them and to assist with those.

I certainly would hope that there would be some sensitivity or discretion which would be used because there certainly is a hardship if you have a mother who gives birth to a child and that child is an American citizen. It seems to me that this should be considered.

Mr. Sureck. Madam Chairman, again, I can say that the Immigration Service, as well as the State Department, really have no discretion as far as issuing visas. There must be compliance with the law before a visa may be granted and, also, compliance as far as eligibility with regard to immigration service before there may be an adjustment of status.

Now, the only discretion we may have is to permit a person to remain here while something is pending while some action is being taken. This is where we may exercise discretion as far as the Immigration Service is concerned.

Now, may I provide you with a statistic that you had inquired about?

Ms. BURKE. Yes.

Mr. SURECK. And this is taken from one of our G–23 reports and, unfortunately, it doesn't break down between females and children.

During the fiscal year of 1977, our records show that the number of deportable aliens located, who were from Mexico, who were females and children, were 30,531 and the number from Mexico who were adult males were 46,037. Now, that is the only breakdown that I have as far as females and children.

Ms. BURKE. Thank you very much.

[The complete statements of Messrs. Comrie and Chamberlain and Mrs. Baraniuk follow:]

STATEMENT BY
KEITH COMRIE, DIRECTOR
LOS ANGELES COUNTY
DEPARTMENT OF PUBLIC SOCIAL SERVICES

BEFORE THE

APPROPRIATIONS SUBCOMMITTEE
U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1978
LOS ANGELES, CALIFORNIA

MR. CHAIRMAN, AND MEMBERS OF THE SUBCOMMITTEE:

I AM KEITH COMRIE, DIRECTOR OF LOS ANGELES COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES. WE ADMINISTER THE WELFARE AND SOCIAL SERVICE PROGRAMS. YOUR COMMITTEE HAS ASKED FOR TESTIMONY ON THE IMPACT OF UNDOCUMENTED ALIENS ON OUR WELFARE PROGRAMS.

UNDER FEDERAL LAW AND REGULATIONS, UNDOCUMENTED ALIENS ARE NOT ELIGIBLE FOR PUBLIC ASSISTANCE. THE FEDERAL RULES RESTRICT WELFARE ELIGIBILITY TO CITIZENS AND TO ALIENS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE, OR PERSONS RESIDING UNDER COLOR OF LAW.

IN CALIFORNIA, WE HAVE A STATE SYSTEM DESIGNED TO ASSIST ALIENS WHO HAVE LOST THEIR PAPERS OR, FOR VARIOUS REASONS, HAVE NO VERIFICATION OF THEIR STATUS. SIMPLY, ALIEN APPLICANTS WITHOUT DOCUMENTATION IN HAND ARE PERMITTED TO CERTIFY THAT THEY ARE HERE LEGALLY - OR THAT THEY ARE NOT SUBJECT TO DEPORTATION, AND PUBLIC ASSISTANCE IS PAID PENDING A VERIFICATION OF THIS BY I.N.S.

THIS SYSTEM IS HELPFUL TO MANY ELIGIBLE PERSONS WHO WOULD OTHERWISE BE PENALIZED OR HAVE BENEFITS DELAYED DUE TO LOST IMMIGRATION PAPERS. HOWEVER THE SYSTEM IS NOT AIRTIGHT IN PREVENTING WELFARE PAYMENTS TO SOME INELIGIBLE PERSONS. LAST YEAR MY DEPARTMENT MADE A COMPREHENSIVE STUDY OF THE I.N.S. REPLIES TO OUR REFERRALS DURING 1976. IN SUMMARY, THAT SURVEY INDICATED:

-- TOTAL RESPONSES FROM I.N.S. IN 1976 - 6,000
-- ALIENS DETERMINED TO BE LEGAL - 1,100
-- RESPONSES WITH NEGATIVE RESULTS - 4,900

OF THE 4,900 ALIENS NOT CLEARED BY I.N.S., ABOUT 2,000 WERE PERSONS WHO FAILED TO COOPERATE -- SUCH AS "NO SHOWS" FOR SCHEDULED INTERVIEWS; THE REMAINING 2,900 WERE DETERMINED BY I.N.S. TO BE NOT LEGALLY PRESENT.

OUR STUDY SHOWS THAT THE VAST MAJORITY OF ALIENS WHO APPLY FOR WELFARE WERE LAWFULLY ADMITTED TO THIS COUNTRY AND HAVE "GREEN CARDS" OR OTHER ACCEPTABLE DOCUMENTS. YET, THERE IS A CORE COMING TO US - ABOUT 400 PER MONTH IN 1976, WHO DO NOT HAVE DOCUMENTS BUT THINK THEY ARE HERE LEGALLY. THESE APPLICANTS SIGN CERTIFICATIONS TO THAT EFFECT - OR CERTIFY THAT THEY, OR THEIR SPOUSE, ARE NOT SUBJECT TO DEPORTATION. BASED ON STATE RULES, WE REFER THESE CERTIFICATES TO I.N.S. FOR VERIFICATION AND, IF OTHER ELIGIBILITY RULES ARE MET, WE PROVIDE AID PENDING THE I.N.S. CLEARANCE.

IT'S FAIR TO POINT OUT THAT IN EARLY 1976, I.N.S. WAS WORKING WITH A HEAVY BACKLOG OF OUR ALIEN REFERRALS. MANY WERE CARRY-OVERS FROM THE PREVIOUS YEAR. THE FIGURES IN OUR STUDY INCLUDED THOSE BACK-LOGGED CASES. A PRELIMINARY REVIEW OF THE FIRST 9 MONTHS OF 1977 INDICATES THAT THE OVERALL WORKLOAD IS DOWN - ABOUT 1/3, WE ARE NOW GETTING ABOUT 340 REPLIES FROM I.N.S. PER MONTH. OF THESE, AN AVERAGE OF ONLY 90 PER MONTH ARE NEGATIVE RESPONSES. HOWEVER, IT IS TOO EARLY TO TELL IF THE TREND WILL CONTINUE.

THE TOTAL COST OF AIDING ILLEGAL ALIENS IN THIS COUNTY IN 1976 WAS $1.4 MILLION. THIS IS ABOUT 2/10 OF 1% OF OUR OVER $700 MILLION AFDC BUDGET. WE ESTIMATE THAT THE COSTS FOR 1977 WILL BE LESS SINCE, AS I'VE INDICATED, THE I.N.S. REPLIES ARE DOWN.

I APPRECIATE THIS OPPORTUNITY TO TESTIFY BEFORE YOUR DISTINGUISHED COMMITTEE. I WILL BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

COUNTY OF LOS ANGELES - DEPARTMENT OF HEALTH SERVICES

313 NORTH FIGUEROA STREET • LOS ANGELES, CALIFORNIA 90012

February 21, 1978

MORRISON E. CHAMBERLIN
Director
PHONE 213-974-8104

ROBERT SPEARS, M.D.
Acting Medical Director
PHONE 213-974-8106

HEALTH SERVICES
PREVENTIVE HEALTH
HOSPITALS
MENTAL HEALTH
COMPARATIVE VETERINARY MEDICINE

REGIONS

CENTRAL
Deputy Director
1100 N. MISSION ROAD
LOS ANGELES 90033
PHONE 213-226-6421

COASTAL
DONALD W. AVANT
Deputy Director
1000 W. CARSON STREET
ADMIN. ROOM 863
TORRANCE, CALIF. 90509

SAN FERNANDO—ANTELOPE VALLEY
DORRIS M. HARRIS, M.D.
Deputy Director
7533 VAN NUYS BOULEVARD
ROOM 400, SOUTH TOWER
VAN NUYS, CALIF. 91405
PHONE 213-997-1800

SAN GABRIEL VALLEY
ALVIN KARP
Deputy Director
7601 E. IMPERIAL HWY.
HARRIMAN BLDG. - RM. 168
DOWNEY, CALIFORNIA 90240

SOUTHEAST
MELVIN J. FLEMING
Deputy Director
12020 COMPTON AVENUE
LOS ANGELES 90059
PHONE 213-636-0961

Representative Edward R. Roybal
Federal Building, Room 7106
300 N. Los Angeles Street
Los Angeles, California 90012

Dear Congressman Roybal:

Enclosed herewith is testimony submitted by the County of Los Angeles Department of Health Services to the House of Representatives Appropriations Subcommittee regarding the impact of undocumented aliens on our agency. This material is submitted to you for purposes of your hearings in Los Angeles on this subject on Friday, February 24, 1978.

Thank you for this opportunity to provide your subcommittee with our views.

Very truly yours,

Morrison E. Chamberlin
Director of Health Services

MEC:FB:mf
enc.

cc: Each Supervisor
Chief Administrative Officer
Director, Department of Social Services

TESTIMONY TO THE HOUSE OF REPRESENTATIVES APPROPRIATIONS
SUB-COMMITTEE ON PROBLEMS RELATING TO UNDOCUMENTED ALIENS

Thank you for the opportunity of providing input to your sub-committee's hearing on problems relating to undocumented aliens. My name is Morrison E. Chamberlin, I am the Director of the Los Angeles County Department of Health Services. My comments today will relate to the health considerations of the undocumented alien.

My Agency is responsible for all of the county-operated health activities. These fall under the general categories of:

Hospital Care --- We operate seven hospitals with approximately 130,000 patients admitted per year.

Public Health Protection --- This is done through broad-based communicable disease control and other environmental management programs.

Mental Health --- Both Preventive and Curative programs are operated directly by the County and through contract arrangements.

In short, we are responsible for the general protection of the Public Health for the entire community and we also serve as a Personal health resource for the poor -- and/or for those who cannot secure health care elsewhere. For example, 98% of those admitted to our hospitals without private insurance fall below the California Medicaid indigency standards.

We operate first, therefore, under a general policy of treating patients requiring care and to be later concerned about financial arrangements.

One of the key factors that has allowed this policy to exist and continue has been the significant Federal and State financial assistance we receive under the Medicaid and Medicare Programs. Prior to the inception of these programs in the mid-1960's, county hospital services were largely financed by the local taxpayer, which meant more limited services. With Medicare and Medicaid, the health care available to poor people of Los Angeles County was greatly improved. During recent times, however, Los Angeles County has been faced with a situation of declining financial support from Federal and State sources. In particular, we receive no support for the ever-increasing number of undocumented aliens who require health care.

Our local Governing Body --- the County Board of Supervisors --- is faced with an extremely difficult dilemma. It must not only ensure the protection of the overall public health of the community --- a situation that does not limit its impact to legal residents and financially capable persons --- but at the same time must retain fiscal solvency. This dilemma has been the subject of much study, and we are in the process of reviewing our current treatment policies --- such as whom should we be treating?

Since the health care of undocumented aliens plays a role in this evaluation, the following points may be of help to your deliberations:

1. We believe that the undocumented alien situation to be the primary responsibility of the Federal Government. --- particularly with respect to the financing of health care.

   The Federal Government has, however, failed to meet financial obligations concerning the health care of aliens who are in the USA.

   Discussion: Aliens without immigrant visas are specifically precluded from participation in either the Medicaid or Medicare programs. The Federal Government is also responsible, through Immigration and Naturalization Services, for controlling the numbers of such people who are in the country. As a result of INS' inability to control the border, large numbers of aliens without documents have established homes in Los Angeles County. Studies conducted by the County of San Diego and by the Department of Labor, indicate that uundocumented aliens, by and large, are hard-working people. They pay income taxes and

social security taxes from often low-paying jobs. Yet, when they require health care beyond their financial means, the costs must ultimately be met by the local county taxpayer. Uncontrolled immigration is a Federal problem, but the burden of the concomitant health care costs falls only upon taxpayers of those localities where undocumented immigrants are concentrated. This is grossly unfair.

2. The scope of our local problem is significant.

   Discussion: We attempted to determine the costs of providing county health care to undocumented aliens during fiscal year 1976-77. Such studies are difficult to conduct, and are subject to potential for error. However, we have concluded after careful examination that the results are valid, and we are prepared to demonstrate their validity. A copy of this study has been attached to our testimony. The following are key highlights:

   A. Approximately one in every six patients admitted to our hospitals is an undocumented alien.

B. The value of care the department provides to undocumented aliens is conservatively estimated at $40-58 million, with offsetting payments (by patients or their insurance companies) of $5-7 million. The County taxpayer absorbs the difference.

C. Most of these costs are for emergency care and for initial evaluation of the patient's medical problem. Our hospitals are required by State law (as well as prevailing moral principles) to provide these services to all who require them.

D. The Department's hospitals and health centers also provide as much as $6 million worth of care to aliens who are here legally but temporarily (as students, tourists, etc.). Even if they are indigent, Medicaid does not cover them either, and the county must absorb those costs not paid by the patient.

3. Los Angeles County may have to restrict nonemergency services if the Federal Government does not accept its obligation to assist with these costs.

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Discussion: Our Board of Supervisors, as previously mentioned, will soon be considering changes in our policy on who receives elective care in the County system --- particularly undocumented aliens. Some California counties which have large undocumented alien populations imposed elective care restrictions long ago. Statutory and practical restrictions on the ability of Los Angeles County to increase local taxes, as well as the distinct possibility of far more severe restrictions are, we believe, significant factors. The rate of inflation in the health care industry requires the county to spend more and more money each year in order to maintain the same levels of service. The combination of inflation and taxing restrictions means that any health care program which the County must support entirely from its own tax base is at risk.

On August 30, 1976, the County Board of Supervisors sought assistance from the Secretary of Health, Education and Welfare regarding this problem and received none. In 1977, the Board went on record in support of a bill which Congressman Bernard Sisk introduced regarding

financing of emergency care to undocumented aliens. That bill, like a similar one Congressman Sisk had introduced in an earlier session, failed to pass. More recently, we have noted that the Carter Alien Adjustment and Employment Act of 1977, introduced into the House by Representative Rodino and into the Senate by Senator ~~Eastman,~~ EASTLAND would grant temporary legal residency status to those undocumented aliens who came to the USA after January 1, 1970 and before January 1, 1977, and would specifically exclude them from participation in the Medicaid Program. We estimate that this group comprises at least 90% of our undocumented alien patient load. Uncompensated costs for their health care would continue to be a county expense. Provisions such as these lead us to be pessimistic about the future prospects for the Federal Government's assumption of its responsibility for the cost of providing health care to such aliens.

4. The Federal Government must accept its share of moral responsibility for the consequences of denial of care.

   Discussion: The Federal participation in the financing of health care to undocumented aliens unable to pay for their care could obviate the need for a restrictive policy of care in Los Angeles County and could lead to relaxation of restrictions which already exist in many other public hospitals throughout the nation. Without such assistance, restrictions which exist in these other localities, and which may be imposed in Los Angeles County, translate into patients who never receive needed medical care until their condition becomes an emergency. Inevitably, policies such as these mean a risk of more death, more disability, more pain, and more grief. Appropriate Federal action can avoid these consequences.

We have offered this information and these opinions in the hopes that they will be of use to your sub-committee. We further hope that the House Sub-Committee on Appropriations will begin a course of action which will lead to the assumption by the Federal Government of its humane obligation to help meet the heatlh care needs of those undocumented aliens and other aliens who have established themselves in Los Angeles County and elsewhere throughout the country.

Testimony:

The House of Representatives Appropriations Subcommittee
Congressional Hearing on Problems Relating to Undocumented Aliens
Los Angeles, California
February 24, 1978

Irene Jackson Baraniuk
Director
Food Action Program
Neighborhood Adult Participation Project, Incorporated
2600 Randolph Street
Huntington Park, California 90255
(213) 589-6811

I would like to thank Congressman Slack and members of the House of Representatives Appropriations Subcommittee for this opportunity to give in-put into these hearings on undocumented aliens vis a vis their impact on social services in the Los Angeles County area. I will confine my remarks to the areas relating to the Food Stamp Program.

The so called "illegal alien", whom I shall henceforth refer to as the undocumented alien, causes negligable if any cost impact on the Food Stamp Program. Existing federal and state food stamp regulations prohibit the participation of undocumented persons or ineligable aliens in the food stamp program since December, 1974. Households which contain some undocumented alien members may participate (as in the case of U.S. born citizen children); however the undocumented members of the household may not be included in the budget unit.

Unfortunately however, to the contrary, since Los Angeles seems to be suffering from a serious mental illness I choose to call "alien paranoia", the aliens themselves, both eligible and inelegible, documented and undocumented are often the victims of the repressions and paranoia of the social services systems.

It is the common practice in many districts to over verify, routinely require excessive documentary proof, deny clients foods stamps on emergency basis until documentation and proof are provided - totally ignoring the food stamp regulations in terms of presumptive eligibility - emergent needs and verification required under normal application process, simply because of the applicants surname, color of his or her skin and a "foreign accent". The victims of this hysteria are most often latinos, especially Mexicanos.

In July of 1975, we requested and received a letter of clarification from the State Department of Benefit Payments in regards to the food stamp regulation dealing with verification of alien status. (Please see attached All County Letter No. 75-152)

We commonly use food as part of our foreign policy inducements, shipping food stuffs and grain even to our political adversaries, yet are consistently guilty of negligence when it comes to feeding those who are hungry within our own territorial bounderies. Not only do aliens, both documented and undocumented, suffer hunger because of these stringent and restrictive practices, but often U.S. citizens of Mexican decent feel the brunt of this kind of discriminatory practice. And one thing we must keep in mind when we talk of the "burden on the taxpayer" is that even undocumented aliens are taxpayers and very rarely are recipients of the services they help pay for. Taxation without representation is clearly forbidden by our constitution and yet it is practiced every day and perpetrated upon those who have no means to defend themselves.

This committee has a charge to do all it can at the state level to prevent these biased and discriminatory practices that deprive people of basic needs and label our society non-humanistic and totally insensitive to the basic human needs of those who are indeed economic refugees in our own nation and in our own state.

Since the new food stamp law which goes into effect next year clearly prohibits the reporting of any undocumented persons to

I.N.S. - I strongly suggest that the state legislature mandate that no social or state agency shall act as a reporting arm of I.N.S. therefore remove one of the road blocks to participation in the Food Stamp Program by U.S. born children whose parents may be undocumented. I would like to quote two resolutions from the California Conference on Immigration and Public Policy held at East Los Angeles College, October 15, 1977:

"That public agencies on all levels of government be urged to resist the pressures from the immigration and naturalization service to institute a system of reporting to its office or documenting the names of aliens with uncertain status to whom they provide services, and that a show of revulsion toward this onerous policy be made by concerned persons and groups to elected officials and agency decision makers.

That public agencies which assess the cost of providing services to undocumented aliens take into consideration the tax contributions indicated in such reports as the survey conducted by the Department of Labor, and that the Media, elected officials and others who shape public opinion adopt this policy as well so a balanced view can be presented to the public and taxpayers." (Report referred to herein is the "Characteristics and Role of Illegal Aliens in the U.S. Labor Market" - an exploratory study by David S. North & Marion I. Houston, Litton & Co., Inc., Washington D.C., March, 1976.)

And if I may, I would like to leave this final thought with you - I am quoting from Article #25 of the Universal Declaration of Human Rights - from the United Nations - "Everyone has the right to a standard of living adequate for the health and well being of himself and his family, including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his contral."

Mrs. BURKE. Our last witnesses, which will be our last set of witnesses for this morning, will be Legal Services Alien Rights Project, Legal Services Corporation, Western Region: Timothy Barker, Legal Aid Society, San Diego; David Iverson, Legal Aid Society, Riverside; Matt Millen, Legal Aid Society, Long Beach.

Mr. BARKER. Madam Chairwoman, Honorable Chairman and Committee members, I greatly appreciate the opportunity to speak to you concerning the role of the Legal Services Corporation in the undocumented alien phenomena.

Unfortunately, Mr. Peter Schey, who heads the Aliens Rights Project of the Legal Services Corporation, was unable to attend. I will therefore speak on his behalf, as well as on the behalf of the Legal Aid Society of San Diego of which I am the supervising attorney of the immigration unit.

The Legal Aid Society of San Diego is a part of the Legal Services Corporation.

Realizing the time constraints, I will be as brief as possible.

Basically, we are witnessing today a historical phenomena that is unprecedented in history. There is a massive and systematic removal of persons from this country which we believe has never been so before and will continue in the foreseeable future.

We believe that caught up in this mass of flow are innocent people, people with substantial equities, persons who have defenses under the law, persons who are facing deportation hearings without representation.

I will briefly describe a landmark case which is currently being litigated in the Federal District Court, the Central District of California, as a matter of illustration.

The class action case is that of Munez *v.* Bell. In this situation, we have a woman—a native and citizen of Mexico who faced imminent deportation without any representation whatsoever during the entire administrative process.

Ms. Munoz has a husband who is legally residing in the United States and working and supporting her. She has two infant United States citizen children. She has resided in this country for over 4 years.

Additionally, she has a petition pending for her legal immigration to the United States.

Thus, her case presents a situation of substantial equity, yet the Immigration Service moved to deport her and, in fact, ordered her removal from the United States.

During the entire administrative proceedings, she was not represented by an attorney or any other representative whatsoever.

It was only upon the filing of this action in the Federal District Court was the forced removal of her from the country and that separation from her family was prevented.

It should be noted that one of the issues that was raised in this class action was a failure of the Immigration and Naturalization Service to inform indigent aliens, many of them who have been systematically exploited continuously during their presence here in the United States, therefore unable to afford attorneys—the Immigration Service fails to inform them of the availability of the Legal Service Corporation offices which can represent them in deportation hearings.

In response to Judge Gray's comments, the Immigration Service realized that this is a critical problem, that the District Court Judge was about to rule in our favor and, in response to that, the Immigration Services indicated that they will implement national regulations to provide referral of indigent aliens to the Legal Service Corporation offices.

The problem, though, is with the adequacy of funding to the Legal Service Corporation to deal with this situation.

Once again, we are dealing with a massive phenomena, a situation where innocent people are being caught up in this process, people who need representation. They have equity, substantial length of residence in the United States and they are going into these hearings where the government is represented by highly-trained trial attorneys and they are defenseless in this labyrinth of procedural technicalities.

Inevitably, without representation, they are being removed and, along with them, their families oftentimes are being removed. And more than often, these persons have defenses under the law and equity which, if presented to the Immigration judge in a proper manner, would result in the prevention of the separation of family units.

Beyond the deportation process, we feel that all functions of the Immigration Service are an adversary function and that representation of aliens in petitioning for immigration and naturalization and establishing derivative citizenship is essential, that they have representation for the presentation of their petition or whatever application they are presenting.

We, therefore, feel that the Legal Service Corporation should take an active role in the representation of aliens in this situation.

The INS has recognized the need for increased services and is now implementing temporary and brief training sessions for local agencies throughout the country.

But, given the adversary function of the Immigration Service, their purpose to enforce the law, their purpose to remove as many persons as possible from the United States, we do not feel that they are a proper agency for the training of persons to handle representation.

We feel that the Legal Service Corporation should assume this role. It is a new corporation and it can function the pivotal role of insuring the just and humane administration of the immigration laws in the United States.

Thank you.

Ms. BURKE. Thank you very much.

Mr. MILLEN. My name is Mathew Millen and I am an attorney with the Legal Aid Foundation of Long Beach. I practice immigration law.

Continuing where Timothy left off, one of the problems with aliens obtaining representation, even if they can't afford an attorney, is that the applicable regulation 8 CFR 292.1 makes it very difficult for anyone, other than an attorney, to be accredited to represent an alien before the Immigration Service.

On page 3 of my statement, I indicated the applicable section from the Social Security regulations, 20 CFR 404.972(b), which basically provides—it makes it very simple for a person to represent someone in a social security administrative hearing, and we basically feel that there is no reason for the immigration regulations to be so restrictive and we would hope that this committee would make recommendations

to the Immigration Service to relax their restrictions and make them as close as possible to the Social Security regulations as could be done.

In addition, I would like to comment on the problem of undocumented aliens. Many children born abroad of U.S. citizens are U.S. citizens. However, since they have a birth certificate from Mexico or Chile or wherever they are from, the assumption is that they are an alien and they must apply to the Immigration Service for a certificate of citizenship.

At the present time, the office in Los Angeles is not processing N–600 applications for certificates of citizenship at all; therefore, all these U.S. citizens are walking around as if they were aliens and being denied services and benefits of U.S. citizens. And I should hope that this Committee would make recommendations to the Serivce and inquire of them why they are not processing N–600 applications at all.

Mr. IVERSON. My name is David Iverson. I am a staff attorney with Inland Counties Legal Services which is responsible for the area from the west edge of L.A. County to the Arizona border.

My observations are coming from a rural perspective. The town that I work in has a population of 19,000 and, keeping my remarks very brief, because of the time constraints, there is somewhat of an added problem when you are in rural areas trying to defend undocumented aliens.

Every time that I need to see a file in the Immigration Service, I have to drive 120 miles one way to see it. Every time an alien in my area has a deportation hearing, I have to drive 120 miles one way to that hearing. And anytime an alien is apprehended, if he is sent to the detention facility in El Centro, that is a 90-mile, one-way trip for me to argue bail reduction.

I would hope that this Committee could exert pressure on the Immigration Service or any other relevant agency to rewrite the Code of Federal Regulations, Title VII, such that hearings could be held closer to the home area of the alien as is done with, for instance, Social Supplemental Income hearings; and, furthermore, that a courier service or something similar be developed so that files are sent to where the alien and his representative are rather than having us travel all that long way.

I thought I had it bad having to travel 120 miles one way. I was at a conference on the 3rd. People from Nevada tell me they have to go to San Francisco, which is 600 miles one way.

Clearly, under this sort of situation, any Legal Services program is going to be under heavy pressure to not offer immigration services at all.

Our program is under a case priority system and I have to constantly battle to justify using resources for immigration. And when a whole day is gone on a bail reduction hearing, it is very difficult to do.

Rather than regale the Committee with horror stories of systematic exploitation, not only by employers and so forth and so on, but of the people who have applications pending and constantly, because they are migratory, need to travel back and forth across the border, I will direct your attention to my written statement. I imagine there is only one copy of that, though I am not sure. I will submit further copies at a later date.

Ms. BURKE. We have copies available. Does everyone have Mr. Iverson's statement?

(Response in the affirmative)

Ms. BURKE. And he has some excellent examples, I may say, that we can use for reference.

I want to thank you very much for testifying.

I am going to turn the chair back over to the chairman at this time.

Mr. SLACK. Matt, I noticed that you graduated from Morris-Harvey College.

Mr. MILLEN. Yes.

Mr. SLACK. Well, I am pleased to see a West Virginian here today and I congratulate you on your foresight by leaving an accumulation of some 40 inches of snow in the State of West Virginia, which we have had this winter, for a delightful location where one can enjoy all the niceties of airconditioning in February.

I have no questions myself.

I would yield the chair to Mr. Alexander of Arkansas.

Mr. ALEXANDER. No questions, Mr. Chairman.

Mr. SLACK. Mr. Early.

Mr. EARLY. No questions, Mr. Chairman.

Mr. SLACK. Mr. Roybal.

Mr. ROYBAL. I have two quick questions. One is to Mr. Barker, who stated that, in the case of Ms. Munoz she was subject to a mass deportation hearing. What is a mass deportation hearing?

Mr. BARKER. Congressman Roybal I, will explain the procedures.

These are situations where the Immigration Service will group anywhere from four to twenty-five aliens into a hearing room before an Immigration judge, none of which are ever represented. The trial attorney will then proceed, case by case, to identify each alien and then they will all answer in unison whether they are deportable from the United States.

And from the record in Ms. Hunoz's case in that situation, she apparently—the Service alleged she waived her rights to appeal. All that was said was, "Does anybody want to appeal?" And the total body—not each individual—answered "no", so we do not know exactly what goes on in those hearings from the records that are presented, but they are mass situations of persons being removed in great numbers.

Mr. ROYBAL. Well, the sad part about it is that none of those that are being processed have legal representation.

Mr. BARKER. Yes. Virtually none.

Mr. ROYBAL. Now, the next question is with regard to the processing or the lack of processing of 1–130 petitions.

Mr. MILLEN. N–600 petitions.

Mr. ROYBAL. And also 600 petitions?

In the case of your particular client, you stated that she was separated from her daughter for over two years because it took the Immigration Service two years to process her application for a certificate of citizenship.

Mr. MILLEN. That is correct. The child is still not here yet.

Mr. ROYBAL. In other words, a simple procedure such as that, where one—based on the fact that the child was born in a foreign country of American-born.

Mr. MILLEN. Father, in this case.

Mr. ROYBAL. —parents, it has taken the Immigration authorities, particularly here in Los Angeles, two years to process.

Mr. MILLEN. The case was originally filed in New York and she was there for seven months and nothing happened. She then came here and requested it be transferred. Nothing happened for four or five months. I went downtown to INS and requested it be transferred. Four months later, they called New York and New York said it was sent four months ago and INS here still claims they hadn't received it.

Once they finally did get it, it took another two or three months to set up a hearing and then—her sister also had derivative citizenship, so it would have been easy to check her sister's file, but they wanted to speak with the father anyway, who happened to be in San Francisco. So the file had to be sent to San Francisco.

Mr. ROYBAL. All right, Now, is this the general policy or process through which a particular applicant would have to go through—anyone in the same situation?

Mr. MILLEN. Yes.

Mr. ROYBAL. So, if they do not process these petitions, then they can remain out of the country almost indefinitely, can't they?

Mr. MILLEN. Well, this—

Mr. ROYBAL. What remedy do they have?

Mr. MILLEN. Pardon me?

Mr. ROYBAL. In case the Immigration authorities refuse to process these petitions, do they have any remedy at all?

Mr. MILLEN. I guess each individual would have to go to a Federal court and ask for a writ to force the Service to process the petition.

Mr. ROYBAL. And that would take another six years, wouldn't it?

Mr. MILLEN. Possibly.

Mr. ROYBAL. Thank you, Mr. Chairman.

Mr. SLACK. Mr. Burgener.

Mr. BURGENER. Well, thank you, Mr. Chairman.

I want to thank Mr. Barker from my area and Mr. Iverson and Mr. Millen for their excellent testimony.

We have some geographic problems of severity. May I ask about Indio? This is in the area represented by Mrs. Pettis. You have to go to where, El Centro, Los Angeles or San Diego?

Mr. IVERSON. I have to go to Los Angeles to review the files on any alien. And, if he is incarcerated, then I have to go to El Centro to try to get him out.

Mr. BURGENER. I see.

Now, what kind of volume do you think you have out there annually? Of course, to each case, it is 100 percent to that involved person.

Mr. IVERSON. Yes. I have only been back in the Indio area since August. The volume, as yet, is not high. I have had to go on Spanish language radio and request that people with deportation problems, if at all possible, unless it is an extremely severe situation, refrain from coming to the office for the time being. I don't have the resource materials if they did come to present a defense for them anyway.

Mr. BURGENER. So, you are sending out a cry for help.

Mr. IVERSON. Yes, I am, very much.

Mr. BURGENER. Thank you very much.

Mr. BARKER. The situation in San Diego—I service, as much as possible, the alien detention facility at El Centro. That facility has a capacity of 300 persons and, oftentimes, as much—overoccupied.

Mr. BURGENER. Even with the new one they just opened?

Mr. BARKER. This is the one in El Centro.

Mr. BURGENER. Yes.

Mr. BARKER. It has been there for about five years or seven years, I believe.

But, the average time that the person will spend there is two weeks, so we are witnessing, probably, 600 to 1000 persons moving through there per month.

There is no Legal Service office in the area which will handle any deportation cases and we are talking about husbands with wives and children who are legally here in the United States from all over the country; persons from Seattle will be uprooted and sent to the El Centro detention camp. They know no person in the area and they will attempt to contact me, but I am so swamped with work and understaffed that it is impossible——

Mr. BURGENER. And you don't live out there.

Mr. BARKER. No. It is a two-hour drive each way for me to handle any hearings out there.

Mr. BURGENER. How well I know, indeed.

Mr. BARKER. But, if I can reiterate, the government does have a trial attorney out there processing every case for the government.

Mr. BURGENER. So you think it is a bit one-sided?

Mr. BARKER. To say the least.

Mr. BURGENER. Thank you.

That is all.

Mr. SLACK. If there are no further questions, we thank you gentlemen.

[The complete statements of Messrs. Barker, Iverson, and Miller follow:]

THE HOUSE OF REPRESENTATIVES

APPROPRIATIONS SUBCOMMITTEE

STATEMENT OF TIMOTHY S. BARKER

Legal Aid Society of San Diego,Inc.
1760 North Euclid Avenue
San Diego, California 92105

INTRODUCTION

My position with the Legal Aid Society of San Diego,Inc., a part of the Legal Services Corporation, is Supervising Attorney of the Immigration Unit. I have had extensive experience in the fields of immigration and naturalization law and aliens' rights for the past four years. My work directly involves San Diego and Imperial Counties. I am a member of numerous national organizations active in this area of the law, e.g. the National Alliance on [illegible] Immigration Laws(N.A.I.L.),the Community Affairs Border Advisory Council, the Committee on Chicano Rights in San Diego. I have had the pleasure on numerous occasions to meet with the Commissioner of the Immigration Service,Leonel Castillo, and with the Attorney General of the United States, the honorable Griffin Bell, concerning this important issue.

UNDOCUMENTED ALIENS AND THE ROLE OF THE LEGAL SERVICES CORPORATION

Munoz v. Bell

As a way of introduction of the role that the Legal Services Corporation could play in this critical area I would like to briefly describe a case currently being litigated by the Aliens' Rights Project of the Eighth Region of the Legal Services Corporation.

The class action case of Munoz v. Bell in the Federal District Court in the Central District of California, presents a situation of a woman who faced imminent deportation without any representation whatsoever during the entire administrative process. Mrs. Munoz

has a husband who is legally residing in this country and two infant children. She has resided here for over four years. Additionally, she has a petition pending for her immigration. Thus her case presents a situation of substantial equity. Yet, Mrs. Munoz was subjected to deportation proceedings by the Immigration and Naturalization Service(INS). Placed into a mass deportation hearing without representation and without even being informed of the availability of legal services offices where she could obtain representation, she was ordered to be removed from this country. All appeals to the INS to defer this unjust outcome were turned down. Only upon filing the action in the Federal Court was the forced separation of Mrs. Munoz and her family prevented.

The Munoz case represents the massive number of persons continually being deported who have substantial equity and defenses under the law. These persons, with years of residence here, with families, and possibilities of regularizing their status, are being removed on a wholesale basis without representation and without even becoming aware of the availability of legal assistance services which could provide representation.

IN RESPONSE TO MUNOZ V. BELL THE INS HAS INDICATED THAT IT WILL IMPLEMENT NATIONAL REGULATIONS TO PROVIDE REFERRAL OF INDIGENT ALIENS TO LEGAL SERVICES CORPORATION OFFICES.

THE NEED FOR LEGAL SERVICES' PARTICIPATION

It is quite apparent that the INS is a federal agency with substantial problems. These problems are well known and extensively documented. Members of Congress recently voiced their opinions to the White House that the INS is the worst of all federal agencies.

The INS is a bureaucracy operating under laws and attitudes developed in the 1950's. Yet, it is attempting to deal with a problem clearly unique in history. We are now witnessing the systematic and massive removal of persons from the country in unprecedented numbers. It is quite apparent that the INS has been unable to keep pace with this growing historical phenomena and has clearly demonstrated its unresponsiveness to change. This unresponsiveness is most apparent in the operations of the INS. Basic administrative law principles now routinely utilized

in other agencies are not found in INS procedures. The Munoz case has only revealed the tip of the iceberg.

Within this massive removal of persons from the United States are persons with substatnial and compelling equities. These are persons with extend residence, with United States citizen family, with petitions pending on their behalf, they are productive members of the community innocently caught in this awesome process. Defenseless, these persons are faced with the labyrinth of procedural technicalities inevitably resulting in their forced removal from this country.

The can be no doubt that deportation is an adversary process. At the hearing the government is represented by a highly trained and skilled Trial Attorney. The alien is expected to represent himself or retain a private attorney. But due to the systematic exploitation of these persons they rarely can afford the services of a private attorney. Unable to voice their defense they become victims in this gigantic operation.

Beyond the deportation process the operation of the INS includes the often complex determination of citizenship status, both by derivative citizenship and naturalization. With the burden placed on the alien we once again are dealing with an adversary process. Representation again becomes essential.

IT IS CLEAR THAT A COMPELLING NEED EXISTS FOR THE PROVIDING OF REPRESENTATION TO INDIGENT ALIENS BY THE LEGAL SERVICES CORPORATION IN THE ADMINISTRATION OF THE IMMIGRATION AND NATURALIZATION LAWS.

The Legal Services Corporation should take an active role in the training and deliverance of representatives to indigent aliens with equity before the INS.

The INS has recognized this need for increased services and has begun brief training sessions for various social service agencies around the country. But given the adversary nature of this process the Legal Services Corporation should assume the role of traning and deliverance of services. This consideration is bolstered by the well known historical conflict of the INS with the Asain, Latino and certain European communities. There can be no doubt that the need exists and it is clear that the Legal Services Corporation is in the pivotal postion to insure the just and humane administration of the immigration laws.

LAW OFFICES OF
LEGAL AID FOUNDATION OF LONG BEACH
HARBOR AREA OFFICE
363 W. SIXTH STREET · SAN PEDRO, CALIFORNIA 90731 · 831-0855

February 23, 1978

IN REPLY PLEASE REFER TO:

Congress of the United States
House of Representatives
Appropriations Sub-Committee

Attn.: Rep. John Slack
Rep. Yvonne Brathwaite Burke
Rep. Edward R. Roybal
Rep. Clair W. Burgner

From: Mathew L. Millen

Subject: Congressional Hearing on Problems Relating to Undocumented Aliens

I am a staff attorney for the Legal Aid Foundation of Long Beach. I have a Bachelor of Science Degree in Business Administration from Morris-Harvey College in Charleston, West Virginia, and graduated from the University of Kentucky Law School in May, 1974. I was a Vista Volunteer assigned to the East Los Angeles Office of the Legal Aid Foundation of Los Angeles from September 1974 to September 1975. I started practicing Immigration Law in June 1976 at the San Pedro Office of the Legal Aid Foundation of Long Beach.

My law practice is 90% Immigration Law. Since June 1976, our office has processed approximately 75 visa petitions from the initial application to the issuance of a green card. At the present time, we have approximately 300 open active immigration and/or naturalization citizenship cases.

If a child is born of abroad of either one or two U.S. Citizen parents, under certain circumstances, that child acquires U.S. Citizenship at birth. In order to obtain the benefits of U.S. Citizenship, the person must obtain a Certificate of Citizenship from INS. The application is made on form N-600 Application for Certificate of Citizenship. At the present time, the INS Office in Los Angeles is not processing N-600 applications. As an example of the problems these "undocumented aliens" encounter, I would like to relate to you the problems of three of my clients.

Client P was born in the Philippines of a U.S. Citizen father, and Philippino mother. She married in the Philippines and had a child born in the Philippines. She entered the United

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States in 1975 on a U.S. Passport issued by the U.S. Embassy in Manila. The Immigration and Naturalization Service in Los Angeles refused to process an I-130 petition for her three year old daughter until the Citizenship Branch of INS issued a Certification of Citizenship. She applied for a Certification of Citizenship in 1975. It was finally issued in 1977. She has thus been separated from her daughter for over two years because (1) INS would not accept her U.S. Passport as proof of Citizenship, and (2) it took INS two years to process her application for Certificate of Citizenship.

Ms. G was born in Canada to a U.S. Citizen mother and a Canadian father. She entered the United States when she was approximately six months old and has not departed. She is now in her early twenties. In October 1976, Ms. G applied for General Relief benefits from the County of Los Angeles because she is disabled due to a severe case of diabetes. The County of Los Angeles refused her application for General Relief benefits because she was not a Citizen of the United States. It is my understanding that Ms. G was forced to live with friends, and had to borrow money from them to provide for the basic necessities of life, until she received SSI Disability benefits from the Social Security Administration in late 1977. Our office filed an N-600 application for a Certificate of Citizenship in March of 1977 at INS in Los Angeles. As of this date, we have not had a reply.

The case of Mr. M and his three children is typical of the deprivation and hardship caused by the extensive delays in processing N-600 applications. Mr. M is a U.S. Citizen who had three children born abroad. Mr. M is now retired and drawing Social Security Retirement benefits. In addition, his three minor children, and his wife are drawing dependent's benefits from Social Security. However, the benefits provided by the Social Security Administration are not sufficient to provide them with the basic standard of adequate care. Mr. M applied for AFDC benefits in 1976 and was denied because INS indicated to the Welfare Department that his children were "illegal aliens". He reapplied for AFDC benefits in 1977, and again benefits were denied on the grounds that his children were "illegal aliens". He appealed that decision and with the assistance of our office the State Fair Hearing Office found that his children were entitled to AFDC benefits. Mr. M did not have sufficient funds to adequately clothe and feed his children until benefits were finally ordered to be issued in late 1977.

Mr. M applied for Certificates of Citizenship for his three minor children in December of 1975. As of this date, two children have had interviews at INS, but the third child has not been accorded an interview. Mr. M has provided the requisite proof

for his children to comply with the statutory requirements for acquiring citizenship at birth abroad. However, INS has still not issued Certificates of Citizenship for his children.

The delay in the issuance of Certificates of Citizenship clearly causes severe hardship to many people and constitutes an outrageous abuse of discretion on the part of INS. Legislation and/or regulations are needed to insure the applications are processed within a reasonable time.

One of the most serious problems facing undocumented aliens is their lack of knowledge as to their rights to a deportation hearing, and the discretionary relief that can be granted them by an immigration judge. The vast majority of aliens that are apprehended by INS routinely accept a voluntary departure and are expeditiously sent back to their native country.

If the apprehended alien is a Mexican Citizen, most probably they will find themselves on a bus for Tijuana in the late afternoon. There are two major factors which hinder an alien in securing representation at a deportation hearing. The first is the almost automatic imposition of a $2,000 bond on the alien. As many aliens do not have $2,000 in cash, or $200.00 and collateral with which to post a bond with a bondsman, the vast majority of them are resigned to accepting voluntary departure. The second major hinderance to an alien requesting his right to a deportation hearing is his lack of knowledge that he has a right to a hearing and a right to be represented by an attorney or an accredited representative.

8 CFR §292.1 et seq. is the regulation concerning who can represent an alien before the Immigration Service. If a person is not an attorney, they must apply to the Immigration Service to be accredited by the Board of Immigration Appeals. It is a very cumbersome process, which discourages many persons and organizations from applying for accreditation. The effect of 8 CFR §292.1 et seq. is to limit the number of representatives available to provide assistance to undocumented aliens.

20 CFR §404.972(b) provides that "any person (other than an attorney described in paragraph 404.972 who (1) is of good character, in good repute, and has the necessary qualifications to enable him to render valuable assistance to an individual in connection with his claim, (2) has not been disqualified or suspended from acting as representative in proceedings before the Social Security Administration, and (3) is not, pursuant to any provisions of law, otherwise prohibited from acting as a

representative may be appointed as a representative to represent an individual making a claim for Social Security benefits." Said representative can represent a claimant at a Social Security Administrative hearing.

An analogy can be drawn between a Social Security Administrative hearing and a deportation hearing which is administrative in nature. I strongly urge this Committee to introduce legislation which provides that an alien could appoint a person to act as his or her representative at a deportation hearing if they had the qualifications noted in 20 CFR §404.972(b) and such representative if not an attorney was not being compensated for his or her services.

I have many clients who have been living in the United States for more than seven years who, if they had requested a deportation hearing would have been eligible to make an application for suspension of deportation under §244(a)(1) of the Immigration and Nationality Act. In addition, aliens incarcerated at the Federal Correctional Institution at Terminal Island routinely waive their right to a deportation hearing and accept a voluntary departure upon their release even though there would be relief available to them which would have enabled them to remain in the United States if they had demanded their right to a deportation hearing.

In Los Angeles there have been abuses by individuals who refer to themselves as immigration consultants and charged exorbitant fees without providing quality services or representation. The State of California has enacted legislation to curtail these abuses. If 8 CFR §292.1 et seq. was implemented to guard against these abuses, its restrictive provisions are no longer necessary.

Congress has enacted legislation and authorized appropriations to fund legal services programs to deal specifically with the problems of the elderly. We strongly urge this Sub-Committee to propose similar legislation to increase funding to the Legal Services Corporation for the creation of special units similar to the senior citizens units, except they would be funded for the express purpose of assisting undocumented aliens with their legal problems.

The Immigration Service has trained many volunteers of Social Service Agencies to assist Indo-Chinese Refugees with their applications for permanent residence status. Until Legal Services Corporation funding can be increased to provide for more alien's rights units, we believe Immigration Service should train

volunteers from Social Services Agencies to represent aliens who wish to process petitions and who wish representations at deportation hearings, and to assist them generally with their immigration problems.

I would now like to comment on certain aspects of President Carter's Undocumented Aliens Bill called the Alien Adjustment Employment Act of 1977. The Bill changes the registry date under §249 of the INA from "prior to June 30, 1948" to "prior to January 1, 1970". It therefore appears that the purpose of the Bill is to grant permanent resident alien status to those aliens who have resided in the United States for more than seven years. Section 244(a)(1) of the INA provides for suspension of deportation in the granting of permanent resident alien status to an alien who has resided in the United States for more than seven years if the alien can establish that his deportation will result in extreme hardship to himself or a U.S. Citizen or permanent resident alien relative. It is our position that the Immigration Laws would be more equitable if §249 was amended to read in effect that an alien could apply for "registry" and be granted permanent resident alien status if he has resided in the United States for more than seven years. Thus, rather than having a fixed registry date, the law would provide for a floating registry date of seven years, similar to the suspension of deportation provisions, however, the alien having resided in the United States for more than seven years and thus having established roots and probably a family in this Country would be eligible to remain as a permanent resident alien.

We recommend that §244(a)(1) of the INA be amended to provide for the suspension of deportation, and the granting of permanent resident alien status, to an alien who has resided in the United States for at least three years if the alien can establish that his deportation will result in hardship to himself or to his U.S. Citizen or permanent resident alien relative. The definition of hardship should also include economic hardship, which was the statutory requirement in the preceding suspension provision under §19(c) of the Immigration Act of 1917, as amended 8 USC §155(c).

Under the decisions interpreting §244(a)(1) of the 1952 INA provision, economic factors have been considerably downgraded. Thus, an alien who has resided in the United States for more than seven years and has U.S. Citizen children, could be deported which in effect would result in the de facto deportation of his U.S. Citizen children. If the U.S. Citizen children would suffer only economic hardship in their parents' homeland suspension of deportation would most probably not be granted to the child's alien parents.

Thus, U.S. Citizen children having spent their formative years abroad, possibly not learning any English, and returning to the United States upon reaching the age of majority would suffer severe handicaps when attempting to enter the labor market in the United States.

In light of the fact that the President of the United States has requested the granting of temporary resident alien status to all aliens who entered the United States prior to January 1, 1977, the continued deportation of aliens who can establish that they entered the United States prior to January 1, 1977, and would fall within the provisions of this Bill, if enacted by Congress, is a clear violation of the spirit of this Bill. We feel the Justice Department should adopt an administrative policy of allowing all aliens who would fall within the provisions of President Carter's Bill to remain in the United States pending Congressional action on the Bill.

The provision for granting temporary resident alien status to those individuals who resided in the United States prior to January 1, 1977, in effect creates a second class of citizens. Although they work in the United States and depart and return to the United States, they would not be able to bring their families to the United States. The Bill would thus have the effect of causing the enforced separation of families, which is contrary to the express purpose of the Immigration Laws of the United States. We therefore recommend that the provisions of the Bill be amended to provide for the granting of permanent resident alien status to all undocumented aliens who entered the United States on or before January 1, 1977, and have had continuous residence in the United States since such entry.

The third major provision of the Bill would make it unlawful to employ an alien not lawfully admitted for permanent residence unless the Attorney General has authorized employment. The result of this provision would most probably mean that many undocumented aliens would have great difficulty in securing employment. This would result in severe economic hardship to the U.S. Citizen or permanent resident alien spouses of undocumented aliens, and to their U.S. born children.

At the present time, it is INS policy in Los Angeles not to grant permission to work to aliens who entered the United States without inspection or who are otherwise ineligible for adjustment of status even though these aliens are documentable. At the present time, it is my understanding that there is a one year backlog on I-130 petitions in Los Angeles. Therefore, if a U.S. Citizen petitions for her husband she may have to wait up to one year for

an approval of the petition. Then there is approximately six months wait before a visa appointment could be obtained from the U.S. Consulate abroad. Therefore, a spouse of a U.S. Citizen who is otherwise admissible to the United States as an immediate relative most probably would be denied employment in the United States due to purely administrative delays. In addition, if a permanent resident alien lost his or her green card and submitted an I-90 application for a duplicate green card they would probably have to wait up to one year, if the present practice is an indication of future processing time by INS. Thus, a permanent resident alien with a lost green card would most probably be denied employment due to the administrative delay by INS in processing I-90 applications.

The potential for violation of ones civil rights is overwhelming. California has large concentrations of persons of Asian, African and Latin American heritage. If employers are penalized for hiring "undocumented aliens", most probably an employer who is not satisfied as to whether or not an applicant for a job is a U.S. Citizen or a lawful permanent resident alien the employer will deny the individual a job rather than risk the penalty imposed by the Bill.

To deny a person the right to work, is to deny them the dignity and worth that they are due as a human being.

In his letter of transmittal to Congress, Attorney General Bell commented as follows: "The President concluded that the principal attaction of the United States for undocumented aliens is economic and that therefore restriction of employment opportunities is necessary to reduce the number of aliens attempting to enter the United States in violation of the law." If this is found to a valid assumption, we urge that Congress seek a remedy other than fining employers for hiring "undocumented aliens". Most probably an employer who is not satisfied as to whether or not an applicant for a job is a U.S. Citizen or a lawful permanent resident alien will deny employment to the applicant. As I have previously indicated, many "undocumented aliens" are only undocumented due to INS delays in administrative processing of their applications. California has large concentrations of non-English speaking persons who are U.S. Citizens, permanent resident aliens, or otherwise residing in the United States under color of law. The potential violation of ones civil rights due to their heritage, by the employer penalty provision of this Bill is overwhelming. We therefore urge this Sub-Committee to delete the employer penalty provisions of this Bill.

In summary, INS significantly contributes to the "illegal

alien" problem by failing to expeditiously process immigration and naturalization applications. If INS devoted more of its resources to processing of visa applications and petitions for U.S. Citizenship, rather than spending vast sums of money on law enforcement, there would be a significant reduction in the number of "undocumented aliens". We therefore recommend that the appropriation for the Legal Services Corporation be increased to provide for special alien's rights units and that appropriation bills for INS provide for a reallocation of resources so that more money is spent on processing visa applications and petitions for U.S. Citizenship, rather than increasing the budget in the law enforcement area.

Respectfully submitted,

MATHEW L. MILLEN
Attorney at Law

MLM:ej

INLAND COUNTIES LEGAL SERVICES
45-807 Fargo Street
Indio, California 92201
(714) 347-2054 – (714) 345-2134

Ronald L. Taylor
Executive Director
David Chavkin
Director of Litigation
Aurelia Wick
Managing Attorney
L. Berry Mack
Staff Attorney

Sally A. Hoxie
Program Administrator

Representative Yvonne B. Burke
One Manchester Blvd.
Inglewood, California
90301

Attn: Mr. Manuel Cons

Re: CONGRESSIONAL HEARING ON PROBLEMS RELATING TO UNDOCUMENTED ALIENS

Dear Representative Burke:

Accompanying this letter you will find a short statement concerning my observations and experiences regarding undocumented aliens.

This statement is based on two years' experience in the city of San Diego, where I worked as a law student volunteer with the San Diego Legal Aid Society Immigration Unit, and on the six months that I have spent in Indio, California, with Inland Counties Legal Services as a law clerk and staff attorney.

I hope that you will find this statement useful in determining how tax monies are to be allocated to the Legal Services Corporation, Immigration and Naturalization Service, and other relevant programs and agencies. Thank you,

Sincerely,

David Iverson

David Iverson

Staff Attorney

STATEMENT TO THE HOUSE OF REPRESENTATIVES APPROPRIATIONS SUBCOMMITTEE

ON

PROBLEMS RELATING TO UNDOCUMENTED ALIENS

As a starting point, it should be noted that under the Immigration and Nationality Act, there are a number of different ways that an alien may acquire lawful status, on either a temporary or permanent basis.

Programs funded by the Legal Services Corporation however, are by their nature going to serve clients who almost invariably may achieve lawful resident status only if such clients have pre-existing family ties in the United States. Thus, as case-load considerations generally preclude such programs from involvement in the non-immigrant visa area, the "bottom line" is that Legal Services programs involved with aliens' defense are working to protect families from separation and dismemberment, or, to reunify a family which has some of its members lawfully within the United States and some of its members in a foreign country.

Focussing on eastern Riverside County (California) and the problems of undocumented aliens in that area, there are to my knowledge three agencies working to regularize the status of aliens who have family ties to the United States: the Palm Springs Human Relations Commission, the United Farmworkers Union, and Inland Counties Legal Services. These three agencies have a combined case-

load of 600-900 undocumented aliens whose applications to immigrate have been submitted to the Immigration and Naturalization Service. The easternmost part of the county, the Palo Verde Valley, has virtually no one who is representing undocumented aliens.

Of these three groups, only Inland Counties Legal Services has anyone on its staff with either formal training in immigration procedures or legal training. Thus, the services offered by local community groups ranges from "reasonably competent in routine matters" to "seriously inept". Both of these organizations rely on Inland Counties Legal Services for assistance; neither are allowed under current regulation (see Title 8, Code of Federal Regulations, § 292) to do more than fill out petitions to immigrate. They cannot represent their clients in deportation hearings, nor in bail reduction hearings shouldthe Immigration Service apprehend their clients, nor can they remove any of the multitude of obstacles that may prevent acqusition of lawful resident status (i.e. a prior deportation).

The lack of quality free legal service results in persistent victimization ofundocumented aliens, as <u>someone</u> will always offer to provide immigration services. I spend a good deal of my time redoing improperly handled cases, or hounding previously-retained private attorneys or"immigration consultants" to to follow through on a case they have undertaken.

Two cases that I have been personally involved in illustr ate the current state of affairs regarding representation of the undocumented:

1) Arturo Ascencio- Mr. Ascencio was a lawful resident alien convicted of a minor crime. He was inadvertently given a sentence that rendered him deportable. A telephone call to the Public Defender resulted in immediate modification of sentence

such that Mr. Ascencio was no longer deportable under law. The Immigration Service nevertheless removed Mr. Ascencio from the United States. This was done in contravention of Title 8 of the Code of Federal Regulations, which mandates notification in writing to an alien's representative of record before such an act can be carried out. A two-year court battle to allow Mr. Ascencio to return to the United States and his family followed, with the Ninth Circuit Court of Appeals ultimately holding that Mr. Ascencio's removal was illegal and that he had the right to rejoin his family. This case illustrates the need for education about immigration law as well as the vital need for sufficient representatives of aliens. Had Mr. Ascencio not had a representative of record, he would still be outside the United States.

2)Blanca A_____ . Mrs. A____ is the wife of a lawful resident alien who submitted her application to immigrate at some point in the past. She subsequently was apprehended by the Immigration Service. Unrepresented at her hearing before an Immigration Judge, she was unable to convince the Judge to allow her to remain in the United States until her application was adjudicated and sent to the American Consulate. Shortly after her "voluntary departure" to Mexico, her husbsnd found that he could not care for their United States citizen child and work at the same time. He delivered the child to its mother in Mexico. Shortly thereafter, the child became sick. As the mother could not afford adequate medical attention for her child in Mexico, the child died. Had Mrs. A___ been represented

before the Immigration Service, it is quite possible that she would not have had to leave the United States while her application to immigrate was being processed.

CONCLUSION

The Legal Services Corporation should make an increased commitment towards serving the needs of undocumented aliens with family ties in the United States. Thiscommitment should take the form of increasing the numbers of attorneys and papalegals who are equipped to work in this area, either through training of presently employed personnel or acquisition of trained personnel. Additionally, education in the community and of the Bar should be dramatically increased in those areas which have an undocumented alien population. In order to reduce costs as well as utilize human community resources, this increased commitment should have as one of its elements the expansion of Title 8 Code of Federal Regulations, section 292, so that persons active in their local community, and paralegals, may do more to represent undocumented aliens than fill out petitions. Paralegals in particular ought to be allowed to represent aliens before the Immigration Service in deportation hearings.

Respectfully submitted

David Iverson

David Iverson
Staff Attorney

Inland Counties Legal Services

Mr. SLACK. The Committee will now recess until two o'clock this afternoon.

[At 12:50 o'clock p.m., the hearing was recessed for the noon hour, to reconvene that same day, Friday, February 24, 1978, at 2:00 o'clock p.m.]

AFTERNOON SESSION

Mr. SLACK. The Committee will please come to order.

The next witness is Dr. Bustamante.

Would you please come forward, sir?

We are pleased to have you before the Committee this afternoon, sir. I notice that you have a voluminous statement. We will insert the full text of your statement, as though read, and would respectfully request that you summarize the contents thereof.

Dr. BUSTAMANTE. Thank you very much.

I first would like to thank you for the invitation that I received to present my point of view from my own personal perspective and I am delighted to have received this invitation and certainly honored.

As I said, this is the point of view of a Mexican citizen with no representation to speak for any Mexican institution or organization. It is the point of view, however, of a researcher who has maintained a constant activity on the field work on the phenomena of undocumented immigration ever since 1968.

I started my practice of research on the subject that year under the direction of Dr. Julian Samora of the University of Notre Dame where I received my masters degree and Ph.D. degree in sociology. And this is what I prepared for these hearings.

Too much has been said without empirical foundation about Mexican undocumented immigration. The amount of time and space dedicated by the mass media to this phenomenon reflects the concern this issue has had in the United States, but it doesn't reflect the extent of our knowledge about the volume and impact of the Mexican immigration on the U.S. and Mexican economies.

The U.S. Domestic Council on Illegal Aliens released a report on January 8th, 1977, in which this situation is recognized in the following terms; I quote:

> Although qualitative statements can be made, given our limited information on the size and characteristics of the illegal alien labor force and on the supply and demand responses in the markets for factors of production and for goods and services, it is not possible at this time to quantify these impacts.

The problem is not really our limited knowledge of the volume and impact of the Mexican undocumented immigration on the U.S. and Mexican economies. The problem is what we have done with this ignorance.

An atmosphere of complicated sentiments of chauvinism and ethnic resentment have made it difficult to analyze the complexities involved in the whole question of Mexican undocumented immigration with some objectivity, including in this analysis the benefits resulting from this phenomenon for the United States.

One way of analyzing this question is by focusing on the allegations of various effects attributed to the presence of the Mexican undocumented immigrant.

Who are the undocumented immigrants?

A study conducted by David North and Marion Houston in 1976 for the U.S. Department of Labor indicated that approximately 60 percent of their sample of undocumented immigrants were of Mexican nationality, but differences between them and the non-Mexican undocumented immigrants were found to be quite significant so as to make advisable a separable analysis of their respective impacts on the U.S. economy and society in general.

In light of this percentage of Mexican citizens among all undocumented immigrants in the United States, the differences between the figures of the North and Houston study and those of the INS are worthy of note.

Figures on apprehensions by the INS show that approximately 90 percent of the total for the last fiscal year were Mexican citizens.

One could argue that the difference between the percentage of Mexican citizens in the actual total of undocumented immigrants and the percentage of Mexicans in the total of apprehensions could be due to a selective enforcement of immigration laws with a clear bias against Mexican nationals.

A question could be raised: Is this difference a reflection or a cause of a commonly-made association between the notion of an illegal alien and a Mexican national?

The undocumented immigration to the United States, particularly that which has originated in Mexico, has once again gained considerable attention in the U.S. mass media. People have heard about this phenomenon throughout the country in terms such as "an invasion of illegal aliens," "a silent invasion," "a case of national crisis," et cetera.

It is noteworthy that the high visibility of the undocumented immigration from Mexico repeatedly coincides with times of unemployment in the United States.

Abraham Hoffman, in 1974, in the United States and Mercedes Carreras de Velazco in 1975 in Mexico, have documented the anti-Mexican alien campaigns of the '30's which preceded massive deportations of Mexican immigrants.

Increasing unemployment after the end of the Korean War coincided again with headlines such as, "Current Year Problems: Mass Invasion by Illegal Aliens." This is a headline from the New York Times in 1954.

Close to a dozen articles in the New York Times alone, plus a special documentary by the CBS Radio Network in April 4, 1954, spoke in alarming terms of the "Wetback Problem" in the first months of 1954.

The high visibility given to the Mexican undocumented immigration in the mass media also preceded what was called "Operation Wetback," commanded by General Joseph May Swing.

One year after it started in June 17, 1954, more than a million apprehensions and subsequent "voluntary departures" of Mexican undocumented immigrants were recorded by the U.S. Immigration and Naturalization Service.

Is the undocumented immigrant a cause of U.S. unemployment?

The American public has been deceived by the use of the Mexican undocumented immigrant as a scapegoat in the outcry against high rates of unemployment. People have been led to believe that restrictive

measures against immigration from underdeveloped countries will be a cure for unemployment. There is nothing new about this.

In the decades of the '30's and the '50's, people were made to believe that the Mexican immigrant, a factor foreign to the U.S. economic system, was causing unemployment. A public reaction was thus aroused, hostile to the presence of Mexicans in the United States. Massive deportations were conducted with the general approval of the American public under the assumption that something had been done to alleviate unemployment.

Mexican immigrant workers were not in the position of challenging the claims made against them. The Mexican government has been either too constrained by conditions related to an overwhelming dependency on the United States or too unconcerned with the fate of people who have not had a voice in the political decisionmaking process of Mexico.

People who have believed that the Mexican undocumented immigrant is taking jobs away from the United States unemployed have failed to recognize the existence of a demand for cheap labor in the United States, the requirements which have shaped the conditions for a supply of the undocumented immigrant labor force.

Numerous industries owe their existence to the availability of low-cost Mexican labor. In the absence of this Mexican labor in the United States, these industries would not fill the jobs with American workers necessarily, but would close down and do business elsewhere, such as Taiwan, Korea or the Mexican side of the U.S.-Mexico Border.

People hire a Mexican undocumented immigrant not necessarily because there is a job that happens to be vacant, but rather because certain conditions have been created in the United States labor market that make these immigrant workers more exploitable than the local labor force.

This is the essence of the creation of a label of illegality for the immigrant worker, a working condition of powerlessness.

Consistent with one of the concluding remarks made by the Domestic Council on Illegal Aliens quoted at the beginning of this presentation, other studies have pointed out the lack of empirical evidence in support of the contention that deportations of undocumented immigrants would result in job openings for the United States unemployed.

This is the case of a report on the undocumented immigrants from Mexico authored by Dr. Wayne Cornelius of M.I.T. in 1977.

Furthermore, the North and Houston study, several times quoted in these hearings, of 1976, shows that the overwhelming majority of the Mexican undocumented workers who find jobs in the United States are employed in the lowest-paid occupations. The same study shows that, even though undocumented immigrants indeed are employed in higher-paying jobs, the proportion of Mexico nationals in this sector is unquestionably low, comparatively speaking.

Nevertheless, Mexicans are singled out through a mechanical but, still, unsubstantiated association between Mexican immigration and U.S. unemployment.

Is the undocumented immigrant a burden for taxpayers?

In a sample of 919 Mexican immigrants interviewed by myself in nine Mexican border towns, subsequent to their expulsion from the United States by INS authorities, we found the following:

Out of a total sample of 919, 509 interviewees had been able to find a job in the United States previous to apprehensions by INS.

Only 7.7 percent of 909 had been paid in cash. Paid by check were 85.3 percent and 6.3 percent were apprehended before they were able to collect their wages.

Of the check-paid workers, 433, 74.4 percent had tax deductions; 66.7 percent have had social security deductions; 19.9 percent had no deductions and 6.2 percent did not answer the question.

Out of the total sample of 919, only 0.9 percent answered affirmatively to the question: Have you ever had children registered in U.S. schools? 2.4 percent did not answer the question and 96.6 percent answered negatively.

On the question: Have you ever been recipient of welfare benefits in the United States? 3.2 percent of 919 answered affirmatively; 93.7 percent answered negatively and 1.7 percent did not answer the question.

On the question: Have you ever received free medical care in the United States? 7.8 percent of 919 responded affirmatively; 90.7 percent responded negatively; and 1.9 percent did not answer the question.

Our findings are consistent with those of the North and Houston study of 1976 which led to the Wall Street Journal on June 18, 1976, to observe that the U.S. Government is receiving more from the undocumented immigrants in the form of tax and social security deductions than what the immigrants receive in public services.

North and Houston found that 77 percent of the Mexican undocumented immigrants of their sample have paid social security and 73 percent have paid federal income tax. Less than 4 percent had children in U.S. schools and only half of one percent had received welfare benefits.

Our findings are consistent with the reports of North and Houston, and also the study of Victor Villalpando in 1975. I should add, also, the study that has been cited today of Orange County which, even though I haven't read it, it seems to support also these findings.

If representative data were available, the claim of a burden of taxpayers derived from the persons of the undocumented immigrant could probably be reversed.

In theory, a case for an international court of law could be made by the Mexican government if the accumulated amount paid by the Mexican immigrants in the form of income tax, social security to the U.S. Treasury, could be determined if our data are correct. They generally do not receive a proportional benefit in the form of public services for the money.

If this were the case, it could be argued that the Mexican undocumented immigrants might have an uncollected balance in their favor chargeable to the U.S. Treasury.

The representativeness of our data is still undetermined, but they are consistent enough with the evidence from other studies that I have mentioned so as to suggest that the charges against the Mexican undocumented immigrant for being a burden for U.S. taxpayers is totally unfounded.

The alarming remarks we hear these days in reference to Mexican immigration show a recurrent pattern: (1) a causal relationship is

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implied between high rates of unemployment and the presence of undocumented immigrants; (2) a notion of a threat is attached to this presence; (3) restrictive legislation on immigration is promoted, and; (4) massive deportations are conducted.

An additional pattern could also be noted. The problem remains unsolved.

International dimensions of the phenomenon of Mexican undocumented immigration to the United States:

The phenomenon of the undocumented immigration from Mexico stems basically from two interrelated factors: a demand for cheap labor in the United States and unemployment, underdevelopment, economic dependency, unfair income differentials and poverty in Mexico.

Should there be an absence of either of the two factors, the phenomenon would not exist. This means that no solution can be reached by taking unilateral measures and also means that whatever measure is taken by one country, without taking into account intervening factors on the other side of the border, will not only maintain the problem unsolved, but may worsen it.

The fact that the problem is binational means that any realistic solution to the problem could come only from a binational approach to it.

Restrictive measures, such as reinforcing police type programs and/or launching massive deportations, have failed several times in the past. Restrictive or repressive measures against the undocumented immigration draw their basic weakness from the fact that the undocumented immigration from Mexico is an interaction of factors operating on both sides of the border.

Precisely because the nature of this interaction of factors, the problems resulting from this phenomenon cannot be solved by unilateral measures.

No attempts have been made so far to affect the roots of the problem through international policy making. The opposite seems to be the case. There are clear indications of a preference for isolationist immigration policies with no concern for the effects of internal measures upon the other country involved.

This type of orientation seems to operate under the assumption that the U.S. Mexico border actually separates two independent realities. This is not only naive, but it could lead to a historic mistake.

Measures taken by the United States, such as massive deportations, only disrupt Mexican social and economic development and, in the long run, will backfire on the United States for the simple reason that the United States and Mexico share more than 2,000 miles of a common border and social problems do not begin or end at the border line.

Thank you very much.

Mr. SLACK. Thank you very much, doctor. You have made a very comprehensive and detailed statement for which this Committee is most appreciative.

I understand that you are the special advisor to the Mexican government on problems arising from immigrations to the United States; that is correct, isn't it?

Dr. BUSTAMANTE. It is correct to the extent that I work in an institution such as El Colegio de Mexico, which is a research, government-financed institution where most of the professors in this institute serve in some capacity as advisors to the executive, yes.

Mr. SLACK. Thank you for your statement, and I shall yield at this moment to Mr. Early of Massachusetts.

Mr. EARLY. Thank you, Mr. Chairman.

Doctor, you suggested that the enforcement in the deportations which are in effect now aren't really working. Would you suggest some alternates to us?

Dr. BUSTAMANTE. Well, sir, I don't think that there is a total solution, at least not in the short run. I think, however, that we can attempt solutions or avenues towards solutions in the future and I have suggested in the paper that these solutions that I have in mind will have to deal with concerted actions between the two governments.

And I think that, unless the attention towards solutions is given to the interaction of factors at the two sides of the border, no solution could be reached.

Now, I think that there are several things that we can do, but, maybe, the first one that comes to my mind—and I think that these hearings play a very important role—is in checking or at least creating enough skepticism on the minds of a lot of people that think—that have a definition of the Mexican undocumented immigration as a threat, as something that is doing harm to the United States society.

The evidence that we have from the studies that we have conducted, both here in the United States and in Mexico, indicate that this is not well-founded. So, probably, the first thing that we ought to do, in order to create the conditions of reasonableness that require any rational process of negotiations between two countries, is to, perhaps, create a moratorium on the beliefs that we have had in the past about the effects—the negative effects of the Mexican immigration—undocumented immigration into the United States. I think this is an attitudinal avenue that we ought to take into consideration in order to approach the problem in a realistic, objective manner to reach concerted actions between the two governments.

Mr. EARLY. Do you think, doctor, that President Carter's suggested Amnesty Program is going in that direction?

Dr. BUSTAMANTE. Frankly, and with all due respect to this proposal, I don't think so, sir. This is the view that I have from ten years of research and, let me add that, I don't claim to have a pure objectivity about viewing this phenomenon.

Mr. EARLY. Very few people do.

Dr. BUSTAMANTE. My personal point of view is that President Carter, perhaps, had to respond to a political definition of the phenomenon rather than a factual definition of the phenomenon and the pressures mounted to do something about this problem of Mexican undocumented immigration, actually forced a situation in which I see a contradiction—an incongruity, at least, between this statement of the Domestic Council on Illegal Aliens that I quoted at the beginning of my presentation, which is an interdepartmental commission of the Executive reaching a conclusion that they did not have at the moment, any way to quantify the impact.

Nevertheless, we have—a few months later, we have a proposal by the President defining the situation as if the situation had been based on facts and particularly the fact of job displacement by Mexican undocumented immigration which has not been demonstrated; that is, has not been demonstrated in the scientific rigor that it would be necessary to make such a substantive and transcendental policymaking proposal. I think that this is something that would require more research.

But the evidence we have right now indicates that there is no job displacement for the fact that the demand for the labor force—the demand for undocumented immigrant labor force seems to be almost tailor-made to the conditions of the undocumented immigration; that is, conditions of powerlessness, conditions of—that make very attractive this worker because he is in a situation in which he has no bargaining power and he is in the situation where costs could be diminished and profits could be maximized. So, in that sense, he has a specific attraction to many employers. So, in that respect, this situation creates, as I said, a tailor-made type of demand which is not the demand of labor that applies to an American worker who is not in this condition of powerlessness in terms of the employer-employee type of relationship.

So, this is one aspect, of course.

The other aspect is border enforcement. I think that this is, again, based on a unilateral vision that seems to assume that the whole phenomenon of undocumented immigration is something that can be corrected in one country alone with no consideration to the other country. I think that this unilateral vision is also not very realistic. It has not been in the past.

We have elements in history to show what has been the effect—what was the effect of the infamous "Operation Wetback" in 1954? Here we are again, almost 20 years later, and we have a more demanding situation in many respects and more inhumane and the situation is more chaotic now.

Then you have another two measures proposed by President Carter which have been put under the umbrella of amnesty which is a word that is not used in the proposal.

What this means is a situation of adjus'ment of a status for those who have been in the United States before 1970.

Now, I think that Commissioner Leonel Castillo has recognized that this type of situation will not benefit the Mexican undocumented immigrant for the reason that the Mexican undocumented immigrant is basically a temporary worker. He is a person that, because of structural factors, he is pushed to go back to Mexico after a certain period of time in the United States because, with the income he is making in the United States, he can have upward social mobility by far much greater in Mexico in his hometown than the upward social mobility he could have with that income in a deadend job in the United States. With the same amount of money, he can buy, so to speak, if you will allow me the word, more prestige, more social status in his home community and this is a structural factor that is behind this very important characteristic of temporary flow, which is to say that those figures that we have heard are a very liberal way of speaking about millions as if four million would be the same as five or six or seven or eight million.

In this sense, I think that there is very little recognition of this flow—this flow of people that do not come definitely into the United States for the reasons that I had pointed out.

Mr. EARLY. Thank you very much, doctor.

Madam Chairman, I have no more questions.

Ms. BURKE. Mr. Alexander?

Mr. ALEXANDER. No questions.

Ms. BURKE. Mr. Roybal?

Mr. ROYBAL. Now, doctor, you stated that you believe that a concentrated or a concerted action between the two governments must prevail before anything can be done with regard to the problem of undocumented workers.

I presented this to both the Congress of the United States in a bill that I have and, also, spoke to the President of Mexico with regard to this problem. I asked him if he agreed that both countries meet on a high-level basis to discuss the problem of immigration, make recommendations to the Congress of the United States and to their own Congress and to also study the economic development of Mexico and other developing and underdeveloped countries of this hemisphere.

While there seems to be, at least outwardly, admission that such a thing is necessary, no one seems to be taking any action. The United States doesn't, neither does Mexico.

And I predict that, unless some action is taken, the status quo is going to continue.

Do you have any suggestions as to what we, as a Committee or as individuals in Congress, can do to try to bring this about outside of passing my bill, which is in the Congress now. But anything that I, as an individual, or members of this Committee can do in cooperating, perhaps, with you and other Mexican officials in bringing such an atmosphere that would make possible this concentrated action that you are talking about?

Dr. BUSTAMANTE. Sir, I think that there are several avenues and I am certainly encouraged by the positions you have taken which I am familiar with in regard to this issue.

Sometimes I feel like you have shown more concern for the human aspects of this question than some or many of Mexican officials that I know.

In this respect, I also must say that I am personally not satisfied with the actions that have been taken by my own government in dealing with this question.

But, in trying to answer your question in specific suggestions, I think of the one that comes to my mind is the meetings of what is called the interparlimentary commission meetings that I understand have been scheduled for April or May. And, in the past, with all due respect to the Congresses, I think that it has been very little effect being seen as a result of these meetings that have taken place for the last 20 years.

But, maybe this time could make a different impact if the two representations come prepared with what we know and what we don't know of this question. And I think that the mutual awareness of the implications in the other country about possible measures is also an educational process that probably the two people in Congress could very much advance.

I think that this is something that, even though we have a lot of similarities in our system of government, of course, we have many differences in terms of our own traditions and the way we have developed our institutions and this is very important to be recognized.

I think that these particular meetings could have an important impact on the—particularly on the Mexican Congress representation of the complexities of this what I call a political definition of the undocumented immigration question in the United States, which has to do with many, many factors and which have to do with a very complex structure of Congress and all this structure of committees and subcommittees that I, myself, find a hard time to understand it in all its complexities. This is important in terms of—

I was asked by a friend of mine in the government saying what the subcommittee on appropriations has to do with the immigration question and then what does it mean in terms of this appropriation? This is the budget approval, so to speak, but what does it mean in terms of policymaking?

I think that this is one of many questions that could be answered by the Congressmen and Congresswomen from the United States in this particular meeting which is coming in a very appropriate time, the coincidence that this meeting is taking place in April.

Mr. ROYBAL. Well, doctor, unless the attitude on both sides has changed in the last few years, nothing is going to happen in the April meeting.

I have attended these conferences in the past and I made an effort to try to discuss this matter. I have been told by Mexican officials, in a very proud manner, that they do not receive foreign aid from the United States. I have to point out to them that this is not necessarily so. I am not going to go into my explanation of that, but we are members of a Committee on Foreign Operations. We know the amounts of billions of dollars that are made available through the various international banks at an interest rate of 1.5 percent and we have to go out and borrow it at 8.75 or 9.5 percent. We know the uses of these funds.

While Mexico may not be considered directly under the Foreign Assistance Act, I still maintain that Mexico does, in fact, receive foreign assistance from the United States by their use of various facilities under the international banking institutions, by PL-480, by various other methods, including the fact that no one really knows whether there are five or ten million citizens of Mexico in the United States working in the United States at the present time. If they were not here, they would, of course, be in Mexico and the entire burden would be on that country.

So, whether it may be directly or via the process of osmosis, there still is a very good indication that, when Mexican officials refuse to even discuss this matter on the basis that "we don't receive foreign aid", that the attitude with regard to this entire problem has to change, not only on their part, but also on our part which coincides, I think, with what you have said with regard to the processes of education.

I think that both we and the Congress of the United States and the Mexican official has to go through this process of education. Second, we have to admit that certain conditions do exist and then have to admit

also that, unless both countries get together and work this matter out, nothing is going to happen.

Don't you agree with that?

Dr. BUSTAMANTE. Yes, sir, I agree with that.

And before making a—I would like to make a comment on the question of foreign aid that you pointed out. I would like to suggest that the Mexicans, at large, also give foreign aid to the United States in many respects.

I would like to suggest to think in the cost of the Mexican laborer that, from birth to the age of productivity of 18, 19 or 20 years, comes to the United States, this labor force has been supported by the Mexican economy, not by the United States economy and this is the labor force that comes to the United States to produce wealth in the United States.

That wealth that is produced by a labor force that has not been supported, has not been under the cost for the United States, that is a subsidy of the poorest Mexicans to the most richest nation in the world.

Mr. ROYBAL. Well, I suppose that most any country that sends people to the United States can make the same claim, but I think the issue at hand is whether or not this concentrated action that you are talking about can become a reality so that both countries can get together and work this matter out regardless of what country makes the contribution.

I think that, in the meantime, while we are arguing as to who makes the greatest contribution, that we do permit exploitation of the individual, as we had it during the Bracero Program, exploitation of the individual under the H–2 Program. We have that at the present time when, as you know, 200,000 can come to the United States in an emergency. We also know that, at the moment, that consideration being given in the Senate of the United States to increase that to 850,000. We also know that, regardless of where these people come from, these 850,000 will come to the United States and then get lost. They are not going to go back to their own country.

Well, these are matters of reality and what I am trying to get from you is your opinion on the importance of having both countries sit down to work this out. I think you stated it as important.

Dr. BUSTAMANTE. Yes, sir, and that is the most reasonable way, in modern times, for two countries to solve their own differences.

Mr. ROYBAL. Thank you very much.

Ms. BURKE. I have just a few questions.

One, of course, I do have to underscore what Congressman Roybal says that, even though we may not have a direct aid program, we are moving now into more use of multinational borrowing institutions and that will—and our policy, as I understand, for foreign aid will be moving over to making more monies available through those multinational banking institutions.

Now, my question is, really, whether you see the change in the economic status in Mexico coming about as we have a development of oil resources and natural gas. Mexico seems to be a tremendously emerging country industrially with tremendous natural resources.

On the other hand, I suppose you also have an increasing population problem where you have tremendous population growth and, certainly, President Portillo has been excellent in his programs to

try to provide necessary economic—resources for a growing population.

What do you see for the future as far as how these problems will be solved, assuming that the statement that you have made here, starting from that point, that today we have tremendous problems of poverty in Mexico, that we do have an inability in many states of Mexico to be able to provide adequate employment? But what do you see for the future and how do you see that affecting the relationships with the United States?

Dr. BUSTAMANTE. Well, I have two scenarios, one pessimistic and one optimistic. Since the pessimistic is already in my written statement, let me deal with the optimistic.

Ms. BURKE. All right.

Dr. BUSTAMANTE. The optimistic is that we first realize that we are not dealing with a situation of two totally independent entities; that is, when we speak of Mexico as an entity, in terms of decisionmaking, we are not dealing with a totally independent entity in the sense that Mexico has a tremendous influence coming from foreign investments, particularly and very heavily from the United States, and it is the participation of this United States' interest in the Mexican economy that also is related to some of the structural factors that have sometimes made it difficult or sometimes, at least, intervened in the shaping of the actual situation which is not good.

That is, it is not only certain policies from the part of an independent sector of the government, but also the forces of other interests outside of Mexico that also have come into place for creating all this complex situation.

Now, in terms of what can be done in the future, what I foresee is that, in the same manner that the flow of capital is viewed as something natural between the two countries, the flow of human beings and workers, decent people that want to make a better living, could have been viewed by the people with the same manner of normality that the flow of capital is viewed with.

I think that, unless this flow of people is regulated and self-regulated with their own participation, unless the transnational corporations have a corresponding international organization of workers to deal with this international power, we won't ever reach any type of reasonable solutions in terms of a phenomenon in which the basis are these two factors of a labor market.

Ms. BURKE. This is really bothering me.

If you have an expanding population curve that is going up, do you see the economic opportunities with oil and with natural gas—with all the things that we see happening, even industrialization in the sense that we see more manufacturing, particularly in the border towns, do you see those two curves going at the same level so that anything can be done meaningfully? Or, do you see that there may not necessarily be the resources to meet the increased population?

Dr. BUSTAMANTE. Well, I would like to clarify that, in my own estimation, the problem is not the population trends. The problem is the way we have, so far, organized our productive system and I think that it is the failure of this organization what has created the disability of this population who has not been provided with jobs and

opportunities for a decent living. This is the failure of our system which is——

Ms. BURKE. Well, we have done the same thing. I mean, we have the same problem.

Dr. BUSTAMANTE. Well, you have, really, a lot to do with what has happened in this failure in Mexico as well.

But, what I am trying to say is that, in this process, the population, apparently, is not as serious a problem as it would be the restructuring—the reorganization of these resources that now we see coming.

I think that if we maintain the actual structure, maybe the situation will not produce the results that we would like to see, in terms of the problems we have. I think that one thing I wouldn't like to see in my country is what has happened in other countries with the wealth coming from oil, maintaining the same gap differentials—gap income differentials. That is what I mean by changing the structures in order to meet the necessities of the people with this new revenue. I think that would make the Mexican economy less dependent on foreign assistance.

Now, I would like to give my notion of foreign assistance, if I may, in terms of this foreign aid concept.

Ms. BURKE. All right.

Dr. BUSTAMANTE. In our tradition, we don't accept foreign aid because, first of all, we don't believe that such a thing exists. Foreign aid from a kind of charitable (?) point of view of giving things out—in fact, in a more pragmatic sense, we see foreign aid as the availability of capital for an enterprise in which the two sovereign countries could profit in terms of their public needs.

Now, in that respect, I think that people in the Mexican government realize that we don't need foreign aid and I totally agree with them, in terms of the concept of foreign aid.

What we need is understanding that, if you, for instance have trade limitations for Mexican products, you are cutting off jobs in Mexico; that there is a relationship between trade and out migration. That, if the United States people realized that the patterns of consumption of Mexican exports had to do with out migration, then I think we won't ever need foreign aid. We just need more understanding of the complexities of this whole phenomenon that is related to trade, that is related to all the complexities of our bilateral relations.

Ms. BURKE. I have just one final question.

On Page 18 of your statement, there is a comment that a large percentage of the people that come from urban areas are not unemployed at the time that they move from Mexico to the United States, even though those people are undocumented.

What do you see as their reasons for wanting to come to the United States?

Dr. BUSTAMANTE. Underemployment, which is— that is, people that might be employed in something that they don't have enough income to make their own living, so they have to have——

Ms. BURKE. Wages.

Dr. BUSTAMANTE. Yes.

Ms. BURKE. I see. All right.

Thank you very much. We certainly are very honored that you would come here. We recognize that you have made this special trip and it certainly has been very important to us. I want to say that we appreciate it very, very much.

Dr. BUSTAMANTE. The honor is mine and I really appreciate your invitation.

Thank you.

Ms. BURKE. Thank you.

(The complete statement of Dr. Bustamante follows:)

PREPARED STATEMENT PRESENTED BY
DR. JORGE A. BUSTAMANTE,
PROFESSOR OF SOCIOLOGY AT
EL COLEGIO DE MEXICO
IN MEXICO CITY

I am delighted to have been invited to present a prepared statement before these hearings on the phenomenon of undocumented immigration from Mexico to the United States. This is the point of view of a Mexican citizen with no representation to speak for any Mexican institution or organization. It is the point of view, however, of a researcher who has maintained a constant activity of field work on the phenomenon of undocumented immigration ever since 1968.

I started my practice of research on the subject that year under the direction of Dr. Julian Samora of the University of Notre Dame where I received my master and Ph. D. degrees in Sociology. This is what I prepared for these hearings.

Too much has been said without empirical foundation about Mexican undocumented immigration. The amount of time and space dedicated by the mass media to this phenomenon reflects the concern this issue has had in the United States, but, it does not reflect the extent of our knowledge about the volume and impact of Mexican immigration on the U.S. and Mexican economies. The U.S. Domestic Council on Illegal Aliens (D.C.I.A.) released a report on January 8, 1977 in which this situation is recognized in the following terms: "Although qualitative statements can be made, given our limited information on the size and characteristics of the illegal alien labor force, and on the supply and demand responses in the markets for factors of production and for goods and services, it is not possible at this time to quantify these impacts."

The problem is not really our limited knowledge of the volume and impact of the Mexican undocumented immigration on the U.S. and Mexican economies. The problem is what we have done with this ignorance.

An atmosphere of complicated sentiments of chauvinism and ethnic resentment have made it difficult to analyze the complexities involved in the whole question of Mexican undocumented immigration with some objectivity, including in this analysis the benefits resulting from this phenomenon for the United States. One way of analyzing this question is by focusing on the allegations of various effects attributed to the presence of the Mexican undocumented immigrant.

Who are the illegal aliens?

A study conducted by David North and Marion Houston (1976) for the U.S. Department of Labor indicated that approximately 60% of their sample of undocumented immigrants were of Mexican nationality, but differences between them and the non-Mexican undocumented immigrants were found to be quite significant, so as to make advisable a separate analysis of their respective impacts on the U.S. economy and society in general. In light of the precentate of Mexican citizens among all undocumented immigrants in the United States, the differences between the figures of the North and Houstoun study and those of the INS are worthy of note.

Figures on apprehensions by the INS show that approximately 90% of the total for the last fiscal year were Mexican citizens. One could argue that the difference between the percentage of Mexican citizens in the actual total of undocumented immigrants and the percentage of Mexicans in the total of apprehensions could be due to a selective enforcement of immigration laws with a clear bias against Mexican nationals. A question could be raised, is this difference a reflection or a cause of a commonly made association between notion of an "illegal alien" and a Mexican national?

The undocumented immigration to the United States, particularly that which has originated in Mexico, has once again gained considerable attention in the U.S. mass media. People have heard about this pehnomenon throughout the country in terms such as "an invasion of illegal aliens," a "silent invasion," "a case of national crisis," etc. It is noteworthy that the high visibility of the undocumented immigration from Mexico repeatedly coincides with times of unemployment in the United States. Abraham Hoffman (1974) in the United States and Mercedes Carreras (1975) in Mexico have documented

de Velazco

the anti-Mexican-alien campaigns of the 1930'S which preceded massive deportations of Mexican immigrants. Increasing unemployment after the end of the Korean War coincided again with headlines such as "Current Year Problems: Mass Invasion by Illegal Aliens" (New York Times 1954). Close to a dozen articles in the New York Times alone, plus a special documentary by CBS Radio Network (April 4, 1954), spoke in alarming terms of the "Wetback Problem" in the first months of 1954. The high visibility given to the Mexican undocumented immigration in the mass media also preceded what was called "Operation Wetback," commanded by General Joseph May Swing (Samora, 1971, pp. 51-55). One year after it started, June 17, 1954, more than a million apprehensions and subsequent "voluntary departures" of Mexican undocumented immigrants were recorded by the U.S. Immigration and Naturalization Service.

Is the ~~illegal~~ undocumented alien a cause of U.S. unemployment?

The American public has been deceived by the use of the Mexican undocumented immigrant as a scapegoat in the outcry

against high rates of unemployment. Rather than focusing on structural factors of the U.S. economy in search for correcting measures against unemployment, which might affect powerful interests, some public officials have singled out the undocumented immigration as the main factor causing unemployment. People have been led to believe that restrictive measures against immigration from underdeveloped countries will be a cure for unemployment. There is nothing new about this. In the decades of the 30s and the 50s, people were made to believe that the Mexican immigrant, a factor foreign to the U.S. economic system, was causing unemployment. A public reaction was thus aroused, hostile to the presence of Mexicans in the United States. Massive deportations were conducted, with the general approval of the American public, under the assumption that something had been done to alleviate unemployment. Mexican immigrant workers were not in the position of challenging the claims made against them. The Mexican government had been either too constrained by conditions related to an overwhelming dependency on the United States

or too unconcerned with the fate of people who have not had a voice in the political decision-making process of Mexico.

People who have believed that the Mexican undocumented immigrant is taking jobs away from the U.S. unemployed have failed to recognize the existence of a demand for cheap labor in the United States, the requirements which have shaped the conditions for a supply of the undocumented immigrant labor force. Numerous industries owe their existence to the availability of low-cost Mexican labor. In the absence of this Mexican labor in the United States, these industries would not fill the jobs with American workers but, would close - down and do business elsewhere such as Taiwan, Korea or the Mexican side of the U.S.-Mexico Border. People hire a Mexican undocumented immigrant not necessarily because there is a job that happens to be vacant, but rather because certain conditions have been created in the U.S. labor market that make these immigrant workers more exploitable than the local labor force. This is the essence of the creation of a label of illegality for the immigrant worker, a working condition

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of powerlessness.

To illustrate this point with an extreme case, one could imagine what would happen if all Mexican maids were to disappear suddenly from U.S. homes. Would Mexican maids be replaced by American maids, or would those American homes go maidless? The point here is that the employment of Mexican undocumented workers has no necessary connection with the employment of U.S. citizens; rather, they are employed in a situation of illegality tailor-made for powerful interest groups in the United States.

A case in point could be the famous Texas proviso introduced by Texas legislators to amend the current immigration law. In defining what should be understood by "concealing, harboring or shielding the entrance of an alien into the United States," the law makes the following exception:

> Provided, however, that for the purposes of this section employment, including the usual and normal practices incident to employment, shall not be deemed to constitute harboring (U.S. Congress 8 U.S.C., section 1324, 1952).

This is not to suggest that penalizing the employer of an

undocumented immigrant would be a solution, as it has been suggested by the supporters of the various Rodino Bills. This is only to illustrate some of the structural factors that have shaped the conditions under which the phenomenon of the undocumented immigration takes place.

Consistent with one of the concluding remarks made by the Domestic Council on Illegal Aliens, quoted at the beginning of this Testimony, other studies have pointed out the lack of empirical evidence in support of the contention that deportations of undocumented immigrants would result in job openings for the U.S. unemployed. This is the case of a report on the undocumented immigrants from Mexico authored by Dr. Wayne Cornelius of M. I. T. (1977). Furthermore, the North and Houstoun study (1976) shows that the overwhelming majority of the Mexican undocumented workers who find jobs in the United States are employed in the lowest-paid occupations. The same study shows that eventhough undocumented immigrants indeed are employed in higher paying jobs, the proportion of Mexican nationals in this sector is unquestionably low, com-

paratively speaking. Nevertheless, Mexicans are singled out through a mechanical but, still unsubstantiated association between Mexican immigration and U.S. unemployment. The North and Houstoun study suggests that the image of an undocumented immigrant taking high paid industrial jobs does not correspond in general terms, to the Mexican case, in spite of the disproportionate visibility given to exceptions.

Is the undocumented immigrant a burden for tax payers?

In a sample of 919 Mexican migrants interviewed by the author in nine Mexican border towns, subsequent to their expulsion from the United States by INS authorities, we found the following:

-- Out of the total sample (919), 509 interviewees had been able to find a job in the United States previous to apprehension by INS.

-- Only 7.7% (n=509) had been paid in cash. Paid by check were 85.3% and 6.3% were apprehended before they were able to collect their wages.

-- Of the check paid workers (n=433), 74.4% have had tax deductions; 66.7% have had social security deductions; 19.9% have had no deductions, and 6.2% did not answer the question.

-- Out of the total sample (n=919) only 0.9% answered affirmatively to the question: have you ever had children registered in U.S. schools? 2.4% did not answer the question and 96.6% answered negatively.

-- On the question: Have you ever been recipient of welfare benefits in the United States? 3.2% (n=919) - answered affirmatively; 93.7% answered negatively and 1.7% did not answer the question.

-- On the question: Have you ever received free medical care in the United States? 7.8% (n=919) responded affirmatively; 90.7% responded negatively and 1.9% did not answer the question.

Our findings are consistent with those of the North and - Houston study (1976) which led the Wall Street Journal on -

June 18, 1976 to observe that the U.S. government is receiving more from the undocumented immigrants in the form of tax and social security deductions than what the immigrants receive in public services. North and Houstoun found that 77% of the Mexican undocumented immigrants of their sample have paid social security and 73% have paid federal income tax. Less than 4% had children in U.S. schools, and only half of 1% had received welfare benefits.

These findings are also consistent with another study, conducted by Dr. Vic. Villalpando in San Diego County. From a review of 9,132 welfare recipient cases in the County, he found that only 10 were undocumented immigrants. Using the same techniques for a review of 14,000 welfare recipient cases in Los Angeles County, he found 56 undocumented immigrants. Out of these cases, 54 were determined to have actually been eligible for welfare assistance according to current regulations (Villalpando 1976).

WHAT WE KNOW ON THE ACTUAL CONDITIONS OF THE PHENOMENON

There are three major sources of data based on research

of a comprehensive scope in this field. The Samora study (1971); the series of reports of the Comision Intersecretarial (1972; 1974; and 1975); and the North and Houstoun report(1976) recently released by the U.S. Department of Labor.

This section will attempt to describe some of the socio-economic characteristics, making, where possible, comparisons among the three sources. In addition, we will present some preliminary findings of a survey conducted by the author in nine Mexican border cities in the months of November and December of 1975.

Characteristics of Departure

It could be inferred from Graph 1 that the local conditions associated to emigration have not been static. The Mexican states included in this graph represent approximately 80% of the total outmigration detected each year by the sources indicated in the graph. Data shwon in this graph

suggest the necessity of studying the conditions as they differ among the states of origin. The considerable heterogeneity shown among the graphs underscores that emigration is an uneven process, and that nation can not be treated as an homogeneous whole.

It is interesting to note the change shown in the percentage for the states of Chihuahua, Michoacán, Sonora and Sinaloa (See Map) from 1974 to 1975. These contrast sharply with the downward trends of the rest of the states in the same period. The increases shown by Sonora and Sinaloa coincide with decreases in agricultural production in the same states for this period. It is possible that these decreases affect the availability of jobs sought not only by people in Sinaloa and Sonora but by the immigrants from Michoacán. If it is true that internal migration from Michoacán to Sinaloa and Sonora is associated to emmigration from Michoacán to the United States, the trends of these three states could be related to an economic situation derived from agricultural production in Sinaloa and Sonora. The easier access to the United States

from Michoacán via Sinaloa and Sonora and the highly rural composition of migrants from Michoacán (see table 1), could be associated to the impact of agricultural production upon job opportunities and the volume of emmigration to the United States from these states.

Graph 1 also shows that there are five states that invariably appear in the statistics as sharing the largest proportion of the totals of undocumented emmigration to the United States. With small variations in the order of predominant, these states are Guanajuato, Chihuahua, Michoacán, Zacatecas and Jalisco. They appear to have provided more than one half of the total of INS detected undocumented immigration from Mexico ever since 1969. No significant movility is shown in the majority of these states' migrants, with the exception of Chihuahua. Table 1 shows that the majority of the migrants of the other four states with the largest emmigration were born and half they actual residence in rural communities.

We looked for some variations in the data controling for state of birth and state of actual residence. Table 1 shows some variations in the rural-urban origin not exceeding 5% on the average for the seven Mexican states with the highest proportion of undocumented immigrants to the United States. What is most interesting about this is the indication of a - consistent pattern of urban to rural migration. Some statistical tests conducted found that at the 90% level of confidence, the differences are just barely significant. We can not draw any consistent conclusions from this. Based on our data, however, it would seem tenable to hypothesize that a small proportion of Mexican undocumented immigrants somehow emigrated, either before or after entering the United States from an urban to a rural place in Mexico. These apparent patterns are more intriguing since one would assume the opposite pattern to be more likely. That is a loss in the number of rural emigrants when controled by place of birth and place of residence.

Table 1 appears to confirm the notion that the majority of undocumented emigrants are of rural origin. Out of the seven states with the largest emigration, Chihuahua appears

as an exception in its rural urban composition, with more than two thirds its number of emigrants coming from urban communities. This is probably influenced by the size of Ciudad Juárez population which is rapidly approximating one million.

Employment——Unemployment

The column on unemployment in Mexico (table1) would suggest two concurrent situations 1) the high unemployment among emigrants, (reaching as high as 79.5% among those who reside in the state of Jalisco), and 2) that approximately one-third of the emigrants from the seven states with the largest emigration had a job at the time of departure. This probably reflects - the effect not only of unemployment but of other factors upon the decision to emigrate. Very likely among these factors are obviously low wages and low standards of living.

If our interviews on nine Mexican border cities (n=919) reflect the unemployment situations of those cities (this would be the case if INS deportations to Mexican border cities are based on undocumented immigrants' place of origin as it has

been claimed in the rationale for the selection of those sent to the interior of Mexico), the figures of Table 2 would suggest that unemployment at the Mexican border among undocumented immigrants is among the worst in the largest border cities Ciudad Juárez and Tijuana (only Piedras Negras had a higher - unemployment rate).

The same reasoning applies to our data on the question: Were you employed in the United states last year? We think that this is a better question than: Did you have a job when caught? Which is the question we have asked in the past - (Samora 1971). Both INS data on apprehensions and our previous studies have shown that approximately 55% of those that were caught, did not have a job. This is a factor commonly - overlooked by those who leave their job in Mexico to enter illegally to the United States. This percentage appears reduced in general terms when the question is referred to last year experiences, as shown in Table 1. The situation appears different, however, when one looks at the amigrants in the the Mexican border towns (see table2). Our data by state of

origin refer only to interviews conducted in Matamoros, precisely where the employment experience in the U.S. last year - appear by far to have been the best among the emigrants interviewed in the nine Mexican border cities. Table 2 also shows that contrary to the common association between unemployment and emigration, a sizable proportion of undocumented immigrants had a job in Mexico at the time of departure to the United States.

Table 3 compiles data from the Comision Intersecretarial reports on the employment background of undocumented immigrants. These data show some changes taking place over the years in the occupational composition of the migrants. Notwithstanding that farmworking occupations still represent the majority of undocumented emigrants' employment background, the proportion of farmworkers in the total of emigrants has been decreasing progressively. When the occupational background is broken - down by the large occupational categories of agriculture, industry, and services, we find in the Comision Intersecretarial's data that 57.4% of the total of interviewees in 1972 (n=2,794)

were in agriculture in Mexico. By 1974, the percentage in the same category had decreased to 53.6% (n=1,316), and in 1975 - it went to 46.9% (n=1,658).

Comparing the findings of the Comision Intersecretarial - with those of the North and Houstoun study we find that in the area of employment no correspondence appears between the occupational background in Mexico and the type of job found in the United States among the undocumented immigrants. Even in the cases where the immigrant lists other than agricultural skills he is found absorbed by the farmworking activities in his occupational experience in the United States (Comision Intersecretarial 1972, Table 9; North and Houstoun 1976, Table V-5). This suggests an apparent selectivity of the U.S. labor demand of undocumented immigrants and the negligible effect that his occupational background has on this selectivity. Nevertheless, it should be pointed out that percentages in the occupational categories of industry and services have been rising.

Time Spent in the United States

Our preliminary findings on this variable might have an

undertermined although simple bias derived from the place in which the interviews were taken. Mexican undocumented immigrants apprehended by the INS are not sent back to Mexico on a random basis. Place of origin, as stated by the individual who is apprehended, is used by INS as a criterion for the destination of the undocumented immigrant released. He who states that he is from the interior of Mexico is shipped back - non-stop by bus or by plane to a city of the interior, with the rationale that this will make his return to the United - States more difficult. This practice, parenthetically, is in flagrant violation of the Mexican constitution, which establishes the basic right of free transit of individuals - within the country.

The practice usually involves the INS and a mexican busline or airline contracted for the compulsive transportation of the undocumented immigrant from the Mexican border, where INS delivers him to the Mexican busline, to the interior of Mexico previously agreed upon between the INS and the Mexican busline or airline. This practice has been in existence since the last year of the Ordaz administration. It is a different practice however than the current and allegedly experi-

mental, airlift program by which INS sends undocumented immigrants back to Mexico on regular flights of commercial airlines. The basic difference between the two practices is that the older program involved the payment of the ticket by the immigrant when he is caught with enough money, and the newer practice involves what has been called, with a pecular sense of humor, a champagne flight on the INS account. Both programs have one thing in common: no evidence of their impact upon the undocumented immigration flow has been determined.

Those undocumented migrants who note upon capture their residence to be in the Mexican border cities are released by INS across the border. This is the group to which our 919 interviewees belonged. Because of this factor of residence, the validity of which we did not determine, the group which stayed fewer than 30 days (see Table 4) tends to be larger than that which has been shown in other studies (Samora 1971; North and Houstoun 1976), where some of the interviews had taken place in areas other than the Mexican border.

An additional finding of our study was derived from the question on the accumulated duration of stay of the undocumented migrants in the United States in 1975. We were not able to determine with a minimum of reliability how many returns to Mexico, voluntary or otherwise, were involved with what duration in the number of days spent in the U.S. during 1975. Table 4 shows a frequency distribution in percentages of number of days of last staying. This time is obviously - overlapped by the average number of days spent in the U.S. during 1975, indicated in the corresponding column.

Figures from Table 4 require further statistical analysis, not yet completed. The frequency distribution shows, however, a lump at both extremes which would tend to suggest a contract between the two types of chances of being caught. The lump at the greater number of days is provoking a skewness of the average numbers indicated in the third column.

SOME ASPECTS OF THE COST AND BENEFIT OF THE UNDOCUMENTED EMIGRATION

The income obtained in the United States by the undocu-

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mented immigrant comes only from labor. Therefore, focus will be placed first on the benefit defined as income. Table 5 shows the average amount received by Mexican undocumented immigrants by state of origin. The data corresponding to - resident in state (r.s.) in table 5, would suggest that the states with higher rural emigration (see table 1) display lower income. This suggest a probable effect of urbanization over skills and consequently over the likelihood of obtaining higher wages in the United States. It is important to observe, however, that only in the case of Mexico, D.F., as place of origin with too few a number of cases in our sample to be certain yearly income in the United States is higher than the average income for the nation, which is approximately - 1,000 dollars at the previous rate before the devaluation of the peso. Because of this factor, any income in the United States is now double what it was when our data were gathered. This suggests that the attraction of obtaining. U.S. dollars may similarly be double under the rate of exchange for the peso. The effect of this attraction will be seen, probably - beginning with this Spring, when the seasonal flow of emigra-

tion to the United States usually starts to augment, and to reach a peak during the summer.

Table 5 shows not only an apparent correspondence between proximity to the U.S. Mexico border and lower travel expenses, but also that emigration involved costs much higher than our previous studies have suggested (Samora 1971). If tge situation described in Table 5 is accurate, one could predict an increasing predominance of Mexican border states in the total of undocumented emigration.

Paycheck Deductions for Taxes and Social Security and the Benefit derived.

Table 6 shows a breakdown of a group of undocumented immigrants who were employed in the United States. Here only 7.7% received their wages in cash. Eventhough a cash payment does not mean an impossibility of having deductions under the assumption that this would be easier to remeber on a yes or not basis. Our Findings are consistent with the reports of North and Houstoun - - - - - - - - - - - - - - -

(1976) and Villalpando (1975) in the sense that the Mexican undocumented immigrant indeed paid taxes and Social Security. Almost three-quarters of the check-paid workers had deductions for tax purposes and two-thirds for Social Security.

If representative data were available, the claim of aburden for taxpayers derived from the presence of the undocumented immigrant could probably be reversed. In theory, a case for an international court of law could be made by the Mexican government if the accumulated amount paid by Mexican immigrants in the form of income tax and Social Security to the U.S. Treasury could be determined if our data are correct, they generally do not receive a proportional benefit in the form of public services for the moneys. If this were the case, it could be argued that the Mexican undocumented immigrants might have an uncollected balance in their favor chargeable to the U.S. Treasury.

The representativeness of our data is still undetermined, but, they are consistent enough with the evidence from other

studies (North and Houstoun 1976; Villalpando 1975) so as to suggest that charges against the Mexican undocumented immigrant for being a burden for U.S. taxpayers for 13 billion dollars are totally unfounded.

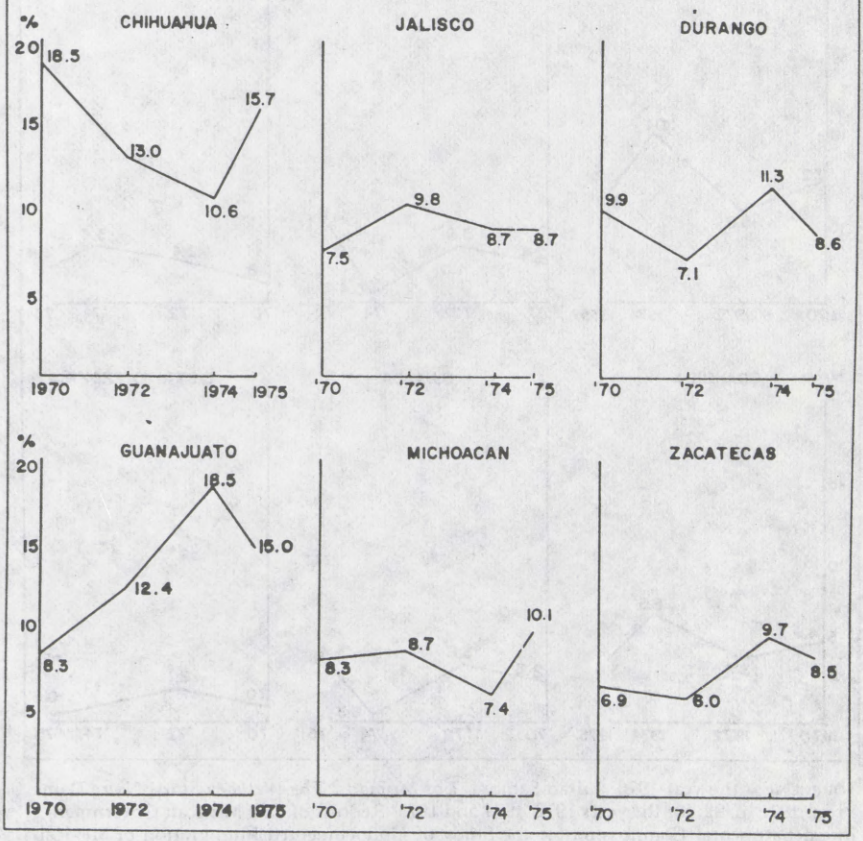
The alarming remarks we hear these days in reference to Mexican immigration show a recurrent pattern: (1) a causal relationship is implied between high rates of unemployment and the presence of undocumented immigrants, (2) a notion of a threat is attached to this presence, (3) restrictive legislation on immigration is promoted, and (4) massive deportations are conducted. An additional pattern could be noted. (5) the problem remains unsolved.

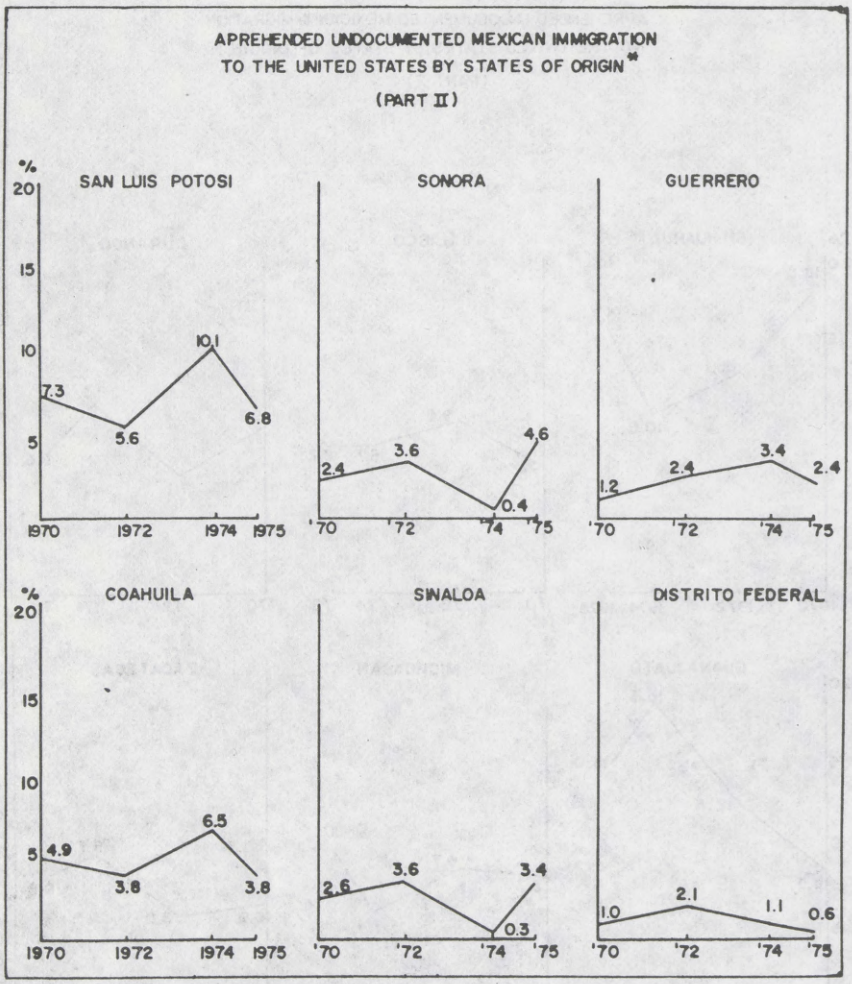
International dimensions of the phenomenon of Mexican undocumented immigration to the United States

The phenomenon of the undocumented immigration from Mexico stems basically from two interrelated factors: a demand for cheap labor in the United States, and unemployment, underdevelopment, economic dependency and poverty in Mexico. Should there be an absence of either of the two factors, the phenomenon would not exist. This means that no solution can be reached by taking unilateral measures, ant also means that -


STATES OF MEXICO
1. Aguascalientes
2. Baja California Norte
3. Baja California Sur
4. Campeche
5. Coahuila
6. Colima
7. Chiapas
8. Chihuahua
9. Distrito Federal
10. Durango
11. Guanajuato
12. Guerrero
13. Hidalgo
14. Jalisco
15. Mexico
16. Michoacan
17. Morelos
18. Nayarit
19. Nuevo Leon
20. Oaxaca
21. Puebla
22. Queretaro
23. Quintana Roo
24. San Luis Potosi
25. Sinaloa
26. Sonora
27. Tabasco
28. Tamaulipas
29. Tlaxcala
30. Veracruz
31. Yucatan
32. Zacatecas

APREHENDED UNDOCUMENTED MEXICAN IMMIGRATION
TO THE UNITED STATES BY STATES OF ORIGIN*
(PART I)





SOURCE: For the year 1970. Julian Samora. *Los Mojados; The Wetback Story*, Notre Dame Press. 1971: p. 92; for the years 1972, 1974 and 1975. Reports of The Mexican Government's Interdepartmental Commission for the Study of Undocumented Immigration of Mexican Workers to the United States (unpublished material).

NOTE: *Percentages represent each state's portion of total undocumented immigration taken from both sources.

TABLE 1

SOCIO-ECONOMIC CHARACTERISTICS OF A SAMPLE OF MEXICAN UNDOCUMENTED IMMIGRANTS (NOVEMBER 1975)

State of origin		Number of interviews	%	Was employed in Mexico at time of departure Yes %	Was employed in Mexico at time of departure No %	Was employed in the U.S. last year Yes %	Was employed in the U.S. last year No %	Community of origin rural %	Community of origin urban %
Guanajuato	b.s.[a]	103	26.5	29.1	69.9	70.9	29.1	54.4	44.7
	r.s.[b]	104	26.3	26.9	72.1	69.2	30.8	57.7	42.3
San Luis Potosi	b.s.	69	17.8	33.3	66.7	79.7	20.3	69.9	29.0
	r.s.	67	16.9	38.8	61.2	79.1	10.9	70.1	28.4
Jalisco	b.s.	43	11.0	27.9	72.1	81.4	18.6	72.1	27.9
	r.s.	39	9.9	20.5	79.5	89.7	10.3	74.4	25.6
Michoacán	b.s.	40	10.3	52.5	47.5	52.5	47.5	70.0	27.5
	r.s.	35	8.9	48.6	51.4	54.3	45.7	77.1	22.9
Zacatecas	b.s.	39	10.1	30.8	69.2	79.5	20.5	61.5	33.3
	r.s.	36	9.1	41.7	58.3	80.6	19.4	72.2	27.8
Durango	b.s.	24	6.2	33.3	66.7	79.2	20.8	58.3	37.5
	r.s.	18	4.6	27.8	72.2	72.2	27.8	72.2	22.2
Chihuahua	b.s.	11	2.8	36.4	63.6	63.6	36.4	36.4	63.6
	r.s.	15	3.8	33.3	66.7	66.7	33.3	33.3	66.7
México, D.F.	b.s.	8	2.1	62.5	37.5	87.5	12.5	0	100.0
	r.s.	12	3.0	58.3	41.7	91.7	8.3	0	100.0
Querétaro	b.s.	8	2.1	50.0	50.0	75.0	25.0	50.0	37.5
	r.s.	8	2.0	37.5	62.5	75.0	25.0	62.5	37.5
Coahuila	b.s.	7	1.8	42.9	57.1	71.4	28.6	14.3	85.7
	r.s.	9	2.3	33.3	66.7	66.7	33.3	22.2	77.8

TABLE 1 (*Continued*)

State of origin		Number of interviews	%	Was employed in Mexico at time of departure Yes %	Was employed in Mexico at time of departure No %	Was employed in the U.S. last year Yes %	Was employed in the U.S. last year No %	Community of origin rural %	Community of origin urban %
Aguascalientes	b.s.	7	1.8	57.1	42.9	85.7	14.3	28.6	57.1
	r.s.	9	2.3	44.4	55.6	66.7	33.3	22.2	66.7
Guerrero	b.s.	6	1.5	0	100.0	100.0	0	100.0	0
	r.s.	8	1.8	14.3	85.7	100.0	0	100.0	0
Tamaulipas	b.s.	5	1.3	60.0	40.0	60.0	40.0	0	100.0
	r.s.	11	2.8	27.3	72.7	63.6	36.4	18.2	81.8
Veracruz	b.s.	4	1.0	50.0	50.0	100.0	0	50.0	50.0
	r.s.			50.0	50.0	100.0	0	50.0	50.0
Sinaloa	b.s.	5	1.3	0	100.0	100.0	0	100.0	0
	r.s.			20.0	80.0	100.0	0	60.0	40.0
Nuevo Leon	b.s.		1.5	0	100.0	33.3	66.7	0	100.0
	r.s.	6		16.7	83.3	66.7	33.3	0	100.0
Other States	b.s.		0.9						
	r.s.		2.5						

SOURCE: Research Program on the Bi-national Border Region Mexico-U.S., Centro de Estudios Sociológicos, El Colegio de México. Data obtained from the application of questionaires in Matamoros, Tamaulipas (November 1975) to undocumented migrant workers recently deported from the U.S.

NOTES: [a]b.s.—born in state
[b]r.s.—resident in state

TABLE 2

SOCIO-ECONOMIC CHARACTERISTICS OF A SAMPLE OF UNDOCUMENTED IMMIGRANTS NOVEMBER 1975

Cities where Interviews were Conducted	Was Employed in Mexico at time of Departure to U.S. Yes	No	No Answer	Was Employed in U.S. Last Year Yes	No	No Answer	Number of Interviews	% of n = 919
Cd. Reynosa								
absolute	14	18	0	17	13	2	32	
percentage	43.8	56.3	0	53.1	40.6	6.3		3.5
Matamoros								
absolute	137	263	1	297	104	0	401	
percentage	34.2	65.6	.2	74.1	25.9	0		43.6
Cd. Acuna								
absolute	57	102	0	59	95	5	159	
percentage	35.8	64.2	0	37.1	59.7	3.1		17.3
Gral. Rodrigo Ma. de Quevedo								
absolute	30	68	1	39	60	0	99	
percentage	30.3	68.7	1.0	39.4	60.6	0		10.8
Piedras Negras								
absolute	7	31	0	9	29	0	38	
percentage	18.4	81.6	0	23.7	76.3	0		4.1
Cd. Juarez								
absolute	9	36	0	17	27	1	45	
percentage	20.0	80.0	0	37.8	60.0	2.2		4.9
Nogales								
absolute	41	42	1	38	44	2	84	
percentage	48.8	50.0	1.2	45.2	52.4	2.4		9.1
Tijuana								
absolute	13	47	0	33	26	1	60	
percentage	21.7	78.3	0	55.0	43.3	1.7		6.5
Totals								
absolute	308	607	4	509	398	12	919	
percentage	33.5	66.1	.4	55.4	43.3	1.3		100.0

SOURCE: Interviews with undocumen ed emigrants detected by U.S. immigration authorities, conducted upon their return to eight Mexican border towns. November 1975.

TABLE 3

TYPE OF JOB HELD IN MEXICO BY UNDOCUMENTED IMMIGRANTS RECENTLY DEPORTED BY U.S. IMMIGRATION AUTHORITIES (IN PERCENTAGES)

Type of Job	1972	1974	1975
Employer or business owner	1.7	2.2	2.7
Self employed	5.5	6.1	7.1
Land holder (ejidatario)	4.4	12.9	4.3
Landless agri-worker	43.1	35.1	35.6
Industrial worker	15.8	17.5	21.5
Services worker	17.8	18.0	18.6
Wageless family worker	5.7	4.0	3.9
Never employed before	6.1	4.2	6.3
Total	100.0	100.0	100.0
n =	2,794	1,316	1,658

SOURCE: Questionaires applied in 1972, 1974 and 1975 respectively, in 8 border cities by the Interdepartmental Commission on problems derived from migratory currents of Mexican Workers to the U.S. (Mexican Government).

TABLE 4

SOCIO-ECONOMIC CHARACTERISTICS OF A SAMPLE OF MEXICAN UNDOCUMENTED IMMIGRANTS NOVEMBER 1975

State of origin		n = 401	%	Average duration of first stay in U.S. during 1975 (in days)	Time spent in U.S. before last apprehension (in days) frequency distribution in percentages of the total sample. 0	1 to 10	11 to 15	16 to 20	21 to 30	31 to 60	61 to 90	91 to 120	121 to 365	365 to 730
Guanajuato	b.s.[a]	103	26.5	158	1.0	17.5	6.8	6.8	7.8	10.7	14.6	6.8	22.3	3.5
	r.s.[b]	104	26.3	137	1.0	19.2	7.7	19.2	7.7	6.7	8.7	8.7	22.1	2.9
San Luis Potosi	b.s.	69	17.8	177	.0	17.4	11.6	1.4	13.0	5.8	7.2	10.1	26.1	5.8
	r.s.	67	16.9	181	.0	17.9	10.4	.0	14.9	6.0	6.0	10.4	26.9	6.0
Jalisco	b.s.	43	11.0	136	.0	16.3	11.6	.0	9.3	34.9	2.3	4.7	14.0	.0
	r.s.	39	9.9	138	.0	7.7	12.8	.0	10.3	38.5	2.6	5.1	17.9	.0
Michoacán	b.s.	40	10.3	111	2.5	22.5	10.0	2.5	10.0	20.0	7.5	2.5	22.5	.0
	r.s.	35	8.9	238	2.9	25.7	11.4	2.9	8.6	20.0	11.4	2.9	14.3	.0
Zacatecas	b.s.	39	10.1	225	.0	17.9	2.6	5.1	10.3	15.4	7.7	5.1	17.1	15.4
	r.s.	36	9.1	223	.0	13.9	2.8	5.6	13.9	16.7	8.3	5.6	13.9	16.7
Durango	b.s.	24	6.2	129	.0	25.0	4.2	.0	16.7	8.3	.0	20.8	25.0	.0
	r.s.	18	4.6	83	.0	33.3	5.6	.0	16.7	11.1	.0	22.2	11.1	.0
Chihuahua	b.s.	11	2.8	189	.0	.0	18.2	9.1	27.3	.0	.0	9.1	27.3	.0
	r.s.	15	3.8	195	.0	.0	13.3	6.7	26.7	.0	6.7	6.7	33.3	.0
México, D.F.	b.s.	8	2.1	377	.0	12.5	.0	.0	12.5	12.5	.0	.0	25.0	25.0
	r.s.	12	3.0	352	.0	8.3	.0	.0	8.3	25.0	.0	.0	25.0	25.0
Querétaro	b.s.	8	2.1	123	.0	.0	.0	12.5	37.5	12.5	12.5	.0	25.0	.0
	r.s.	8	2.0	123	.0	.0	.0	12.5	37.5	12.5	12.5	.0	25.0	.0
Coahuila	b.s.	7	1.8	83	.0	57.1	.0	.0	.0	.0	28.6	.0	14.3	.0
	r.s.	8	2.3	142	.0	55.6	.0	.0	.0	.0	22.2	.0	11.1	.0
Aguascalientes	b.s.	7	1.8	234	.0	.0	.0	.0	14.3	14.3	14.3	.0	57.1	.0
	r.s.	9	2.3	184	.0	22.2	.0	.0	11.1	11.1	11.1	.0	44.4	.0

TABLE 4 (*Continued*)

State of origin		n = 401	%	Average duration of first stay in U.S. during 1975 (in days)	Time spent in U.S. before last apprehension (in days) frequency distribution in percentages of the total sample. 0	1 to 10	11 to 15	16 to 20	21 to 30	31 to 60	61 to 90	91 to 120	121 to 365	365 to 730
Guerrero	b.s.	6	1.5	288	.0	16.7	.0	.0	.0	.0	.0	.0	33.3	
	r.s.	8	1.8	270	.0	14.3	.0	.0	.0	.0	.0	.0	42.9	
Tamaulipas	b.s.	5	1.3	20	.0	40.0	.0	20.0	40.0	.0	.0	.0	.0	.0
	r.s.	11	2.8	128	.0	27.3	18.2	9.1	9.1	.0	9.1	9.1	9.1	.0
Veracruz	b.s.	4	1.0	311	.0	.0	.0	.0	25.0	.0	.0	25.0	25.0	.0
	r.s.			311	.0	.0	.0	.0	25.0	.0	.0	25.0	25.0	.0
Sinaloa	b.s.	5	1.3	245	.0	.0	.0	.0	33.3	.0	.0	.0	33.3	33.3
	r.s.			238	.0	.0	.0	.0	.0	.0	.0	.0	80.0	20.0
Nuevo Leon	b.s.		1.5	40	.0	.0	66.7	.0	.0	.0	33.3	.0	.0	.0
	r.s.	6		111	.0	.0	16.7	16.7	.0	16.7	16.7	16.7	16.7	.0
Other States	b.s.		0.9											
	r.s.		2.5											

SOURCE: Research Program on the Bi-national Border Region Mexico-U.S., Centro de Estudios Sociológicos, El Colegio de México. Data obtained from the application of questionaires in Matamoros, Tamaulipas (November 1975) to undocumented migrant workers recently deported from the U.S.

NOTES: [a]b.s.—born in state
[b]r.s.—resident in state

TABLE 5

SOCIO-ECONOMIC CHARACTERISTICS OF A SAMPLE OF MEXICAN UNDOCUMENTED IMMIGRANTS (NOVEMBER 1975)

State of Origin		n = 401	= 100%	Travel expenses to the U.S. last year[a]	Debts left in Mexico last year[a]	Income in the U.S. last year[a]	Family expenditures per day in Mexico[a]	Respondent's expenditures per day in the U.S.[a]
Guanajuato	b.s.[b]	103	26.5	367.09	155.92	748.08	3.52	3.97
	r.s.[c]	104	26.3	352.98	142.62	799.80	3.50	4.06
San Luis Potosi	b.s.	69	17.8	475.79	144.29	757.04	2.73	4.34
	r.s.	67	16.9	386.94	98.75	756.66	3.96	4.30
Jalisco	b.s.	43	11.0	373.45	101.86	658.09	3.37	3.98
	r.s.	39	9.9	377.44	112.00	725.59	3.82	3.89
Michoacán	b.s.	40	10.3	392.31	130.10	554.50	5.87	3.84
	r.s.	35	8.9	271.14	104.69	549.14	3.85	4.03
Zacatecas	b.s.	39	10.1	326.97	140.22	848.82	3.62	4.45
	r.s.	36	9.1	303.44	139.06	873.44	3.70	5.69
Durango	b.s.	24	6.2	528.58	50.50	759.48	3.01	4.48
	r.s.	18	4.6	391.78	64.00	631.56	2.84	2.77
Chihuahua	b.s.	11	2.8	471.64	16.36	452.73	5.07	2.98
	r.s.	15	3.8	550.93	16.00	825.33	4.44	0.80
México D.F.	b.s.	8	2.1	781.25	0	1,155.00	4.17	6.00
	r.s.	12	3.0	893.83	193.33	1,020.33	4.21	4.63
Queretaro	b.s.	8	2.1	333.50	204.00	887.50	5.29	3.67
	r.s.	8	2.0	339.00	204.00	875.00	5.74	3.79
Coahuila	b.s.	7	1.8	226.29	0	484.57	2.73	3.31
	r.s.	9	2.3	53.11	8.00	544.22	3.08	3.16
Aguascalientes	b.s.	7	1.8	555.43	696.00	1,480.00	3.19	6.39
	r.s.	9	2.3	443.11	548.00	1,151.11	2.86	8.92

TABLE 5 (*Continued*)

State of Origin		n = 401	= 100%	Travel expenses to the U.S. last year[a]	Debts left in Mexico last year[a]	Income in the U.S. last year[a]	Family expenditures per day in Mexico[a]	Respondent's expenditures per day in the U.S.[a]
Guerrero	b.s.	6	1.5	846.67	386.67	1,233.33	3.60	4.07
	r.s.	8	1.8	751.43	428.57	1,268.57	5.94	4.11
Tamaulipas	b.s.	5	1.3	65.20	24.00	149.20	6.08	1.92
	r.s.	11	2.8	67.64	165.45	489.64	6.87	4.65
Veracruz	b.s.	4	1.0	1,119.00	115.00	1,480.00	2.54	8.44
	r.s.			1,119.00	115.00	1,125.00	2.54	8.44
Sinaloa	b.s.	5	1.3	520.67	93.33	986.67	5.60	4.98
	r.s.			704.40	112.00	1,256.00	4.06	4.83
Nuevo Leon	b.s.			183.33	97.33	105.33	3.79	11.65
	r.s.	6	1.5	371.00	105.33	589.33	3.09	6.52
Other states	b.s.		0.9					
	r.s.		2.5					

SOURCE: Questionaire applied in Matamoros, Tamaulipas to undocumented immigrants recently deported by U.S. Immigration authorities.

NOTES: [a]averages converted into U.S. dollars at the January 1976 currency rate of 8 cents per peso
[b]b.s.—born in state
[c]r.s.—resident of state

TABLE 6

SOCIO-ECONOMIC CHARACTERISTICS OF A SAMPLE OF MEXICAN UNDOCUMENTED IMMIGRANTS

Cities Where Sample is Applied	FORM OF WAGE PAYMENT N = 521				CHECK-PAID WORKERS n = 434				TOTAL SAMPLE N = 919								
									HAVE CHILDREN IN U.S. SCHOOLS			WELFARE RECIPIENT IN U.S.			FREE MEDICAL CARE RECIPIENT IN U.S.		
	cash	check	wages uncollected	no answer	tax deductions	Social Security deductions	no deductions	no answer	yes	no	no answer	yes	no	no answer	yes	no	no answer
Reynosa	1	16	2	0	10	8	4	2	0	32	0	0	32	0	1	31	0
Matamoros	18	258	21	10	191	178	48	13	3	388	10	18	369	14	32	359	10
Cd. Acuna	8	46	3	2	29	24	12	5	0	155	4	2	155	2	14	143	0
Cd. R.M. Quevedo	6	30	2	1	21	21	8	1	0	96	3	0	99	0	2	91	3
Piedras Negras	2	7	0	0	2	2	5	0	0	38	0	0	38	0	0	38	0
Cd. Juarez	0	17	0	0	16	12	1	1	0	45	0	0	45	0	3	40	0
Nogales	4	28	4	2	26	19	3	3	0	81	3	2	80	2	9	78	3
Tijuana	0	32	0	1	27	25	5	1	5	53	3	7	51	3	11	49	2
TOTALS	9	434	32	16	322	289	86	26	8	888	23	29	869	21	72	829	18
Percentages	7.5	83.3	6.1	3.1	74.4	66.7	19.9	6.2	0.9	96.6	2.5	3.2	94.5	2.3	7.8	90.2	1.9

SOURCE: Interviews with undocumented emigrants detected by U.S. Immigration authorities, conducted upon their return to eight Mexican border cities in November 1975.

whatever measure is taken by one country, without taken into account intervening factors on the other side of the border will not only maintain the problem unsolved but may worsen it. The fact that the problem is binational means that any realistic solution to the problem could come only from a binational approach to it.

Some solutions have been attempted in the past, like the bracero program. Enough has been written on the history of the bracero program, particularly by Ernesto Galarza (1964), making a discussion of its details unnecessary. Based on the studies made by Galarza, we could say that a bracero type of program would not be useful as a solution for the undocumented immigration at least for the following reasons:

(1) It becomes an inducement for emigration from Mexico. In the past, those who were not able to be included in the bracero quotas, determined by the United States, did not necessarily go home. They came to the United States as undocumented workers anyway.

(2) It provokes an oversupply of labor that is conductive

to exploitation, exacerbation of ethnic prejudice, and discrimination.

(3) It results in the instituionalization of an underclass considering of the not-too-temporary workers' children, born in the United States.

In as much as a bracero program defined by annual quotas does not preclude but encourage undocumented immigration, it becomes a measure contrary to its objective, that is, the reduction or the control of the undocumented migratory flow.

Restrictive measures such as reinforcing police type programs and/or launching massive deportations have failed several times in the past. Restrictive or repressive measures against the undocumented immigration draw their basic weakness from the fact that the undocumented immigration from Mexico is an interaction of factors operating on both sides of the border, namely, U.S. demands for cheap labor and underdevelopment in Mexico. Precisely because the nature of these interaction of factors; the problems resulting from this phenomenon cannot be solved by unilateral measures.

No attempts have been made so far to affect the roots of the problem through international policymaking. The opposite seems to be the case. There are clear indications of a preference for isolationist immigration policies with no concern for the effects of internal measures upon the other country - involved. This is the case of the Rodino Bill and similar - legislation. This type of orientation seems to operate under- the assumption that the U.S. Mexico border actually separates two independent realities. This is not only naive, but it - could lead to a historic mistake. Measures taken by the - United States such as massive deportations only disrupt Mexico's social and economic development, and in the long run, will backfire on the U.S. for the simple reason that the United States and Mexico share 2,000 miles of common border, and social problems do not begin or end at the border line.

WHAT COULD HAPPEN AT THE MEXICO-US BORDER

This section deals with an excercise of prognosis. It has no other value than that of suggesting one of the infinite - possible outcomes of the human experience. It is meant to -

represent however a remote but possible scenario. A scenario that should be taken into account only to be avoided.

1. President Carter's proposals will be discussed in - Congress and a compromise will result in which the general negative attitude against the Mexican undocumented immigration will prevail. Such a compromise will consist in legislation that will take a hard line in favor of restrictive immigration and border enforcement measures as opposed to the adjustment of migratory status type measures. The result of both sanctions to employers and border enforcement will be a significant increase of a return migration from the United States to Mexico of unemployed and unsuccessful Mexican undocumented immigrants. These immigrants will probably not return all the way to their places of origin in the interior of Mexico but will stay at the Mexican border towns in the hope of a change of luck in new attempts to go across the border. The important point here is the increase in the actual pattern of return resulting from new restrictive measures. This return migration will produce

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an aggravation of the already difficult conditions of unemployment, overcrowdedness, lack of housing and public services of Mexican border towns. Here we are alluding to an increase of a migratory flow from north to south.

2. The devaluation of the peso is felt sooner, the more integrated or dependent a person is of the monetary national economy. If this is true, the effects of the devaluation of the peso were felt at a later date in the countryside than in the city. On the other hand, we know that the outmigration flow is not constant throughout the year. It usually begins to increase in the spring to reach a peak in the summer months, a decline in the fall and a bottom level in the winter. This is to say that the effects of the devaluation of the peso will produce full impact on outmigration starting in the spring of 1978. This will mean and increase on the otherwise "normal" outmigration from south to north toward the United States. This time however, border enforcement measures will have produced the effect of closing the border for the "normal" and the additional number of outmigrants who then will tend to

stay at the Mexican border towns waiting for a better chance to go across the border. Here we are alluding to an increase in the outmigration flow from south to north.

3. The outcome of 1 and 2 is a potentially explosive sandwich at the Mexican border towns where a rapid increase of an unemployed population will result from the concentration of two migratory flows with an opposite origin. One coming south from the north and the other coming north from the south. Assuming a lack of political organization of the migrants concentrated at the Mexican border towns, the most likely outcome of such a condition of uneployment and overcrowdedness will be social disruption. Frequency and intensiveness of social disruption at the Mexican border towns will take a massive proportion creating a fertile soil for the emergence of both violence and massive repressive measures from the part of the Mexican government through the use of federal troops. The Mexican army will then have suddenly an important role to play in the political spectrum of the country.

4. Social disruption at Mexican border towns will not be contained by the border line as no general social phenomenon

affecting one side has ever been contained by the border without creating corresponding effects on the other side. Social disruption on one side will spill over to the other side then creating international incidents of violence. The frecuency and intensiveness of these incidents will correspond to an increasing embitterness of Chicano-Anglo relations at the U.S. side, since it will be unavoidable the ethnic connotations of these border incidents. Chicano-Anglo relations at the U.S. side of the border will reach an unprecedented level of abrasiveness which might lead to rioting situations and the use of the U.S. National Guard.

5. Mexico-U.S. relations will be affected in all areas by the situation of the border. Both governments will find themselves left with a new ad hoc cooperation avenue and that will be in the military area. This will add an international dimension to the newly acquired political importance of the Mexican army.

6. In the absence of a political determination to drastically change the structural conditions in which the outmigration originates in Mexico, some members of the Mexican -

army will decide to take in their hands what in their view will be the restoration of order and peace.

There is no other way to avoid irrational outcomes than the creation and diffussion of conditions of reasonableness upon which a truly bilateral dilemma such as the undocumented immigration phenomenon can be dealt from the perspective of international cooperation. With a more than 2,000 miles of common border between Mexico and the United States we must learn how to live together.

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Ms. BURKE. The next witness is Admiral Dawson, Los Angeles Area Committee for Trade Union Action and Democracy.

Mr. DAWSON. Yes. My name is Admiral Dawson, Los Angeles Area Committee for Trade Union Action and Democracy.

I would like to just read the statement that I submitted to the Committee, with a very minor amendment.

Ms. BURKE. If you wish to summarize, you are perfectly free to do it, or you can read your statement, whichever you prefer.

Mr. DAWSON. I think that I do not have the capabilities that the doctor had. I would like to read my statement, which is only about three and-a-half minutes.

Ms. BURKE. Go right ahead.

Mr. DAWSON. Our organization is concerned with increasing the participation of rank and file workers in union activity.

It is the experience of workers in workplaces and in shops covered by union contracts that the interference of the INS in the workplace impedes the effectiveness of our unions in preventing speed-ups, in insuring safety conditions or standards, in processing grievances, in acquiring pay increases, shorter hours, extended vacations and sick leave and promoting harmony and unity among workers.

By introducing into the work force a group of workers who are denied any legal rights whatsoever, the employers are able to undermine wages, working conditions and living standards of all workers in our country.

Undocumented workers are producing greatly increased profits for the employers and, yet, are being denied a share in the legal and economic victories of the labor movement.

I would also like to say, as an amendment, that many of the undocumented participate heroically in these struggles and should share in the victories that labor wins because they contribute greatly to those victories.

Furthermore, undocumented workers are paying taxes but no receiving social services. A recent survey by the U.S. Labor Department found that 77 percent of undocumented workers interviewed paid social security taxes; 73 percent paid Federal taxes; but less than 4 percent had children in school or had collected unemployment benefits and only one-half of one percent had been on welfare.

We do not believe it is necessary for us to enumerate descriptions of harassment and intimidation by the INS of Latinos in workplaces not covered by union contracts to make it more clear that the presence of the INS retards the organizing of the unorganized.

I am sure you are aware, when any section of the work force is not permitted to defend itself against rising prices and taxes through union organization, the rest of the work force is held back.

We know that employer aims are to prevent the organizing of the unorganized and, where there are unions, to weaken and destroy them. In fact, the Government often directly aids the effort at strike-breaking and union-busting.

It is common for INS agents to move in on workers engaged in an organizing effort or a strike or a crucial grievance procedure and to deport the undocumented among them.

At the same time, the INS leaves the scene when strikebreakers are brought in.

The point is that the INS has no business messing with workers at their workplace in the first place.

[Applause.]

The relationship between an employer and an employee is an economic one. The employee produces a product for the employer, which he sells for a profit. The employer pays back a portion of that profit in wages. Nationality has nothing to do with that economic relationship.

The interference of the INS in the workplace is completely unjustified.

As we have stated earlier, the interference disrupts the workers, those with documents and those without documents, and interferes with their ability to make a decent living.

There should be equal rights for immigrant workers in all areas of employment.

We propose:

1. Job security, seniority, equal pay, equal access to promotion, equal opportunity to organize and to hold trade union office for all undocumented workers.

2. Access to unemployment insurance, social security, disability insurance, Medicare, and labor law enforcement.

Furthermore, we believe that full housing and educational opportunities should be ensured for immigrant workers and their families. These things are their rights because they are fully a part of the economic life of our country.

Thank you.

Ms. BURKE. Thank you very much.

Mr. Early?

Mr. EARLY. I have no questions.

Ms. BURKE. I have just one question.

What has been the reaction of organized labor, generally, to your basic positions? I notice you are from Plumbers Union, Local 78.

Mr. DAWSON. Yes.

Ms. BURKE. And your coordinator is from the Oil Chemical and Atomic Workers.

Has this generally been the position of specific unions, locals within various unions? How does this position relate to the general position of organized labor?

Mr. DAWSON. Congresswoman Burke, as you can recognize, we do say that we are rank and filers and it is our view that many times the officers, in an attempt to enforce the kind of contracts that we win, have difficulty, especially with the interference of the INS.

Ms. BURKE. I see.

Mr. DAWSON. It is difficult for any international union to have a position on this question that corresponds to the position that we have because they do have to deal with the various other levels of government and they are also international—I mean, international in the sense of the word that unions in other countries that they have to respond to and make agreements with.

I would further say that there are some local unions that totally endorse the view that we have presented. There are some international union officers who totally endorse the view that we have presented.

I do believe that the United Electrical Workers, which is an independent national union, endorses the view that we have presented and I do believe that, since our organization here in Southern California represents some 48 locals and some, I think, 21 international unions, large numbers of rank and filers within the trade union movement endorse that position. And it is our view that we will win the labor movement to totally adopt that view.

Ms. BURKE. Thank you very much.

Mr. ROYBAL. Madam Chairman, may I compliment the gentleman for his presentation? I sincerely hope that organized labor, as a whole, endorses your position. I believe that your position does not really coincide with that taken by George Meany, but, nevertheless, it is a position that one can say reflects the attitude of your union and I compliment you for it.

Mr. DAWSON. Thank you, Congressman Roybal.

May I just say that brother Meany and I do come from the same international union. We are both plumbers and my vote on questions counts for as much as his.

Thank you.

Ms. BURKE. Thank you very much.

The next witnesses are Charles Kenney, Superintendent of Schools, Orange County; Santiago Jackson, Los Angeles City School District; Tom Bancroft, Los Angeles County School District.

Will you please come forward?

We welcome you to the hearing.

Any additional witnesses that you may have, resource people, you may identify and they will have full opportunity to add to the record.

Mr. SULLIVAN. Are we going by the agenda?

Ms. BURKE. You are not bound by the order listed. If you would prefer to present your testimony in a way that you would feel would be better, please proceed. I will turn the hearing over for your comments and you may introduce the first party who will make a statement.

Mr. O'SULLIVAN. First of all, I would like to clarify something. Dr. Kenney, who is the Superintendent of Schools of Santa Ana Unified School District in Orange County could not be here this afternoon. He was here this morning. He has asked me to sit in for him. My name is Joseph A. O'Sullivan. I am the Director of Pupil Personnel Services for the District.

Ms. BURKE. Thank you very much.

Mr. O'SULLIVAN. Perhaps I might say a few items first since I am from a local school district in Orange County.

I would give the small local school district—I say small compared to L.A. Unified, who is here also.

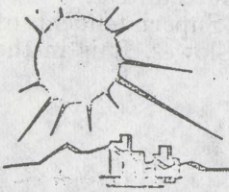
I believe that Dr. Kenney, prior to this meeting, gave you some written communication, which I don't know whether you have had a chance to read or peruse, but, rather than reading that, I thought I would just give a few comments and then would be able to answer questions that you might ask.

Ms. BURKE. We have all the statements. We have them duplicated—yes. We will insert Dr. Kenney's statement into the record at this point, as well as the statement of Dr. Santiago Jackson.

Is there anyone else that had a statement to be introduced?

From the Office of the Los Angeles County Superintendent of Schools, we have the statement of Mr. Richard Clowes. It is in the record.

[The statements referred to follow:]



EDUCATION IN
THE GOLDEN CITY
SANTA ANA UNIFIED SCHOOL DISTRICT
1405 French Street
Santa Ana, California 9270
Telephone (714) 558-550

Charles F. Kenney, Ed.D., District Superintendent

February 22, 1978

Congresswoman Yvonne Burke
1 Manchester Boulevard
Inglewood, California 90301

Dear Congresswoman Burke:

This letter is written to provide your Committee with testimony concerning the impact undocumented aliens have upon the Santa Ana Unified School District.

During the 1976-77 school year, we identified and provided educational services to 3,124 children with non-immigrant status from families of undocumented aliens. Present enrollment indicates that this year's figure will be approximately 3,400. This represents 12% of our school population. There are 4,699 students enrolled who are non or limited English speaking students, or approximately 17% of our enrollment. These children definitely impacted the operation of the schools.

Of major concern is receiving the funding that is necessary to meet the additional educational needs of these youngsters. At the present time, the Santa Ana Unified School District, through its County-wide tax for Non-immigrant pupils, has the funding to maintain the necessary programs. This funding, through a County-wide tax is in a tenuous situation and there is a move afoot in the State of California Legislature to eliminate it. Presently, Senator Dunlap's Senate Bill 1432 is designed to curtail or limit this funding.

Should this occur, the Santa Ana Unified School District would be faced with a large increase in its local tax rate to provide the necessary educational services. This would be an unfair imposition upon the Santa Ana taxpayer.

It is recommended that the Federal Government provide the funds to educate children of undocumented workers. Existing Title I and Title VII funds are insufficient at the present time.

Children of undocumented workers, or non-immigrant children as classified in the California Education Code, provide various cultural experiences to our students and help our students develop understandings of cultural differences. This helps pupils develop and broaden understandings of the world around them. Additional funding is necessary since we find these pupils:

- to be highly transient, entering and exiting frequently. This causes difficulty with classroom organization and requires considerable clerical work to maintain their records.

- frequently have lengthy absences when they accompany parents on return trips to Mexico or other parts of the State. These absences disrupt the normal educational process for these children, causing a loss in ADA and requiring additional bookkeeping on the part of teachers and clerical staff.

- are frequently illiterate in their own language. This places regular classroom teachers with or without bilingual capabilities in a difficult and frustrating position relative to meeting the educational needs of these children, while they strive to provide for educational needs of the other children in the classroom.

- frequently have an educational level of achievement far below that expected of children of their age. This causes difficulty with placement and social adjustment. It also requires the acquisition of large amounts of specialized and remedial materials. In addition, teachers with bilingual capabilities are in insufficient supply, as are teachers trained to work with children with such diverse needs.

- by their presence, create cultural conflicts within the ethnic groups. This is particularly apparent at the intermediate and high school levels, where the students of Mexican descent display resentment toward the undocumented alien. A similar resentment has been noted by Mexican-American adults.

- are seldom properly immunized, and acquiring mandated records, such as immunization and birth certificates, is next to impossible.

- requiring an inordinate need for special services, such as clothing, free lunches, English as a Second Language (ESL) teachers, bilingual teachers, bilingual instructional aides, etc.

- have an unusual high incidence of health-related problems resulting in absenteeism and the need for extended social services.

- by their presence have created a high anxiety level among teachers who are unable to meet the needs of these children and thus fear for their jobs.

- have parents who are unable or unwilling to make the school contacts necessary to support the school's effort to educate their children.

- are difficult to diagnose for special class placement or receipt of special services due to lack of language development

All or most of the above circumstances result in an abnormal loss in time and energy on the part of teachers and other members of the staff in the attempt to educate these children and, most critical of all, an educational loss to many regular students.

If a District can be guaranteed the educational funding necessary to meet the unique needs of children of the undocumented worker, I believe we can overcome the disadvantages identified. In addition to funding for staff personnel, additional funding is required in capital outlayto provide the additional educational facilities required in terms of instructional space to meet the unique needs of these children.

Very truly yours,

Charles F. Kenney, Ed.D.
Superintendent

CFK/k

FACTORS RELATED TO THE EDUCATION OF UNDOCUMENTED ALIENS

A Presentation to the

House of Representatives

Appropriation Subcommittee

by

Dr. Santiago Jackson
Office of Government Relations
Los Angeles Unified School District

February 24, 1978

Los Angeles, California

24-890 O - 78 - 12

I am here to provide you with information on behalf of the Los Angeles Unified School District regarding undocumented aliens. We as a school district probably serve more pupils who are undocumented aliens than any other district in the nation. Three factors supporting this statement are our school district's proximity to the Mexican border, its location as a port of entry, and our overall large student population.

I must state that the information that I am presenting is not based on hard data. The reason for this lack of data is that we have a District policy of not reporting and counting undocumented alien children. The main reason for this policy is that we view our district as a service agency and not as a policing agency. It is our belief that all of the children from our district should have access to educational opportunities. Furthermore, under compulsory education law, we have a duty to provide it. Also, we do not want to place any barriers in parental participation at the local school level. The reporting of pupils would cause some parents to fear our schools.

This policy of not reporting pupils has cost us money in the past because state statutes require that districts submit rosters of undocumented alien students before receiving reimbursement for their cost of education. We are aware that these lists must be submitted to the Immigration and Naturalization Service, and as such we have not submitted the lists or received the extra revenue.

We understand that the major purpose for your hearing today is to identify needs related to undocumented aliens in order to allocate the proper appropriations. As a school district we cannot give you exact figures on needs and costs, but we can share with you approximate figures of the scope of our educational services to undocumented alien pupils.

The most basic question which arises within this area of concern is how many undocumented alien pupils do we serve. One way that we can establish that number is to look at 43 surrounding districts which do report their non-citizen students without immigration status, and use their figures to project our count. The 43 surrounding districts in 1976 reported 9,096 pupils from a total pupil population of 480,341. Based on our 1976 pupil population of 608,100 we can estimate that our district served a minimum of 11,500 pupils during the same period.

Another way to estimate such a student population is to look at the number of Non-English and Limited-English speaking pupils. Our District staff estimates that 120,000 pupils are in need of special second language instruction whether it be through Bilingual Education or English as a Second Language programs. It is safe to estimate that a substantial percentage

of those pupils are children of undocumented aliens. If a low 10 percent figure is accepted, then the estimated number of undocumented alien pupils is 12,000. The actual count is probably higher. The reality, however, remains that our school district is serving a substantial number of non-citizen children without immigration status.

The next major question is one of costs to educate undocumented alien pupils. This estimate depends on what type of funding we choose to focus on. Do we look at the entire cost of educating a pupil, or do we isolate the cost of language instruction? Our low student population estimate of 11,500 can be applied in the following manner:

1. Total State and Local Cost: $16,100,000.

   This figure is based on combined state and local support per pupil of $1,400.

2. Bilingual and ESL Cost: $4,025,000.

   This figure is based on 11,500 pupils being provided Bilingual or ESL programs at an excess cost of $350 per pupil.

Additional costs are also faced in such areas as assessing language competency and providing assistance related to health problems, attendance, and school adjustment. Within the area of language assessment we estimate that it will cost us $750,000 to test 250,000 pupils who are from homes where English may not be the dominant language. In addition, our District is making extensive efforts to recruit bilingual teachers and to certify that they are fluent in the second language, whether it be Spanish, Cantonese, or Korean.

Within the area of language instruction, it must be pointed out that much of our effort is a result of the Federal Supreme Court decision of Lau v. Nichols. The decision resulted in the Office of Civil Rights' interpreting bilingual education as the primary means for achieving compliance even though regulations have not been officially developed. Compliance with these bilingual education mandates from OCR have negatively affected our proposals for Emergency School Aid Act (ESAA) desegregation funds. This situation falls into a rather "Catch 22" category. We try to serve undocumented alien children whose enrollment in our district is the result of federal immigration action or inaction, and at the same time, we get threatened with possible funding restrictions for lack of full bilingual education compliance by OCR.

To resolve some of the problems related to the education of undocumented aliens, we recommend the following:

1) Provide sufficient funding under the Elementary and Secondary Education Act Title VII for bilingual education.

2) Use the factor of undocumented aliens as a basis for allocating ESEA Title I funds to school districts for compensatory efforts.

3) Augment the appropriations for bilingual vocational education under the Vocational Education Ammendments of 1976.

4) Specify that Comprehensive Employment and Training Act (CETA) and Youth Employment Act funds are targeted for training undocumented alien students.

In closing, we view the undocumented alien as someone who will continue to live in our community and who has potential for serving our local societal needs. As such, we commit ourselves to meeting their educational aspirations. We trust that your committee will recommend the allocation of the necessary resources to address educational and other problems related to undocumented aliens.

OFFICE OF THE LOS ANGELES COUNTY SUPERINTENDENT OF SCHOOLS

RICHARD M. CLOWES, *Superintendent*

February 15, 1978

TO: The House of Representatives Appropriations Subcommittee

Attention: Representative Yvonne Brathwaite Burke

FROM: Office of the Los Angeles County Superintendent of Schools
Richard M. Clowes, Superintendent

SUBJECT: Impact of Undocumented Aliens on Schools

This is in response to your request for testimony for the hearing on problems relating to undocumented aliens.

Data in the files of this office related to the impact of undocumented aliens on the schools of Los Angeles County are limited to those statistics compiled under state laws which permit school districts to file claims for reimbursement for the local costs of education for certain nonimmigrant and noncitizen (undocumented) pupils. The current law provides for assumption of the local costs through a countywide tax, thus substituting a broader tax base than would be available if each of the 82 school districts in the county assumed the costs locally.

Below is a five-year summary of the local share of cost of education claimed for noncitizen (undocumented alien) and specified nonimmigrant pupils in Los Angeles County. Claims increased from approximately $2.6 million in 1973-74 to $10.6 million in 1977-78. (Note: Claims covered prior year costs.) The county tax rate to satisfy claims progressed from .012 in 1973-74 to .035 in 1977-78.

Significance of the statistics is modified by a number of factors including the following:

1. Only districts offering education in any of grades K through 12 are eligible for reimbursement.
2. Approximately one-third of 82 such districts in the county do <u>not</u> file claims for reimbursement--usually due to local problems in identifying the specified pupils.
3. The claims represent both undocumented aliens (noncitizen without immigration status) and documented nonimmigrant students and visitors. In 1976-77, this included 13,000 undocumented and 5,000 documented.
4. The county's largest district (Los Angeles Unified with 45% of the total K-12 school population in the county) has not filed claims for undocumented (noncitizen) pupils.

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5. The total dollar claims represent only a portion of the actual costs of education for such pupils in the districts filing claims. State and federal contributions to the costs of education are not included.

LOS ANGELES COUNTY

Five-Year Summary

CLAIMS FOR NONCITIZENS WITHOUT IMMIGRATION STATUS

and

NONIMMIGRANT STUDENTS AND VISITORS

Fiscal Year 73/74	Fiscal Year 74/75	Fiscal Year 75/76	Fiscal Year 76/77	Fiscal Year 77/78
$2,641,491	$3,451,430	$5,153,176	$6,935,007	$10,573,367

RMC/WGR/em
2/15/78

Ms. BURKE. If you care to comment or summarize, it might be helpful to summarize.

Mr. O'SULLIVAN. I think what I would do would be to summarize at this point and just take a few minutes.

We recognize, in Santa Ana Unified School District, the responsibility that we have to educate non-citizens, actually non-citizens without immigration status. We feel that we have a moral as well as a legal responsibility under California laws to educate these students.

Our main concern is the funding problems that we encounter by having a number of these students in our district.

In Santa Ana, we have over ten percent of our student population who are non-citizens without immigration status.

Last year, as an example, we had 3,124 students that we identified in this category out of a population of 28,000. This meant that Santa Ana had received some $2.2 million in countrywide funds out of a total of county allocation in this category of some $5 million. So, we had over just about half of the students.

Because we have this large number, about 11 percent of our population, we have had to hire additional personnel to work with these students. We have 100 teachers who are, what we call, language teachers, the ESL in other districts. We had 25 classified people, bilingual mainly, who worked with these students.

We find that we are providing a large amount of services in the area of attendance, health and other academic areas because of the problems that these students have when they come to us.

Presently, our funding, as I mentioned, is the countywide tax. Last year, there was legislation in Sacramento that amended the means by which the funding is provided and there is presently another bill in Sacramento, SP1432 by Dunlap, to further modify or even eliminate the funding that is presently existent.

We feel that—as I say, we are very happy to have the people in our district. We are providing services. However, we feel that it is not a local problem, per se; it really is a federal problem, that immigration is a federal responsibility and, therefore, we are recommending that the Congress give consideration to providing funds to the local districts who receive the impact of the non-citizen without immigration status.

Ms. BURKE. Who is the next witness? Dr. Jackson?

Dr. JACKSON. Yes. I will be next.

Before I get started, I would like to introduce Ms. Rose Erlich, who is the Supervisor of Attendance Services in our school district.

Honorable members of the House of Representatives, briefly, you have my prepared document. I will try and recap the main points from it. In some cases, I think I will just have to read from it.

I would like to start off by saying that probably the Los Angeles Unified School District serves more undocumented alien children than any other district in the nation. And, as I state in the statement, three reasons that support this reason are:

The first reason is our proximity to the Mexican border.

The second reason is that we are a port of entry to other nations.

And the third reason is our overall large size as a school district. We are third largest in the nation.

From there I would like to go on and say that the figures and the facts that I am going to be sharing with you are not based on hard data. We don't have any solid information to give you. The reason that we don't have the hard data is that we have a district policy of not reporting undocumented alien children.

The main reason that we don't report these children is that we view our district as a service agency and not as a policing agency.

Overall, you could say that we feel that all children within our district should have an access to educational opportunity.

Also, if you would look at compulsory education laws within the State of California, we have a duty to provide it.

The last reason for it, and this has much more application at the local school level, is the fact that we don't want to do anything that will prevent parents from participating at local schools. We have a feeling that, if we started reporting children and turning those lists in to the INS Service, the parents would be fearful of the schools and, as such, would not participate.

We do view parental participation as an item that contributes to a quality program at a school.

Moving on, the gentleman from Santa Ana prior to me has reported that their district, by reporting pupils, had received special reimbursement from the State of California.

The fact that we do not report pupils in our district has negatively affected our financial resources because, first of all, we don't report the pupils to the County Superintendent, and, in turn, we don't receive any extra revenue for not reporting the pupils.

The main reason, once again, that we don't report those pupils is that we are well aware of the fact that, if we submit lists of undocumented alien children, the County Superintendent, as our understanding is, has a responsibility or is mandated to turn that list in to the INS Service. So, we would just as soon not do that.

Moving on, we understand that you are here to try and get some kind of an idea on how broad is the scope of education and undocumented alien children, so, long that line, I will provide you with some estimates, first of all, of how many children that fit such a category do we serve and then, secondly, how much does this cost to our district.

Ms. Burke. Would you also respond to how a child is admitted into school, what you require for admitting a child at kindergarten or at any time into the school system?

Dr. Jackson. My understanding is that that can be a number of documents. It can be a birth certificate; it can be a baptismal record. It can be a certification by the parent of the child's age. It is nothing specific. It could be a passport also.

Moving on to the question of how many, all right, because this seems to be a topic throughout this whole issue of how many undocumented children do we serve?

We can approximate that our district serves a minimum of 11,500 children who fit such a category and we established that figure by looking at surrounding districts that did report their pupils; districts such as the one that was reported just before us—in doing a proportional count to our district. If you figure that 43 districts reported—43 districts with a total population of 480,000 reported 9,000, then

our student population of 608,000 would lead to an assumption—and once again it is an assumption—that we serve 11,500.

The other way that you could estimate the number of pupils that we serve is look at the number of pupils who fall within the category of non-English speaking or limited English speaking.

Our district staff that provides services both in English as a second language and bilingual education has approximated—or their estimate—it is a fairly good estimate—that we have 120,000 pupils in our district who need services which address either limited English-speaking or non-English speaking.

If you take that 120,000 figure and accept a ten percent factor as being representative of undocumented alien children, then you come out with a figure of about 12,000, which isn't too far off from the other figure.

Once again, though, we have to admit that these are not hard figures. These are just approximate numbers.

In reality, the figure could very well be larger, right. Also, in reality, though, I think it has to be stated that we, as a school district, are serving a substantial number of non-citizen children without immigration status.

Moving on to the question of how much is involved in educating these pupils, that is a question that could probably be addressed or could be answered in a number of different manners.

If we take that 11,500 figure, which we somewhat guessed at or estimated, and if we look at the total cost ef educating a youngster in school, which is about $1400, then you could say that, to educate 11,500, it is about $16 million for our school district.

Now, you can look at it from another perspective and that is, if you look at it from a perspective of the cost of providing bilingual or ESL services, English as a Second Language service, which are probably more specific to such a student, then you could say that that cost is about $4 million. Now, that $4 million figure is based on an average excess cost of $350 to provide bilingual or English as a Second Language program.

That kind of gives you broad, overall figures. Once again, I think I would have to say that it depends on how you decide to look at that estimate, on what basis.

I offer you another figure within my report which really has to do with something that our district has mandated by state law to do and that is that we are going to have to assess the language capability of at least 250,000 pupils—about 250,000 pupils in our district. Now, these are pupils who may be from homes where English is not the dominant language.

Now, if we estimate that it will cost about $3 per pupil to assess their language, then we are talking about $750,000 on a district-wide basis. We know full well that that $750,000 is not reflective of all undocumented alien children, but we know that undocumented alien children will be part of that cost, though.

Moving on to another point which we would like to make at this time and that is, within the whole area of providing the extra language services to foreign students, undocumented alien children, quite a bit of the mandate for providing those language services is tied to the Supreme Court Decision of *Lau* v. *Nichols*, which has been

interpreted, from our estimate by the Office of Civil Rights, to mean that bilingual education has to be provided to pupils who are not—who do not have English as a dominant language.

On a local level, you could say that we have gone into a kind of a Catch 22 kind of situation inasmuch as we have gone after other federal funds, such as ESAA funds, Emergency School Aid Act, monies for desegregation efforts, and, in the process, have received negative feedback from the Office of Civil Rights for not being in full compliance with bilingual education provisions. In other words, we are just not meeting the total bilingual education needs of the school district.

I think it is well to state it this way.

We try to serve undocumented alien children whose enrollment in our district is a result of federal immigration action or inaction and, at the same time, we get threatened with possible funding restrictions by OCR.

The next section, really, is where we would like to present some recommendations that, perhaps, would assist in serving the educational needs of undocumented aliens.

First of all, the U.S. and Appropriations Committee have your acts already in place into which you could provide funds.

One area that we see is the Elementary and Secondary Education Act Title VII for bilingual education, since this is the type of education that the student population needs.

The next area is ESEA Title I, and may be looked at undocumented alien children as one basis for allocating some of those funds.

Within the Vocational Education Amendments, there is also is part that is entitled the Bilingual Vocational Education part of those amendments and that would be another section that, perhaps, could be augmented so that those kind of services could be provided locally.

And then last, but not least, we, as a school district, also have involvement within the Comprehensive Employment and Training Act, CETA, and also the Youth Employment Act. I think within those two specific Acts, you could perhaps also address some of the needs of young adults and children from undocumented alien parents or the children themselves being undocumented aliens.

In closing, we, as a school district, view the undocumented alien as someone who will continue to live in our community and who has potential for serving our local societal needs.

As such, we commit ourselves to meeting their educational aspirations. And we would trust that your Committee would make some of the necessary allocations to address some of those needs.

Ms. BURKE. Thank you very much.

Mr. Bancroft?

Mr. BANCROFT. Thank you, Ms. Burke.

I am Tom Bancroft, L.A. County Superintendent of Schools. Also, I brought with me William G. Reuth (phonetic) who is a technician on this subject matter.

I am changing my testimony slightly, Ms. Burke, as a result of the other two reports. I think it will just kind of bring it all into focus.

Ms. BURKE. If you have the information, could you also relate to the community college situation?

You do have the information?

Mr. BANCROFT. We do not have the information.

We filed with the Committee on the 15th of February this statement on the impact of undocumented aliens in schools and, just taking Mr. Jackson's remarks as a point of departure, I think we could perhaps clarify for the Committee what is going on in California.

We have a state law here which allows some county funds, and we have 82 districts in this county, to be used as a result of the impact of undocumented aliens in the local school districts.

And you will notice on Page 2 of our statement that, since fiscal '73–'74,—and this is hard data. This is from the record—slightly over $2.5 million of county money was used that year. '77–'78, slightly over $10.5 million. This means that we have had an increase from 5,000 to 18,000 students in those years who are identified—and this is a very important point, because, as Santiago suggests, Los Angeles City, which is our largest district, does not identify and they have 45 percent of our students. Hang on to that for a minute.

And the second point is we have gone from two to ten million dollars in just the county tax. Now, that money is not fully representative of the impact on local school district budgets simply because that is just our share of the county share.

Now, in this state, Mr. Jackson says we have an average per pupil cost of educating a pupil of $1400. We say from our office $1450; is that okay with you?

If you take $1450 and you realize that only 26 of our 82 districts have actually been in the business of identifying the non-documented alien—so you project that for the remainder of the districts, including Los Angeles City Unified, you would come up with a figure in the vicinity of $45 million for educating undocumented aliens.

If you wanted to be a little foxy and add to that non-immigrant pupils, you would have to escalate that to about $55 million.

Now, those are good, hard facts.

I would like to say, however—I would want to second what Joe has said—Joe O'Sullivan from Orange County and also what Santiago says—the school community in this state recognizes the difficulties and the human equation here, as well as finance, and we seem to be, in a sense, highlighting finance, but I think it is important and I think you people would understand that we have a chronic funding problem.

So, while we have no set of recommendations for the Committee, we would have to say, in all honesty, that we frequently talk in California about this problem being a federal problem.

Thank you very much.

Ms. BURKE. Mr. Chairman?

Mr. SLACK. No questions.

Ms. BURKE. Mr. Early?

Mr. EARLY. Thank you, Madam Chairman.

Just one point.

The earlier testimony this morning suggested that previous studies had shown that undocumented workers—I think one of the studies suggested that one percent of them were educated and other studies two percent and I think the highest number we used was four percent. Am I getting the right impression to think that more undocumented workers now have the educational opportunity available to them?

Mr. BANCROFT. All undocumented minors in the State of California are invited to the public schools. We take them all.

Mr. EARLY. Are you doing anything to dissuade them not to apply to——

Mr. BANCROFT. No, absolutely not.

Mr. EARLY. I have no further questions, Madam Chairman.

Mr. ROYBAL. Isn't it true that the various school districts do not have hard, empirical facts upon which to base the number of illegal aliens being served?

Mr. BANCROFT. That is correct.

Mr. ROYBAL. Then, what we are doing is going on an assumption that there are *x*-number of illegal alien students that are being serviced.

Mr. BANCROFT. No. We have actually—of those districts which have participated, Congressman, we have hard data.

This year, for example, there are 18,000 students identified.

Mr. ROYBAL. Well, from the testimony that I have read, the so-called hard facts are based on the fact that *x*-number of students are being serviced under the bilingual education program or the SEA program.

Since these are the facts, it is assumed that, because a certain number of pupils are served under these particular categories, *x*-number are, in fact, children of undocumented aliens.

Mr. BANCROFT. I understand.

Mr. ROYBAL. But you don't know for a fact that they are.

Mr. BANCROFT. I understand what you are saying, Congressman.

We are identifying—these districts identifly the non-documented alien just for the county tax. How they use that money is not——

Mr. ROYBAL. Now, the reason I bring that up is because Mr. Early and I sit on the Committee on HEW and we are faced every year with a decision as to what we are going to do with regard to Title VII of the Bilingual Education Act, SEA, also the appropriations for bilingual vocational education. What are we going to do about CETA?

Well, we based our decision on what information we get from the legislative advocates.

Mr. BANCROFT. Right. Yes, I understand.

Mr. ROYBAL. Not lobbyists. Legislative advocates who come before our committee, representing the education community of the United States.

It so happens that the legislative advocates sometimes don't agree even among themselves. They are almost as bad as Congressmen. And we don't really know what the facts are.

Is it possible to have educators make a real educated guess or study as to the number of children that are being served under these various titles?

Mr. BANCROFT. We think, Mr. Congressman, that what we have offered here, in terms of this—this goes somewhat beyond an educated guess. This is a pretty good——

Mr. ROYBAL. Yes, but you said that they were assumptions and an assumption is not even an educated guess.

Dr. JACKSON. Congressman Roybal, if I could just add, I think it was our testimony that is based on assumptions since we do not report these students. I think the presentation by Santa Ana and other districts in Los Angeles County do report students and do have the hard numbers.

Mr. ROYBAL. Yes, but I am talking about the education picture as a whole. Now, they may do it in Santa Ana, but I am talking about the real situation in the various school districts throughouts the State of California. I mention the State of California. My colleague is interested in his state. We are all interested in the situation in our respective states, but the truth of the matter is that, in the long run, education itself does suffer if we don't have these hard facts. And from what I can see, we don't have them.

Mr. O'SULLIVAN. If I may say something, Congressman.

In our district, we have made a concerted effort to identify the non-immigrant student. Every time a person enrolls who has not been in school in the United States before, we look into it.

But, presently, if you look in our documentation, there are approximately—well, there are 4,699 NES/LES students. Of that we have 3,124. So, it is roughly a third of those who are NES/LES students who come under this category, at least in our district, where we have made a concerted effort, are the non-immigrant student.

Mr. ROYBAL. Of course, going back to the information given before our Committee, we have to base our judgment and decision on what is presented to us. I don't think we get all of the facts, but we have, in fact, increased both Title VII. We did last year. We increased it substantially. We increased ESEA Title I funds. We also increased the bilingual education—vocational education funds and we increased CETA.

Now, what worries me is about CETA and the way the CETA funds are being used by local authorities. I maintain that CETA funds are being misused by local authorities.

Again, you know, when you have that particular feeling and then we have these recommendations of educators that we increase the CETA funds, I would like to have some more information as to why these funds should be increased and whether or not it would be necessary to lay down a hard set of guidelines that one must follow before CETA funds are being spent.

CETA—funds are coming to California and to Los Angeles and a lot of it not being spent for the purpose for which it was intended.

Now, what is your precise recommendation with regard to CETA funds in the education field?

Dr. JACKSON. Congressman Roybal, among other duties, I represent the school district on the two local CETA planning Councils for the City and the County.

I think one of the things that you could do—and under CETA and the Youth Employment Act, I wasn't so much addressing additional funds as much more the targeting of funds.

If you look at the Youth Employment Act, for example, only 22 percent of that was earmarked for school districts.

OKAY. A way of insuring that, perhaps, the population that we are talking about gets served to a greater degree would be maybe to insure that more of it goes to school districts who have the bodies, who have the children in the schools.

The same situation, I think, is applicable under the broad scope of CETA. As you are well aware, probably, you know, when the funds are distributed locally, it becomes a pretty good hard fight as to who gets the money and who has the pull.

Once again, I don't think it is a matter of more money, but it is a matter, maybe, of specifying the particular populations, whether you are talking about youngsters or whether you are talking about certain indigent groups, that they get served.

Mr. ROYBAL. Thank you.

Ms. BURKE. I have just one question.

How does the County, Los Angeles or Orange determine or validate the request for undocumented monies?

Mr. BANCROFT. I am going to ask Mr. Reuth to respond to that because we do that in our office.

Mr. REUTH. Actually, Ms. Burke, we accept the certification of the local district that they have determined that this person for whom they are making a claim is here without documentation and the various approaches or procedures used in that will vary from district to district. Usually the documentation of birth is a starting point for a district in trying to determine whether or not the youngster is documented.

Ms. BURKE. In Orange County, how do you do it?

Mr. O'SULLIVAN. The County does the same as L.A. County, as a district, who has indicated does follow through with this. When a student comes for registration, the school asks them if they have attended another school in the United States. If they say "yes", then they are registered.

If the records come and they find that the student was not born—had no verification of citizenship, then they are referred to someone in the attendance office who talks to them and determines whether or not they do have their papers and whether they are citizens.

So, every one of the students whose names that we have have had interviews with a central office person to determine this and then we keep the record because we have—this is based on ADA, as you know. So, at the end of the year, we have to determine how many days of attendance these students actually put in.

Ms. BURKE. All right.

Thank you very much.

I have no further question.

Mr. Alexander, do you have a question?

Mr. ALEXANDER. No.

Ms. BURKE. Thank you very much for coming.

Our next witnesses are Dr. Leo Estrada, professor at University of California, Los Angeles, a member of the 1980 Census Advisory Board, Dr. Sheldon Maram, professor at California State University, Fullerton.

Ms. BURKE. I understand we have Mr. Manuel Garcia in place of Dr. Estrada.

Mr. GARCIA. That is correct, Ms. Burke.

Dr. Estrada was not able to make it today. As you know, the prepared testimony that you have before you is coauthored by Dr. Estrada and myself.

Dr. Estrada asked me to convey his apologies to this Committee for not being able to be here. He had to leave on a short notice; however, since the statement was written by both of us and since we concurred on its writing and on most of the opinions that we share on this particular question, I think it would be safe to say that my presentation here will not distort too significantly his views as well, although I am speaking only for myself.

Our statement summarizes our background as demographers and the extent to which we have been involved in this particular area of study.

I would like to emphasize a couple of things in terms of what kinds of questions I myself might answer after summarizing some of the points in the testimony and that is that I could deal with the question of the demographic history of Mexico, in particular, as to how this may relate to one aspect of the problem of undocumented immigration, since Mexico is, apparently, the major source country of undocumented immigration. And I could also speak to personal impressions that I myself have on some of the surveys that I participated on relating to this particular question.

This statement is going to be somewhat more technical than some of the others that you have heard today. We are concerned, basically, with two questions, one is how we go about measuring the volume of Mexican undocumented immigration to the United States and, secondly, how one might go about measuring the impact that that immigration has on services and federal agencies.

As we indicated, the literature on the subject can be separated in a very broad manner into three categories.

First, we might talk about the generalistic accounts and official statements on the issue of undocumented immigration which we refer to in the statement as sensationalist statements, particularly by INS officials.

Secondly, there is a growing body of theoretical and methodological research into the question which tries to, without generating new information, draw conclusions or new conclusions from old inoframtion.

There is, at the present time, a trend among demographers to sort of get into the act, particularly after having heard so many outrageous statements in the press regarding this particular demographic phenomenon.

As a result, there are, at the present time, three or four, at least which I know of, studies and work in progress which, although they do not generate new information, they rework some of the available information and talk about what kinds of limits that information has.

Thirdly, there is a body of literature on empirical research and this is the emphasis that we draw in our statement to this particular body of literature.

Some of this type of research has been done, but, unfortunately, not enough of it has been done and it has some very serious problems, some limits in terms of the breadth in which—the breadth and the focus of which this type of literature is focused upon.

Because of the lack of empirical research, basically we don't know a lot about undocumented migration, and what is known, especially apprehension volume data, is misunderstood and we might add misconstrued as an indication of a large number of illegal aliens in the United States.

The large volume of apprehensions poses a very serious methodological question. Does the fact that the border apprehends 800,000-some-odd people in one year—does that indicate that our enforcement is very effective and is getting, you know, a lot of people out there, or does it, on the contrary, indicate that it is very ineffective and that most people are getting in and that is only a fraction of the total?

Anytime we make arguments with regards to what proportion of people escape without any basis in fact except some estimate that someone dreams up, we have some serious problems in terms of making that kind of judgment on the basis of that kind of information.

In the statement, we mentioned four of the general types of studies that are going on in empirical research. One of them is the Household Survey of the United States and we specifically singled out J. A. Reyes and Associates as one group that is doing that type of research.

We also mention the Household Surveys in the Source Countries and I indicated there that the Mexican government—one of the branches of the Mexican Department of Labor has begun a study of this type whose principal researcher is, in fact, someone who stated here earlier this morning, Dr. Jorge Bustamante, and in which I am a research associate.

The third group that we mentioned in the statement were capture and recapture techniques to estimate volume.

And, finally, I indicated that, at the present time, we are developing demographic methods to correct apprehension data and migratory histories, and, as a result, develop estimates on the basis of these kinds of interviews.

In the final part, we indicate that some of the numbers that are being thrown around are just demographically impossible. They are demographically impossible given the size of the Mexican labor force. That has limits. Some of those numbers are also impossible given the size of the Mexican origin population as counted by the current population survey and by the Bureau of Census.

And, finally, we indicated that there is a great deal of confusion with regards to flows and stocks. I am not sure whether that came across clearly in the paper.

What we indicate when we talk about that is that a number of people crossing the border in one direction at any given moment of time, which would be a flow, is a very different kind of question from the number of people that stay here or that are here at any given moment in time. That would be a stock. That number, obviously, would be a fraction of the people who enter.

How large one is with respect to the other is a different question. It is a methodological question that demographers have to deal with.

But, at any rate, there is a great deal of confusion when we make assumptions such as, you know, that there are x-number of millions of people here based upon the fact that, you know, so many hundreds of thousands of people are apprehended.

To conclude, we would just like to say that I think it is time that we called upon people to stop making estimates and educated guesses and to do some empirical research.

The questions that are posed are not impossible to answer, although they are not easy and they do pose some problems.

There are some limits to the kinds of answers that we can get, but there is such a thing as hard data, given certain limits, that can be generated.

If we want to know the volume, I think we will within some time, know the answer to that question, within certain limits.

And with respect to the question of the impact on welfare, public services and schools, I believe that that impact can also be determined at long as we are very careful about how we go about doing it.

I have listened to the testimony that preceded me and it occurred to me that, while the kind of concern that this committee has gives rise to the need for people to make estimates and guesses so that they can answer the kinds of questions that the Committee is posing, there are some serious problems with making those kinds of estimates simply because they are based upon all sorts of assumptions and guesses which may be quite different from reality. And I would just like to, in one minute, specify just how complicated that question can be.

As you may all know, the reason why Immigration and Naturalization Service is the only enforcement body legally authorized to apprehend undocumented aliens and why no other enforcement agency is so authorized is because of the question of determining who is and who is not a legal alien is a complex question.

To begin with, the country of origin—or the country of birth is one particular problem. I heard some confusion on that matter. It seemed to me that, at some point, there was an assumption that if someone's parents were undocumented aliens, that, therefore, the children must also be.

Children, very often, are born in this country to undocumented alien parents. If they are born in this country, they are U.S. citizens. They have just as much right as you or I to that public education.

There seemed to be also some confusion with regards to, you know, just what is an undocumented alien.

Someone who was born in Mexico may be a derivative citizen. Because of the repatriations that Dr. Bustamante talked about historically, during the '30's and during the '50's, there were a lot of people who were here without documents who had children who returned and took their children with them to Mexico who subsequently had children, but who—there are a lot of U.S. citizens of Mexican origin that are in Mexico at various points in time and their children, depending upon what the circumstances are, may be eligible for derivative citizenship.

So, just the question of country of origin is not enough to answer the problem of whether they are aliens or not.

Now, whether they are undocumented or not is a different question. As the Committee also knows, there are people who entered without inspection or who entered on tourist visas and overstayed their stay here in the United States who, under different categories of the law, qualify for some kind of remedial—well, they call it a paroled status. I am thinking specifically of people who qualify for civil letters who cannot be deported. I am thinking also of people who qualify for suspension or deportation and some of the other legal remedies that we have available.

It is not as simple a matter as asking someone whether they were born in the United States or not. It is not a simple matter as asking if they have a I–51 or not to determine whether they, in fact, are or not undocumented aliens.

That is basically my statement.

Ms. BURKE. Thank you very much.

[The complete statement of Drs. Estrada and Garcia follows:]

THE VOLUME OF ILLEGAL IMMIGRATION INTO THE U.S.: TOO MUCH SPECULATION AND INSUFFICIENT DATA

by

Leo Estrada
School of Architecture and Urban Planning
UCLA

and

Manuel García y Griego
History
UCLA

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About the Authors: Dr. Estrada is an Assistant Professor of Architecture and Urban Planning at UCLA. He received his Ph.D. in Sociology with a specialty in Demography from Florida State University. He presently serves on the National Committee on Statistics (National Research Council) and the Committee on Government Statistics (American Sociological Association). He is a former employee of the U.S. Bureau of the Census.

Mr. García is a doctoral student in Latin American history at UCLA. He received his A.B. from Princeton University in 1973 and completed the Master's program in Demography at El Colegio de Mexico in 1977. Mr. Garcia worked as an interviewer in a survey conducted by Dr. Wayne Cornelius in 1976 and is currently a research associate in a national survey directed by Dr. Jorge Bustamante and carried out by CENIET, an agency of the Mexican Department of Labor. He is presently analyzing data from both surveys.

Both authors are members of the Census Advisory Committee on the Spanish Origin Population for the 1980 Census.

It is our contention that much has been said gratuitously about the size of the undocumented alien population in the U.S. and the extent to which it impacts upon governmental agencies, social services and the labor market. In this prepared statement we, as demographers, would like to provide a brief assessment of what is known about the so-called illegal alien problem, what kinds of limitations the available information have, and what is needed before we can make general statements about the size of this population and its impact upon our society. We would like to state at the outset that our discussion will largely be restricted to the issue of Mexican undocumented immigration to the U.S.

There has been little empirical research done to date on the question of the participation of illegal aliens in social programs. One of the few studies that has been done[1] shows that for San Diego County the number of undocumented persons on welfare was miniscule. Other surveys which have tried to grapple with the question have focused, not on what proportion of the social service users are aliens without documentation but rather upon what proportion of apprehended aliens are social service users. These surveys, Bustamante (1975) North and Houstoun (1976), Cornelius (1977) and CENIET (1978) show that going on welfare or having children in U.S. public schools is a rare phenomenon. There are limitations to this data, of course, and because there has been a void of information which only now is being partially filled, we still see widespread misunderstanding on this question. The crisis atmosphere in which charges have been made still lingers, charges that illegal aliens are costing taxpayers "billions of dollars" (U.S. News and World Report 1976) and that millions of them are silently seeping into our social programs and labor force.

The sensationalist statements made by some INS and administration officials making it difficult to conduct a reasoned dialogue on this issue originate with

assumptions that have been made with respect to the number of undocumented aliens in this country, especially those that have come from Mexico. The range of estimates of illegal aliens residing in the U.S. are as low as 3 million and as high as 12 million. These estimates or "guesstimates" are attributed to various sources some of which have a vested interest in inflating the numbers and as a corollary, inflating the extent to which the undocumented worker population is perceived as a serious problem. One such effort is the highly criticized Lesko study[2] funded by the Immigration and Naturalization Service which utilized a panel of "experts" and the non-scientific delphi method to average the guesses made by the panel members to arrive at the figure of 8.2 million illegal aliens, of which 5.2 million were Mexicans. This estimate coincidently conforms to previous estimates reported in the media and attributed to former officials of the Immigration and Naturalization Service.

What is known about illegal aliens is that the number apprehended by INS has increased steadily since 1960, and particularly so since 1970. In fiscal year 1975, the most recent period for which there is published data available, about 800,000 persons were apprehended, and most were Mexican males. It is this increase, and this volume -- apprehensions -- that is the basis for all the concern we now hear about the number and impact of undocumented aliens. Those concerns are not based upon massive dislocations in our labor force, or upon sudden, unexplained increases in the use of our social services. They are, instead, based upon the steady and dramatic increase of a statistic which is used as a basis to extrapolate that there "must be" a substantial impact upon our society since there "must be" millions of them here. But apprehension data poses a number of problems when it is used in this manner. First apprehensions are events, not people. Obviously the number of individuals involved in these apprehensions

is smaller, to the extent that people have multiple apprehensions in one year. Secondly, even though the number of entries is actually larger than the number of apprehensions since some people get away, entries are themselves events. It is not unusual to find people who enter the United States without inspection many times in one year -- yet the impact that this person has on the U.S., be it positive or negative, is not a function of the number of times he or she entered but upon their length of stay in this country and the extent to which they have contributed to or drawn from the tax base. The length of stay has been poorly documented because it requires data which meet two conditions: 1) a statistically representative sample of undocumented aliens in the U.S. (or a sample whose probability of selection can be determined) and, 2) extensive documentation of migration histories. These conditions have not been met by any of the research published thus far, and this, of course, impedes our making statements within certain limits of confidence about the volume of flow of undocumented immigrants and the stock of those that remain here.

Thus only one conclusion can be drawn at this point: The exact number of illegal aliens in the U.S. at the present time is unknown. That number will probably be determined in at least, within certain margins of error, in the near future. We sketch below some of the techniques presently considered feasible and in fact presently being used to make such determinations. These techniques face a number of obstacles however, that have to be overcome in practice:

a) Household surveys in the U.S. - theoretically a nationwide sample of households in the U.S. asking questions about the alien status of each member of that household would result in an estimate. Such an effort is presently underway for the 12 most populous states by J.A. Reyes and Associates, a consulting firm, under contract to the INS.[3] They will probably be estimating the

proportion of illegal to legal aliens, or to the total population from survey data and extrapolating to the country as a whole. This project will, however, have to overcome the fears of respondents and convince them that identifying themselves will not result in deportation.

b) Household surveys in Source Countries - This technique is like that described above but taken in Mexico, Korea, Dominican Republic, and similar source countries. These studies would focus upon migration histories and questions relating to relatives now living in the U.S. This type of survey is much less threatening to the respondent and while more accurate responses can be expected, such a study must be focused upon areas of that country which contribute the most to immigration and develop controls to eliminate duplication in the count of relatives presently in the U.S. Wayne Cornelius conducted such a survey in Los Altos de Jalisco and CENIET is sponsoring a national household survey in Mexico next month which should yield nationally representative results.

c) Demographic "capture-recapture" techniques - This method relies upon two independent sources of data one of which may generally be expected to include all persons (including illegal aliens) and another data set which excludes illegal aliens. A subtraction of former from the latter allows for an estimate of the illegal population. Such techniques rely largely on sample data from the census and administrative data (Internal Revenue Service, Social Security Administration, etc.). The validity of the results rests entirely on the assumption that one of the data sets contains most or almost all of the illegal aliens and that the other is reliable in excluding illegal aliens. While this method has been explored provisionally by Lancaster and Schüren, it still remains unclear as the number of illegals not covered by IRS or SSA data.

d) Reconstruction of past migratory histories of corrected apprehension data - The volume and distribution of past stocks of undocumented populations

can be inferred from the migration histories of apprehended aliens if 1) the sample of interviews is large enough and 2) certain demographic techniques are utilized to correct the distribution of apprehended aliens on the basis of differential probabilities of being apprehended. One of the authors is working on such a technique with CENIET survey data obtained last fall.

As demographers, we know that some of the figures being thrown about are simply demographically impossible. It has been documented that the motivation behind illegal entry is economic opportunity. In short, illegal aliens enter the U.S. to work. The total Mexican origin labor force in the U.S. is approximately 2.4 million persons. Thus estimates which suggest the number of undocumented aliens are larger than the total Mexican labor force - Census undercounts notwithstanding - are inconceivable. Apprehension data indicate that most illegal aliens are between the ages of 15-44 years of age. A look at the age structure of source countries such as Mexico and countries of destination such as the U.S. also set upper limits. Some of the highest estimates of Mexican illegal alien population would require that all of the 15-44 year old males from certain States of Mexico be in the U.S. The absence of severe changes in the Mexican labor force in the last decade would argue against that possibility.

We have been arguing that certain constraints impose upper limits on the size of the undocumented Mexican population on the U.S. as a permanent population stock. These arguments do not preclude the possibility of a large volume of flow of undocumented Mexicans. Most of the statements made up to this point have confused migration flows with permanent immigration stocks. Thus, nearly a million apprehensions can be made consistent with a large number of entries while the demographic constraints are consistent with the fact that the number of people who remain without adequate documentation for a protracted period of

time are a minority of the undocumented population. Most enter for short periods and others remain only a few days or hours as their entry is interrupted by apprehension. Lumping these different segments of the population together is simplistic, and ignores the underlying heterogeneity of the undocumented population. The time has arrived to differentiate between the occasional entrant and the person who seeks to establish a permanent residence in the U.S.

In the past, the impact of illegal aliens upon the U.S. has been inextricably linked to the number of undocumented aliens assumed to be in the U.S. We feel that this is in error. Even when we have some notion of the undocumented alien stock in the U.S., properly differentiated into groups with different durations of residence, there is no reason to expect that the use of social services or government agencies should be proportional. Rather, we need more studies which document actual use and don't assume it. We understand that some agencies, such as the Department of Public Social Services has that kind of data in its application forms even though they apparently do not tabulate it.

We must shift our perspective of the illegal alien from one in which this population is viewed as a "problem" and the major focus is upon determining the extent of the "problem", or the drain upon local services to a perspective which views the illegal alien population as a social and economic phenomenon not unlike that which the U.S. experienced in the early 1900's which requires an understanding of the international setting and its relationship to the U.S. economic structure and its demands for manpower which are presently being met by this population. The crucial question thus is not whether illegal aliens provide more for the American economy than they take away but rather the degree to which this population is an essential part of the American economy and the humane concern for just treatment of undocumented workers.

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Ms. BURKE. Dr. Maram, would you like to give your statement now?

Mr. MARAM. Yes. My name is Sheldon Maram. I am a professor of history at California State University, Fullerton. My area of research is Latin American labor and immigration.

I am a member of the task force in Orange County set up by the Orange County Board of Supervisors that was alluded to many times in this morning's hearing.

I will have to indicate, however, that the final report of the task force will probably be prepared next week. The task force members are very upset that—not from the task force—but other sources leaked a part of the report. So, I can only talk—what I will talk about is the part of the report in which I conducted the research and the writing.

I would like to preface, however, my remarks by something—add to something that my colleague said because, apparently, he must have been taking the same notes.

I particularly was disturbed, also, by the statements from many of the educators on how they estimated the number of people who were undocumented.

Congressman Roybal hit it on the issue of do you assume people who are bilingual or monolingual in Spanish or in other languages are necessarily undocumented?

The official from Santa Ana gave the official version of how they do it.

We, in our research, you know, found out, in essence, how they do the classifications.

One has to remember that, in Orange County, and I imagine other counties, there is a financial incentive for the schools to report as many undocumented as possible because they get money for it.

One also has to recall that, I think from the Immigration officials, how difficult it is to determine who is undocumented or not.

In many of these school districts, what they do is they ask the parents if the child is undocumented, and, if the parents say "yes", they check it. That is a reasonable assumption. It is not always correct, but it is a reasonable assumption. If they say they are undocumented, it is most likely that they are.

If there is a doubt in the minds and they don't immediately have papers with them, they generally classify them as undocumented immigrants.

I will allude to one other report that was given earlier in the day that was a Health Department report from Los Angeles County. It is a very thick report which, way in the back, points out how they classified undocumented immigrants.

If the person identified, or, in the best judgment of the interviewer—okay—the best judgment of the interviewer. They put a lot of very complicated, complex, obtuse language in it and said that they took a one to five-week sample and multiplied by 52 weeks and then they ended up by coming up with a formula that makes no sense at all and said that the margin of error is about .5 percent.

Now, if the whole basis of the sample is based on the best judgment of an untrained interviewer, okay, that someone is an undocumented immigrant, how do they come up with that the error rate is .5 percent?

And my colleague also—you know, we must have been taking the

same notes because, really, what we have been seeing here is people not distinguishing guesses from estimates and estimates from facts.

Field research produces data, data that you look at as an estimate really.

There are several issues to bring up about undocumented immigrants. One is the charge that they are a burden to the taxpayers.

It is a fact that every single field research study that has been done indicates that undocumented workers pay—or undocumented immigrants pay more in taxes than they receive in public social services and that includes—and I will just outline those—includes the one done for the Labor Department. There was one done for the San Diego County Board of Supervisors by San Diego County staff. It included the one submitted to the National Security Council of the Carter Administration. It includes others, but it also includes a study done by task force in Orange County made up of—and I would like to indicate the make-up of the task force. It was set up by the Board of Supervisors; it includes a representative of the Democratic Party, of the Republican Party, two academics; one who is a medical anthropologist; the other one is myself; it included citizen representatives of each one of the Board of Supervisors' office; it included a representative of the League of Women Voters, American Association of University Women, et cetera, et cetera, et cetera.

What we did is we went and dealt with field research. We didn't operate on assumptions. We went out and did a field research study in Orange County.

We operated on this assumption: One study in the tiny sample that you can take in any given study does not prove a given argument.

So what we said was let us take our study, with all the limitations that the study has—and unlike the many of the government reports that you have heard earlier in the day, we talk in great detail about the limitations of the information that we have.

We also talk about the limitations of the other studies that have been done in this area. And we said, "Let us look at the trend in the data."

Our study says we are the first ones who actually have gone out into the community and interviewed people at the workplace and at their homes. We are most likely to pick up people who have been here a longer period of time than the other studies which have tended to use people who have been picked up by the INS. It is more likely for people to be picked up by the INS who have been here a shorter length of time and have learned less how to bury themselves in the society.

So, we looked at the trend in the data and what we found, to our surprise, was that all the studies, including those who used the INS figures, those who did the study in Mexico from those who were deported by the INS, those who studied in Mexico villages and our own, all with differing samples, with differing problems with the data, came out with the basic same trends.

Ours was the first to really go down and look at property tax and sales tax.

What we came up with is based on data that we got from the State Legislature in California.

People assume, and I don't understand this assumption, that renters, for example, don't pay property tax, when, in the State of California, there is a tax rebate to renters.

We called the Revenue and Taxation Committee of the California State Assembly and we asked them have they done any research on this. They indicated that they have done a study that indicates that approximately 17 percent of rent goes to the payment of property tax within the State of California. This is a State Legislative study.

We use that 17 percent figure, even though an L.A. County study of a couple of years ago used a 20 percent figure. Every time we had to make an assumption about something that we didn't have data on, we assumed something that would lower the property tax payment, not raise it. In other words, we took the most conservative estimates.

In any event, what we came up with is as follows:

The total tax payment in eight major tax categories, depending on the population estimate—we used three population estimates and we explained in the report how we got each one of them.

One at 57,000: If there are 57,000 undocumented immigrants in Orange County, our estimate shows that their tax payments are $83 million in eight tax categories. We didn't include some taxes like gasoline tax and excise tax.

If there are 75,000 in Orange County—and I think that is probably the closest one to reality—the tax payments are $119 million. These are approximate numbers.

If there are 100,000—and that is the largest figure possible—that is $145 million.

In property tax payments in each one of these categories it is $12 million, $16 million and $21 million.

Then you take that part of the property tax that goes to the schools and that part of the property tax that goes to the county—and one thing that is not in the report, but struck me after finishing up writing the report was that, if you do the argument that many local government officials are making now that it is the federal government that gets all the tax money and we don't because they are a burden on the local taxpayers, the biggest burden on local taxpayers would not be undocumented immigrants who are paying more than they are receiving in social services, but middleclass, Anglo-Saxon Americans who have kids in school.

Let me give you the example. The average property tax in Orange County runs about $1000 to $1200 per year. About one-third of that is for the county government and the rest, roughly, goes to the schools. So, say, about $800 goes for the schools.

In local property tax share, for the schools—or the property tax share for the school runs about $1000 per school child. That means that the average middleclass Orange Countian who has children in schools—if he or she has more than one child in school, is not paying anywhere near in local property tax what the cost of educating the child is.

Well, people don't say, "People with children in schools are a burden on the local tax services because their local taxes are not equal to what they are receiving." Because, they say, "The totality of the taxes, federal, state and local—because schools—governments at all levels operate on mixed tax basis.

Well, with undocumented workers, the argument is even more to the opposite extreme because, not only are they paying more overall in taxes than they receive in social services, but our data indicates that,

at the local property tax basis, and the relatively low utilization of school and other services, that they are paying more even there.

So, it is really, in terms of Orange County, in terms of the property tax, the middleclass Orange Countian with children in school—you know, a U.S. citizen who is really receiving more from the local property tax revenues than they are paying in.

Now, the other argument, and this does not include—this is based on my own research, in a preliminary research at this time. The first part we dealt with the Orange County study which dealt with the tax payment of undocumented immigrants, the one done for the Board of Supervisors.

The second part deals with the issue of unemployment. This one is the great catchall argument. What people are saying in the media and, often, unfortunately, from government officials is undocumented immigrants are responsible for unemployment in this country. And you ask them, "What is your evidence of this?" And they say, "Well, you know—I mean, you know, the areas that undocumented workers are, there is a high level of unemployment." That is an interesting argument.

Then one would assume, if that were true—if that were the necessary correlation that you would make, you would assume that in every area or in most areas where undocumented workers are in heavy numbers that you should have a higher rate of unemployment than those areas where they are in small numbers and you don't find that correlation.

Some areas where they are in high numbers, you have a high rate of unemployment. Some where they are in a high number, you have a low rate.

Orange County, for example, which probably has either the second or third largest undocumented immigrant population in the State of California, one of the largest in the nation, has right now a four percent unemployment rate; you know, the Carter goal for full employment.

You find areas where undocumented workers are in small numbers having a very high unemployment rate.

Now, the other argument, which is a little more sophisticated in this area—and once more, they don't have data. They report some border counties in Texas now are having large unemployment, but they don't say that, with the devaluation of the peso in Mexico, a lot of Mexicans who were crossing the border to buy goods in the United States are not buying them now. They don't make that kind of correlation.

But another argument which is much more sophisticated that they make about this is that it is true undocumented workers work at the bottom jobs in the society generally. They work at the dirty jobs, low-paying jobs that Americans would not generally want.

The argument is, if you remove them from these jobs, employers would have to pay more money to attract American workers if you had no undocumented immigrants and, therefore, Americans would be attracted to these jobs.

Now, there is a little problem. The same government that makes that argument on the one hand by saying removing undocumented immigrants will raise wages and, therefore, create more jobs—that same

government says you cannot raise the minimum wage this year to $3.00 an hour because it will create unemployment. Okay?

The argument is that it will create unemployment, and this is the Carter Administration that makes this argument—it will create unemployment because small businessmen cannot afford paying $3.00 an hour for the minimum wage this year because companies will leave the country, go overseas, and other companies will mechanize.

So, if the argument is that you can't pay them $3 an hour, what jobs are going to attract vast numbers of Americans to these dirty, low-paying jobs below $3 an hour?

There is another argument that is made about the issue of employment and unemployment. It is that undocumented immigrants are exploited, that they are often paid—or many times paid below the minimum wage. That is true. The data indicates about 25 percent, nationwide, of undocumented immigrants are paid below the minimum wage.

The suggestion that has come about on how to deal with that problem is, since workers are exploited—how do you deal with that problem? You deport the workers.

I would suggest a more direct method of doing it and, in fact, a more conservative method is using laws that you already have in existence. Why make new laws that, one, won't even resolve a problem when you have old laws on the books that need to be enforced? There are minimum wage laws in this country that are on the books. Why aren't we spending the money and the resources to enforce those laws? If people are being paid below the minimum wage, whether they are undocumented or not, why don't we enforce those laws?

Also, there are problems in terms of occupational safety and health with undocumented workers, but that is true with other American workers and those things are not being enforced.

Now, I would like just to bring it to a head and then deal with the issue of the penalty on employers as a method to resolve the problem.

Now, if they have no evidence to prove—if all evidence shows that undocumented workers are not a burden to the taxpayers, if there is no concrete evidence to suggest that they create unemployment—in fact, there is evidence that suggest that they create employment in this country and maybe I should step aside from that because they never seem to talk about that. It is a basic principle of American economics that people working, spending money, creates employment.

According to the minimum figure that has been given by the INS about the number of undocumented immigrants in this country, which is probably too high—but using their own figures, there are about six million undocumented immigrants in this country. If we assume four million of those were working, if we assumed that they are working at the minimum wage, making roughly $5,000 a year, that is about $20 billion that they are spending in the society, minus that which they send out of the country which is about—usually, you figure about 20 percent of the money.

Now, a colleague of mine in the Midwest is doing an analysis of how many jobs are created by this kind of money into the society—but I don't see the government agencies focusing on this question. They constantly bring up undocumented immigrants are creating unemployment, but without giving evidence.

Well, let us assume that they are not creating unemployment. If they are not creating unemployment and if they are not a burden to the taxpayers, what is the problem? What is the problem in this society?

The problem that we are talking about, whether it be in Mexico or Asia or in Canada or in Europe or other areas that send undocumented immigrants to the United States, basically, is poverty and unemployment.

If you are in Mexico and you are in a Mexican village, the reason you want to come to the United States is to improve your economic situation.

No person wants to migrate to a country that does not want them and I think that it is made perfectly clear in the media and in the opinion of the average citizens that they do not want undocumented immigrants within the society. They come because of poverty and unemployment.

The problem in this society is poverty and unemployment. It is not immigration. Immigration has never been the problem.

Now, the solution that is offered by the Carter Administration is a penalty on employers and it is offered in the belief that employers will stop hiring undocumented immigrants. And that, historically, has been proven that that is no going to be true.

Undocumented immigrants play the role that every immigrant, ethnic minority group, has paid, at the bottom of the work force.

Some employers will stop. The average employer who is hiring them now will continue to hire them. If you can't enforce the minimum wage law, how are you going to enforce, you know, this kind of law on employers?

There are going to be a couple of direct effects of this on the work force. One, it will increase discrimination, and I want to give you a concrete, hard example of that.

This is in the Packwood Hearings, a small Senate Subcommittee on small business, the hearings of November, 1976.

Senator Packwood brought to this hearing or had invited to this hearing an employer who happened to be from Orange County who was part of a pilot study, done by the INS, to see if employers can separate "illegal aliens" from their work force.

The employer was the representative of all the employers of the study. He told the Committee that, "I told my foreman that we want to make sure that there are no illegal aliens hired by this company." He said he went back two days later and found out that there were no illegal aliens hired. In fact, there was no one who even looked like an illegal alien.

Senator Packwood turned to him and said, "What appears to you to be an illegal alien?" And I will never forget this quote. This is in the hearing. This is the employer speaking now, the prepresentative of this pilot study. "We think of the Mexican-American as an alien."

This is the pilot study. This is an Orange County employer; not to say every employer is going to operate that way, but we think there are enough employers who have operated that way in the past that that kind of thing will take place whether it be Mexicans in the Southwest or Puerto Ricans in the East or Haitians. I mean, this attitude—many people do think that Mexicans are aliens in the Southwest which is a little hard to conceive, but, apparently, that is the impression.

But, in any event, rather than going on, you know, as I have already——

Ms. BURKE. I think you have taken your time.

Mr. MARAM. I have taken my time, right.

Ms. BURKE. All right. Questions?

Chairman Slack?

Mr. SLACK. No questions.

Ms. BURKE. Mr. Early?

Mr. EARLY. Just one point.

Wouldn't the federal government by putting the pressure on the employer to pay the minimum wage be going in the right direction,? Not to penalize the undocumented worker, you know; just to pay the minimum wage.

Mr. MARAM. The law says, and I think it is a very important law to protect all of us and to protect workers, that people must pay, with certain exceptions, the minimum wage. And I think that law should be enforced.

I don't think we should run after other legislation to deal with that kind of problem.

Mr. EARLY. But, from listening, your field research study is projecting that the undocumented worker, in many instances, isn't getting the minimum wage.

Mr. MARAM. The studies nationally that have been done indicate about 25 percent.

In Orange County, there is a little different kind of sampling that you are going to get. We do not have the sweat shops, in the classical sense, that you have in Los Angeles County. The industry in Orange County tends to be more modern industry. The wages average—our average wage is about $2.77 an hour which is just a little above the minimum wage. We have some people who are paid below the minimum wage.

We have relatively little agriculture in Orange County now. Of the total work force, only about 12,000 to 13,000 workers are in agriculture at the time.

So, I was referring to the national studies at that point.

Ms. BURKE. I have just one question.

How do you reconcile that only—did you say 25 percent are receiving over the minimum wage?

Mr. MARAM. Under.

Ms. BURKE. Under the minimum wage. All right.

Mr. MARAM. Under the minimum.

Ms. BURKE. What I was trying to determine is, if 75 percent, then, are paying income tax, then you would presume that all of them are being paid the minimum wage and above.

Mr. MARAM. Our figures show a higher percentage that are—well, it varies by what tax category.

For example, we have a lower percentage, in the Orange County study, that are paying income tax than are paying social security and that is logical because social security is a mandated tax; income tax varies by your income and number of dependents. So there are people who will not pay legally income tax because they have a larger number of dependents and a low income. So, it varies. Eighty-eight percent, in our sample, were paying into social security.

Ms. BURKE. If all of the immigration enforcement was suspended, do you see that there would be any economic effect?

Mr. MARAM. I think that there certainly would be an economic effect, but let me back up just one second.

I think it has to be remembered that we virtually had an open border with Mexico until 1929; certainly until 1924. And these bizarre effects that they are expecting now if we had, you know—we didn't enforce our immigration laws, which are—well, I won't deal with that—the way that it has been enforced in the last few years, we are going to have a disaster on our hands.

I think that, if we had large-scale migration and a larger migration from Mexico, there would be several factors that we would need. We would need to enforce the minimum wage law, we would need to enforce health and safety laws. I think we would have to have laws to make sure that workers are not brought in for short periods of times to break unions. I think that there would have to be, you know, some protections for the worker, but I think it is very important to look at why people come to the United States if we are going to talk about Mexico.

They come to work. If there are not jobs in the United States, they are not going to stay in the United States and there is this sort of—this constant flow away.

The border is virtually an open border as it is now. I mean, it is a revolving door. The INS figures, you know, show that sometimes in the same year they pick up one person 15 times and, you know, virtually anyone could be smuggled. If you have $400, you can get smuggled across the border.

Doubling the size of the border patrol is not going to stop it, you know.

The argument is from the INS that, though they have a 1200-mile border, if they doubled the size, they can concentrate on the two or three points where undocumented immigrants cross. That is an interesting argument. Unfortunately, smugglers, I would think, very quickly would cross at other points. And what we are dealing with, as you know, is several hundred miles of border and there is no way that you can stop it unless you put the American army on one side and the Mexican army on the other side. And the Mexican government is not going to cooperate in curtailing undocumented immigration when they have a major unemployment problem in their society which, by their own figures, runs—unemployment and underemployment, by their own figures, runs between 45 and 50 percent and it is not getting better and the oil is not going to bail them out.

Ms. BURKE. All right. Thank you very much.

Congressman ROYBAL. Madam Chairman, I would just like to compliment both of you for a very excellent presentation. You have reinforced my assumption that the statistics given to the Committee up to this time were all based on assumptions.

I again compliment you and thank you for your testimony.

Ms. BURKE. Thank you.

[The complete statement of Dr. Maram follows:]

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Sheldon Maram
Department of History
California State University
Fullerton

> "There is scarcely an ailment in our body politic that is not diagnosed--in prose and in verse--as the effect of unrestricted immigration. The immigrants are blamed for unemployment, female and child labor, the introduction of machinery, unsafe coal mines, lack of organization among wage-earners, congestion in great cities, industrial crises . . . ."
>
> Professor Isaac A. Hourwich, Immigration and Labor: The Economic Aspects of European Immigration to the United States, 1912.

The Immigrant: Victim or Problem?

For the past four years the so called "illegal alien problem" has increasingly captured public attention. Responding to mounting pressure for action, the Carter Administration on August 4 announced a legislative proposal that is doomed to failure. Its principal deficiency is not so much in its detail as it is in its focus. The "problem" is not immigration. It is poverty and unemployment, whether in the United States or in the countries from which most immigrants come. It is low wages and miserable working conditions, and the marginalization of people. The Carter program does not confront these social maladies and, in a way, helps perpetuate them.

Moreover, its enforcement features are unworkable. The plan seeks to curb undocumented immigration by augmenting the Border Patrol and by penalizing employers of undocumented workers. These measures would not stop the migration of people desperate to secure employment, and yet would lead to further victimization

of undocumented immigrants, who fear contact with law enforcement agencies. In addition, the President's amnesty recommendations cover too few people to be effective. [Most immigrants would be offered, not amnesty and legal residence, but rather temporary work permits in what is essentially a bracero program.] Given the limited security provided by the work permit system, most immigrants would probably prefer to retain their present status and not register with the government.

The recommendations of the President bear marked similarity to those of high officials of the Nixon and Ford governments. This resemblance is not surprising. The debate over immigration has generated few new ideas in the past 100 years. Each generation seems to fault its predecessors for stereotyping and scapegoating of ethnic minorities, and then proceeds to do the same to another group. Yesterday it was Jews, Greeks, Poles, Turks, Italians, Hungarians, Russians, Lebanese, Armenians, and the Irish. Today it is the "illegal alien." Almost always it is people of color, though in America people can, over time, change color. Yesterday's swarthy Southern and Eastern Europeans are today's white ethnics.

The current effort to resolve the "alien problem" varies only in detail from previous ones. Emerging at a time of economic crisis, in this case the recession beginning in the Nixon Administration, the campaign focuses attention on problems immigrants allegedly cause. Its leaders are business executives, public officials, and officers at the highest levels of the trade union bureaucracy. They call on the federal government for action.

The principal grounds on which this campaign is justified have been expressed perhaps the most vividly and forcefully by Leonard Chapman. As director of the Immigration and Naturalization Service (I.N.S.) during the Nixon and Ford Administrations as well as during the openings days of the Carter government, he warned that the "United States is being overrun by illegal aliens . . . They are occupying jobs that are needed by unemployed citizens. They are not paying their share of taxes, and often pay none at all. At the same time, they are using public services, educating their children in our schools and often collecting welfare and even unemployment payments." These charges by Chapman and others have become the headlines in newspapers and the lead stories on radio and television. Before we can understand the Carter proposal, we must first carefully explore the assumptions that have produced it and then examine the arguments that challenge it.

Although the media and public officials continue to accuse undocumented residents of burdening the nation's welfare system, a growing body of evidence indicates that the opposite is true. As early as December, 1975, a Linton research corporation study for the U.S. Department of Labor concluded that undocumented workers were making little use of public services and paying far more in taxes than previously suspected. Based on interviews with undocumented residents at 19 different locations throughout the nation, the research showed that less than 1 % of the undocumented immigrants had received welfare payments and less than 4 % had collected unemployment insurance. Yet 73 % had paid

federal income tax and 77 % had paid into the social security program. Only 27 % used U.S. hospitals or clinics, while 44 % had medical insurance deducted from their paycheck and an unknown number had the insurance paid entirely by the employer. In addition, less than 4 % reported having children in U.S. schools. A high percentage paid into the federal tax system, but less than a third apparently filed income tax returns. This discrepancy, the report suggested, may mean that undocumented workers are paying much more in taxes than is legally required because low-income workers often receive refunds from the federal government if they file a tax return. They calculated the average wage of these immigrant workers at around $2.30 an hour, well within the classification of low-income wage earners.

Research conducted for the San Diego County Board of Supervisors reached similar conclusions. It was found that about 80 % of the undocumented immigrants surveyed in San Diego County paid federal and state withholding taxes and that their federal and state contributions totalled an estimated $48 million. In contrast, their known governmental social service costs were some $2 million. The sales and property tax payments were not calculated. The sales taxes could have been estimated from income level and number of dependants. Calculating property taxes is more difficult. Immigrants are predominately renters and renters pay property taxes only indirectly. The proportion of rent that goes toward paying property taxes varies with each dwelling.

Comparable findings were also made by Professor Wayne Cornelius

of M.I.T. In a briefing paper he prepared for the National Security Council of the Carter Administration, Cornelius maintained that "there is uniform agreement among researchers that Mexican illegals make amazingly little use of social welfare services while present in the U.S., and the cost of the services they do use is far outweighed by their contribution to Social Security and tax revenues." Cornelius suggested some professional dismay that the mass media and members of Congress "continue to publicize an estimate" that undocumented residents consume more than $13 billion per year in tax-supported social services, "which is, presumably, not offset by aliens' tax contributions." This estimate, he pointed out, "is not based on any original field research, and was apparently arrived at by applying highly questionable assumptions about rates of service utilization to the already discredited Lesko Associates estimate of the number of illegal aliens present in the country." Cabinet-level committees of both the Ford and Carter governments seem, in their internal reports at least, to have accepted the basic findings of the Linton and San Diego studies as well as those by others including Cornelius who have conducted original research on the topic. On April 27, 1977, for example, Secretary of Labor Ray Marshall sent President Carter a memorandum on behalf of the Task Force on Undocumented Aliens, which suggested that undocumented immigrants make little cost impact on federal social services. Moreover, since they "are typically young, have no spouse or children and employed," it is "unlikely that these individuals place any substantial burden on State or local social services . . . Furthermore, young

adults are not heavy consumers of health care and would not be a major burden on health services financed solely by State and local governments." Available data, therefore, strongly suggests that immigrants are not taxing the social welfare system.

The main assumption in the campaign against undocumented immigration is that, by working in the United States, immigrants create unemployment among Americans. Nonetheless, no researchers and few high federal officials repeat any longer that hoary charge that every job an immigrant occupies means one job less for domestic workers. In its report of December, 1976, President Ford's Domestic Council Committee on Illegal Aliens dismissed such reasoning as simplistic, noting that "as long as relative wages can respond to changing relative supplies of different types of labor, an increase in the size of the illegal alien population *per se* will not increase unemployment in the long run." Headed by Attorney General Edward Levi and composed of Cabinet members and other high government officials, the committee changed direction elsewhere in the report. It indicated that undocumented workers cause unemployment among youth and the poor and recommended legal action against employers to help remedy this problem. But their zeal for the cause of the unemployed seems to have been diverted in the end. In the final paragraph of the section dealing with immigrants and employment, the committee suggests that "beyond some point it may be politically and socially, if not economically, better to move capital and modern technology to unskilled labor in the poor countries, instead of bringing unskilled labor (and the resulting social conflict) to" the

United States. If the concern was over unemployment in the United States, why did the Domestic Council suggest the export of capital and jobs from the United States to the nations where labor costs are much less?

The statements of the equivalent committee of the Carter Administration are equally fascinating and contradictory. After admitting the lack of sufficient data on the impact of immigrants on the labor market and the "inherent problems involved in establishing why a person does or does not get a particular job," the committee states that undocumented workers do cause some unemployment and depressed working conditions. The logic then becomes rather convoluted. The committee acknowledges that immigrants typically work at the dirty, poorly-paid jobs that few Americans want. But it maintains that these jobs remain unattractive and poorly paid since businessmen have little incentive to improve the conditions of labor in employment sectors where immigrants have become entrenched. Immigrants will take the jobs regardless of the conditions. On the surface, the argument seems plausible except that immigrants have been used in these jobs at the bottom of society since the beginnings of the country. As new groups have arrived to fill these jobs, the older more established ones have been able to secure better employment, often as skilled laborers or as the managers and foremen of the newcomers. To cite one of countless examples: In the late 1860s the Chinese replaced older immigrants as common laborers on the Central Pacific railroad because, as one scholar described it, "no man who had any choice would have chosen to be

a common laborer on the Central Pacific during the crossing of the High Sierra." Employing the Chinese, he pointed out, "resulted not in the displacement of non-Chinese, but in their upgrading. To the unskilled white railroad laborer of 1865, the coming of the Chinese meant his own advancement into that elite one-fifth of the labor force . . . ."

The statistics and public postures of the Carter Administration often contradict the logic of its immigration proposals. The President and his cabinet officers have claimed that undocumented workers "substantially" affect unemployment and that the rate of undocumented immigration has risen alarmingly in recent years. On other occasions, they proudly announce that the unemployment rate has fallen sharply as the economy has recovered from the recession that began in 1973. But if the number of immigrants in the United States is vastly larger, the unemployment situation should, according to their line of reasoning, be growing rapidly worse, not better. Moreover, if immigrants caused unemployment, it would be a natural assumption that the unemployment rate would be higher in areas where they were concentrated than it would be in regions in which they were few in number. Nonetheless, what was true in 1912 when Professor Isaac Hourwich published his classic study on the role of Southern and Eastern Europeans in the United States is still true today. There is no corellation between the concentration of immigrants and the level of unemployment.

Many in and out of government have argued that, by removing immigrants from certain occupations, employment would grow for domestic workers because employers would be forced to improve

wages and working conditions to attract native workers. Often the very same people, including President Carter himself, have also argued that the nation cannot afford to raise the minimum wage to $3 an hour because it would eliminate jobs. Marginal employers, they maintain, would go out of business. Others would turn increasingly to mechanization, using capital investment to replace labor. And still others would establish branches outside the United States. Thousands of jobs are lost each year as American corporations seek countries where labor costs are cheaper. For example, baseballs used by professional teams are now being manufactured in Haiti and much of the electronic equipment sold here by U.S. firms is at least in part manufactured or assembled abroad. Why is this labor displacement theory advanced when arguing against wage increases for the poor yet ignored when dealing with immigrants and unemployment?

Immigrants hold some jobs that might otherwise be occupied by domestic labor. Nonetheless, the overall effect of the immigrant worker is to create employment, not displace other workers. The media and government spokespersons almost totally ignore the fact that immigrants pump billions of dollars into the American economy by their purchases of food, clothing, shelter, furniture, appliances, and transportation. This spending creates employment. When the I.N.S. has made massive seizures of immigrants in ethnic communities, local businesses have many times failed as they lost their customers. The effect of these deportations on the national economy over a long period of time has not been tested, for the number of immigrants leaving the country, whether voluntarily or

not, has almost always been exceeded by those arriving. Virtually the only exception was during the depression decade.

Ironically, four days after President Carter announced his immigration proposals designed to curb the growth of the workforce, a report by the C.I.A. was released to the public that unwittingly challenged the logic of the President's recommendations. The C.I.A. predicted a slowdown in the economy of the Soviet Union occasioned in part by a drop in the "rate of growth of the workforce . . . because of the depressed birthrate of the 1960s." Would not a drop in the workforce depress the U.S. economy, as well?

Complaints are heard that by employing immigrants this country is weakening its own economy and giving unintended aid to the less developed countries. Immigrants, they maintain, particularly newly-arrived ones, have a tendency to send money home to relatives. That is true, but every study indicates that they spend most of the money they earn in the United States. In addition, their remittances often return to the United States in the form of purchases of U.S. goods or profit remittances by U.S. corporations based in their homelands. President Ford's Domestic Council on Illegal Aliens found pointless the "concern among some that the "leakage" of U.S. dollars due to immigrant remittances has an adverse effect on U.S. employment and output. This is not the case as ultimately other countries use these U.S. dollars to buy U.S. goods and services. As far as domestic output and employment are concerned, it does not matter whether a U.S. resident spends $100 in the United States or a foreigner who received his money from a U.S. resident spends $100 for U.S. export."

Unemployment is a problem in this country but immigration is not its cause. Professor Hourwich stated it aptly some 60 years ago: "Unemployment not being the result of overpopulation, it necessarily follows that limitation of the number of wage earners can promise no relief from unemployment. To be effective, a proposed remedy must attack the problem of unemployment, not collaterally, through restriction of immigration, but directly."

The Carter plan would not alleviate unemployment. While dealing directly with the causes of unemployment would require fundamental changes in the American economic system, there are some problems that can be tackled immediately by existing mechanisms. Minimum wage laws are being violated. According to government reports, around 25% of undocumented workers are being paid below the minimum wage. An unknown percentage of domestic workers, particularly among the minorities, are also receiving less than this legal standard. Instead of merely promising administrative action, President Carter should seek the personnel and penalties necessary to vigorously enforce the minimum wage laws. Ironically, it is so often considered a greater crime for someone to steal a loaf of bread than for a businessman to rob his employees of the wages to which they are entitled. To prevent workers from being pitted against each other in an effort to drive down labor costs, we could insist that immigrant and other workers be paid the prevailing wage. Several Western European countries which employ millions of immigrants, many of whom are undocumented, have implemented a similar policy. In addition, foreign and domestic laborers

daily face working conditions injurious to their health and well-being because the Occupational Safety and Health Act of 1970 is not being enforced. Instead of diverting attention to the "alien problem," the Carter Administration should be providing the Occupational Safety and Health Administration with the support and muscle it needs.

President Carter's immigration proposals would not resolve problems but create them. Its enforcement features would not work. It calls for the doubling of the Border Patrol when tripling its size would not stop labor migration. Increasing the Border Patrol would undoubtedly make it more difficult to cross the border, but the most probable effect would be to raise the number of times a given individual is apprehended and deported and to increase revenues for the coyotes who smuggle the immigrants across. The border is a revolving door. The Administration itself acknowledges this and pins its chief hope in curtailing immigration on an effort to eliminate jobs for undocumented workers. This effort is supposed to be accomplished by legislation imposing penalties on firms that "knowingly" employ undocumented immigrants. Immigrants have, however, played an historic role in the economy. Barring a depression, they will continue to come and employers will continue to hire them. This legislation definitely would have one effect: It would give unscrupulous employers an additional method to enforce labor obedience. Such businessmen would suddenly discover that immigrant workers seeking to form a union or improve working conditions were undocumented. Organizing drives among work forces

of immigrants and Americans could be frustrated by the fear of immigrant workers that the employer would call the Immigration and Naturalization Service. These practices already are commonplace. As one I.N.S. district director said recently in an interview with Business Week, "the greatest advantage in illegal aliens is the control you have over them. It's a form of slavery because of the threat of calling Immigration. Your working conditions can be miserable, the hours bad, and they won't complain."

The program to penalize employers would also result in discrimination against ethnic minorities. Leaders of ethnic communities have pointed out countless times that, facing possible legal sanctions, many employers, particularly smaller ones, would prefer not to take any chances and refuse to hire people who seem "foreign." One businessman in November, 1976, informed the U.S. Senate's Select Committee on Small Business that two days after he told his staff not to hire illegal aliens "I went back and found out that we had hired no aliens. We also hired no one that even looked like an alien." He added: "We think of the Mexican American as being an alien. . . ."

An effective "amnesty" program would stop the victimization of immigrant workers, but the Carter approach does not meet this standard. In theory, it offers permanent residence to people who have lived in the United States since before January 1, 1970 and have been productive members of society. They would be eligible for citizenship rights five years after they secured legal residence. Since the last amnesty for immigrants was 1948, this program could mean that a person who has lived and worked in the

United States for as long as twenty-nine years would have to wait well into his/her third decade in the country before securing the rights of citizenship. The minimum period would be more than 12 years, a rather long probation. Most of us secure these rights by our birth. A further limitation is that immigrants would have to offer firm proof of their continual residence in the United States for at least seven years, an extremely difficult task for people living at the margins of society. How many people, for example, save rent receipts for seven years? One, of course, could have friends testify as to one's residency. But friends often share similar circumstances. It is doubtful that the government is going to accept the testimony of one undocumented resident that another has been here the requisite time.

Those who arrived after January 1, 1970 but before January 1, 1977 are to be placed in a "non-deportable" status, an euphemism for a modified bracero program. People able to prove their residency would receive upon registration a permit to work in the United States for five years. During this period, they would be ineligible for federal social welfare, even though they are paying taxes to support these programs. Their status after the five-year period has ended is uncertain. They might be eligible for permanent residence or they might be subject to deportation, which would be facilitated by their original registration. It seems likely that most undocumented workers would prefer to retain their present status rather than taking the chance of identifying themselves to the I.N.S. It is also likely that many of those who do register in the hopes of securing permanent residence one day would be even

more vulnerable to unscrupulous employers than they are today, because their location would be known to the I.N.S. The threat of dismissal could be a very effective weapon against union activity, for example. After all, the immigrant's stay in the United States is conditioned on continual employment and jobs are difficult for the poor to find. Placing immigrants in this very insecure "non-deportable" status would do little, if anything, to curb the other forms of victimization they presently suffer. By law, the Carter proposal would establish an underclass of people whose stay is contingent on their laboring for a society which offers them no security and few rights. Secretary of Labor Marshall warned the President in April that "the problem of having large groups of aliens outside the mainstream of our society was one of the primary factors supporting the development of an amnesty program. The mere creation of a large class of non-deportable aliens would do little to remedy this problem. . . ." Those who arrive after January 1, 1977 are eligible for an even worst fate--immediate deportation.

The Administration recognizes that lack of adequate employment is the main motivation for migration. It is working on "long range plans" for developmental aid to Mexico. These plans are doomed, however, since they fail to come to grips with the fundamental problems in the Mexican economy. Mexico is the second most industrialized nation in Latin America, yet nearly 50 % of her workers are unemployed or underemployed. To find a solution, one must confront the role American corporations play in

the Third World in creating "economic growth" that produces few jobs. The Administration plans do not address this problem.

The Carter immigration proposals are based on the premise that the victims of poverty are the problem. Instead of blaming the victims for the crime, we should end the victimization by offering legal residence to people based on their contribution to society, not on their length of stay. This proposal for broad amnesty would obviously be unpopular at present. Public opinion has been conditioned by reports on radio and television and in the newspapers that pound home the theme that immigrants are a threat. Time magazine captured the spirit of the times in a May 3, 1977 article informing its readers that the "U.S. is being invaded so silently and surreptiously that most Americans are not even aware of it." The "invaders" are of course the "illegal aliens." Supporting the Carter program on the lesser of evils theory would only reinforce such attitudes. It would also keep the focus on immigration and deflect it from the causes of poverty.

All societies have used their minorities as scapegoats. Unique about America is that, perhaps, no other country has had as many minorities to chose from as this land of immigrants. It is no longer fashionable to blame Eastern and Southern Europeans for our problems and it is becoming less so to blame Blacks, Chicanos, Puerto Ricans, and poor Whites in Appalachia. What better group to blame than those who labor silently and seem invisible to the rest of society.

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Those who remain unconvinced should recall that the government has not proven its case. Certainly, the burden of proof must be on the state when it proposes legislation affecting the lives of millions of people, and the rights of all of us. Impressions of high government officials cannot substitute for evidence.

Ms. BURKE. The next witnesses will be Rodolfo Alvarez, American Civil Liberties Union of Southern California, Morris J. Baller, Mexican-American Legal Defense and Educational Fund, Magdalena Durand, National Coalition for Fair Immigration Laws and Practices, and Sisted Elizabeth Barber, SHCJ, MEND (Meet Each Need With Dignity), Immigration Center of Santa Rosa Church, San Fernando.

These will be our last witnesses. If they will come forward.

Welcome to the committee.

Mr. ALVAREZ. Thank you.

Ms. BURKE. Would you like to start off?

Mr. ALVAREZ. Yes. I will start.

Thank you for inviting us to testify.

I am Rodolfo Alvarez of the American Civil Liberties Union in Southern California.

You have the statement, do you not, that we submitted?

Ms. BURKE. Yes.

Mr. ALVAREZ. I will not recap that. It is a rather lengthy statement and it is fairly explicitly identified by title and number of the propositions that we are concerned with.

What I would like to do today is to give a very brief and somewhat philosophical statement to the committee and then ask you to please enter into the record our entire document as submitted.

I would like to start by issuing compliments to two parties: one, to Congressman Roybal for his insistence on and pursuit of the question of hard data. I think we have had near hysterical statements coming out of the newspapers and various sectors of our society for whatever, perhaps, self-interested reasons, but we have hard very little by way of actual hard, validatable, reliable counting in this area.

I would like to compliment our two previous parties testifying because they are, at long last, beginning to do the kinds of arduous and sometimes expensive studies that need to be done to get at hard evidence.

Sometimes we forget, in the policy formation area that this committee lives with day-in and day-out—we forget that hard data cannot be created just overnight when you first have a question pop into your head and then you want a hard answer for it. Sometimes it takes years of effort to simply formulate the question and then even longer to get the evidence. But I am delighted that, at long last, we are beginning to get those kinds of studies.

It is too easy to give primacy to economic issues. It is too easy to give primacy to issues of national security and police protection. Both of these types of issues are heavily laden with emotion and sometimes almost hysterical suspension of rational approaches to the entire policy formation efforts in immigration.

What we in ACLU are most concerned about is that that lack of evidence and that resort to emotionalism is an easy road to problem solving that might be taken at the expense of hard-won, indeed, time-honored concepts of civil liberties and civil rights.

We ask this Committee, in particular, because you do deal in the justice area, and the U.S. Congress in general to rise to their noblest purpose, preservation of the U.S. Constitution, by earnestly seeking to protect civil rights and to expand civil liberties in your attempt to arrive at workable solutions to this major public concern.

These joint issues of civil rights and civil liberties, in our opinion, should take primary in solution finding to practical problems in a democratic and pluralistic society.

It may take more time and more energy and resources to find solutions that are consistent with the effort to protect civil rights and expand civil liberties, but that effort, we would argue, is well worth it and essential to the character of our free society. Indeed, that character may be more easily seen in how we protect the defenseless than in how we treat the powerful.

It is too easy to set a precedence of shoddy treatment for undocumented aliens that can spill over into how we treat our own citizens, as, indeed, as one of our previous speakers indicated, in the minds of some people, there is no difference between a Mexican-American and an undocumented alien. They are treated the same way by employers frequently and, sometimes, by police and other enforcement agencies. Because of lack of training or for whatever reason, people do not even make the basic distinction as to who is and who isn't a U.S. citizen, let alone making finer distinctions as to the civil rights and civil liberties of anyone, let alone citizens.

It is within that philosophical frame that we ask you to look at the issues that we raise in the document that we have presented for the record, issues of privacy, issues of how we treat members of families; that is to say, the sons and daughters of undocumented aliens, sons and daughters born in this country whose rights, as citizens then, are easily violated because of some misguided notion that, because the parent is an undocumented alien, that parent may forfeit any number of rights that we ought to accord to anyone within our country, whether citizen or not.

Thank you very much.

I will answer any questions.

Ms. BURKE. Mr. Morris Baller.

Mr. BALLER. Why don't we each give our short presentations and then all take questions together.

Ms. BURKE. Right.

Mr. BALLER. Thank you.

I am Morris Baller. I am an attorney with the Mexican-American Legal Defense and Education Fund.

MALDEF's mission is to defend and enhance the rights of Mexican-Americans. Our primary concern is with the civil and political rights of U.S. citizens and resident aliens of Mexican ancestory.

We are, of course, very concerned with the proposals for treatment of undocumented aliens and this concern stems from the inevitable fact that the treatment of Mexican aliens has a severe impact on the treatment of Mexican-Americans and on Chicano communities, as well as on other national origin minorities.

We perceive and it has been demonstrated to us that the efforts for repressive and adverse treatment of Mexican aliens will increase the discrimination which is already being suffered by Mexican-Americans in employment, education and many other fields.

I want to address very briefly, because many of the other speakers have spoken to these issues and because we have submitted a paper authored by Dr. Rosemary Lee of our staff—I want to address briefly

some of the economic aspects of the so-called problem of undocumented aliens.

The thrust of my comments is that the perceived economic imperatives underlying the notion that the immigration of alien workers must be curtailed is without a demonstrable foundation. In fact, as I think almost all of the speakers today have recognized, the assumption on which much of the alien employment legislation and related legislative proposals is based is that aliens draw more from the U.S. economy than they contribute to it, and that assumption is, at best, unprovable and appears, based on the studies that are available, to be false. It seems that alien workers, in fact, contribute more to this economy and to the support of its governmental services than they take from it.

Our research, as well as the research of all of the other scholars and workers in the field, shows that Mexican nationals come here not to stay and draw benefits, but to work.

They work and, like all other workers, they pay income taxes, social security taxes: their employers pay unemployment insurance taxes and they pay disability taxes. Likewise, they are consumers of goods and services and they pay sales taxes and directly or indirectly they pay real property taxes.

But there is a difference in the case of alien workers. Although they pay taxes and make contributions like all others, they rarely draw on the services which are supported by those taxes and the reason is self-evident. They are afraid to identify themselves and to expose themselves to deportation by the government. For that reason, they almost never go on welfare, draw disability and so on. Moreover, they send very few children to the public schools. The numbers we have heard today may sound large in absolute terms. For one thing, they are very unreliable, as a recent speaker has pointed out. For another, you are talking about very large school systems with relatively small numbers of possibly alien children.

The fact is that most of the aliens in California are young, single males without children and they are here temporarily to work.

The studies in San Diego County and, as we have just heard, in Orange County show that the great imbalance is in favor of the government in terms of receiving contributions and not having to provide services for these people.

Moreover, the aliens, as consumers, spend far more in domestic communities than they send home. That spending is the main support of many businesses in a number of areas, including areas within a few blocks of this hearing room. A large part of the commerce of downtown Los Angeles depends on the economic support and the business of Mexican-Americans and, undoubtedly, a large number of undocumented aliens. Without that business, many of the—much of the commercial activity in this area and in many other areas would collapse.

I just learned a couple of days ago of a report to the Senate Committee on the Budget by the Comptroller General of the United States—I don't know whether that report has come to the attention of the House, yet. It was restricted until very recently, but it was issued on December 1st, 1977, and I think it was released to the public just within the last few days or the last week or two.

That report is surprisingly consistent with all of the conclusions we have heard about today from the expert private studies.

The report concludes, primarily, that there is not enough evidence to draw a firm conclusion as to whether aliens are a substantial drain on any social services. It concludes that, to the extent that evidence is available, it shows that undocumented aliens are not substantially drawing on welfare programs, including AFDC, old age and disability and blindness, that they are not drawing on food stamps programs; that there is some evidence of aliens utilizing public medical assistance, but also points out that the aliens appear to be paying either through their own payments or through insurance payments on their behalf for most of the services that they are using and are receiving free services in only a small minority of cases.

It points out that aliens are drawing to a small, but not negligible extent, on unemployment insurance, but, of course, that is an insurance program. They and their employers make contributions to it and they are not legally barred from participating in that program.

Finally, it points out that some alien children are in school, but this is, as I have stated, a relatively small number of people.

On the whole, the Comptroller General's report reaches the same conclusions as all of the other studies that you have heard about today and many of the groups which have reported to you.

The Comptroller General concludes that the tax contributions of undocumented aliens may exceed the extent to which they draw on tax-supported services and it is not clear.

What is clear is that the kind of often hysterical statements that we have heard from members of the public, often from the press, about aliens causing unemployment, swamping the schools, draining the government are completely unfounded at this time.

Many of them, as members of the Committee, should be aware, are racists in tone and comment and I think we have to confront the fact that that is where much of the feeling about aliens comes from rather than any actual economic experience.

In closing, I would appeal to members of this Committee to reason and legislate based on the facts and the evidence and be very wary of the kind of emotionalism which, I think, has contributed to the very bad and very unfounded image of the undocumented worker in this country.

Thank you.

Ms. BURKE. Thank you very much.

Magdalena Durand, representing the National Coalition for Fair Immigration Laws and Practices.

Ms. DURAND. You did receive our testimony and you have that in the record.

However, I would like to go through and summarize, if I may. It may be about three minutes, I think, that we will take with it.

Primarily, our first point is directed towards the issue of the fact that undocumented immigrant workers have been focused onto as the individuals who play a very strong role in taking jobs from the native American; that is to say, the citizens of the U.S.

What we want to show, and we did in some of the initial part of the statement that we presented, was that we feel that there is in effect by the INS either a conscious or unconscious effect in violating some of

the National Labor Relations Act laws. And what we did was we spelled out a couple of examples and Congressman Roybal was very interested in getting some facts.

We referred to the Lilli Diamond Originals, which is a division of Campus Casuals. It is located in Los Angeles and it is part of the industry of women's sportswear, dresses—that sort of thing.

At the time that the union-organizing drive was initiated—there was a drive by the Ladies Garment Workers Union in the work force that consisted of about 60 percent and Central Americans. Approximately 25 percent were Asian of the workers there. Over half of those workers were undocumented aliens. Many of the workers were highly-skilled and got wages considerably higher than non-union garment shops.

In October of '76, the ILGWU initiated a union organizing campaign sparked by the company refusal to increase hourly wages to the newly set state minimum of $2.50 an hour.

There was much support for the union among the Spanish-surnamed workers, but not among the Asians. The shop committee, in its majority, was composed of undocumented workers and over half the union authorization cards were signed by the undocumented workers.

As expected, the company resorted to tactics of firings, meetings with workers on company time, intimidation and interrogation of leaders.

The greatest blow, however—this is really our issues—was that an immigration raid was conducted by INS on January 14, the date of the elections. Ten workers were arrested, all belonging pro-union or on the shop organizing committee.

Evidence indicating collusion between the company and the INS includes a list carried by the INS of the names of the ten workers arrested, including some of the individuals who weren't present; refusal of the INS to arrest workers, even though they were told—or, you know, identified where the workers were located, they felt that they would select who they arrested at that time.

We make mention of some other things there.

The second example is Custom Plating Company case, which is also a manufacturer of license plate frames in East Los Angeles. Its work force is predominantly Spanish-surnamed, many being undocumented workers.

On March of '77, the International Longshoremen Warehousemen's Union initiated an organization drive and won the subsequent elections. The company contested and new elections were set for September 28, '77.

Two weeks prior to the date of election, which was September 7 of '77, the INS conducted a raid, arresting 100 workers, all pro-union.

From affidavits obtained from workers present during the raid, it was learned that the plant manager was directly pointing out to the INS agents those to be arrested and those against the union.

In summary, the cases of Lilli Diamond and Custom Plating Corporation are only examples.

It is, in our opinion—and we have been working with cases of people who come on immigration issues to either Coalition members or some of us who individually are working with people. It is, in our opinion, that this is an occurrence that is repeated time and time again

and I think you have heard some testimony from at least one union rep where they know that this is an ongoing activity.

And we do summarize a couple of other examples of that question.

The issue that remains is that guidelines and/or legislation is required to stop the INS from interfering in the exercises of rights under the National Labor Relations Act and negatively affecting all workers to the benefit and unfair balance of the employer.

One cannot speak of the development of mining, transportation, railroads, agriculture and modern light and heavy industry in the southwest without mentioning the very significant role of Mexican labor in this process. Unfortunately, however, Mexican workers have historically been used as scapegoats of the repeated failure of the U.S. economy.

The major economic—and I am reading from the text, but I think the audience might also be interested in this. The major economic recessions of the '30's and '50's and early '70's witness that exportation of unemployment through the use of massive deportation (Operation Deportation, Operation Wetback).

Despite these undemocratic and inhuman practices, Mexican labor has continued to be one of the motor forces of economic growth in this country.

The historical facts of the Bracero Program, the encouraging of immigration in the late 1800's and the early 1900's, the H–2 Temporary Worker Program and the present proposal to regulate millions of undocumented workers under the status of temporary resident aliens illustrate that immigrant labor has been and continues to be a fundamental element in the structure of the U.S. economy and is not simply an extra source of labor in times of economic growth.

President Carter's message of August 4—he stated that undocumented workers had displaced many American citizens from jobs and placed increased financial burden on many states and local government. Statements such as this, which cannot be backed by facts, and I think we have seen that definitely. There are very few people who have actual facts. They are representative of the attitudes that have led to the Rodino and Eilberg legislation and now to HR9531 and Senate 2252, as it affects employment.

What is clear, including the report by the U.S. Department of Labor, is that there is widespread exploitation—and I think we have heard that—there is wide exploitation of the immigrant worker—the undocumented worker by the employer and I think that our concern is the relationship that INS has in that exploitation.

In relation to the employer sanctions, we feel this is definitely not a solution, but we feel it simply leads to more repression and intensification of discrimination against Mexican workers with or without documents.

Further, by proposing a temporary resident alien status, the government is attempting to maintain an integral part of the work force and intensify its control over it by allowing millions of immigrants work without the civil and democratic rights to vote, organize into unions or receive benefits of social services they, in fact, help pay for.

The facts clearly show that the Carter Administration and legislators like Rodino are attempting to regulate a basic element of the U.S. economy by placing them in a second-class legal-politico status that denies them their basic rights.

A statement by Dr. Cornelius—and I will quote this:

There is uniform agreement among researchers that the Mexican illegals make amazingly little use of social welfare services while present in the U.S. and the cost of the services they do use is far outweighed by their contributions to Social Security and Tax Revenues.

So that we, again, with some of the testimony, agree to the fact that we are not being a burden in terms of the services that the undocumented person is contributing to.

If we are to arrive at a truly significant understanding of the impact of undocumented workers on the U.S. economy, we must consider the following:

On May 3, 1977, the *L.A. Times* reported that Dr. T. J. Espenshare of the University of Florida had concluded that the cost of preparing a man or a woman for integration into the U.S. Labor force was $44,000.

Thus, if we estimate the number of Mexican immigrant workers to be 7 million, we find that the United States has saved approximately $308 billion. These are hard facts of the relationship between immigrant labor and the U.S. economy.

In reality, it is Mexico that is losing creativity, energy and strength of those young workers. And I think the previous speaker mentioned most of them are identified—characteristically identified as the younger, single male, and within the millions of dollars that were spent on preparing them.

Further, the Immigration and Nationality Acts state that one of the pillars of its policy is the reunification of families, yet most of the legislation, we feel, that has been passed, and also the Carter proposal—it is proposing—it is definitely not meeting this end of the policy.

The Carter Administration has proposed H.R. 9531 currently—or the hearings starting on the 16th, that purports to solve the immigration problem. The Carter proposal, however, is no solution at all, but will only create sub-American status for many more workers that will only create increased social and economic pressures on Mexico.

Another part of this dangerous proposal is to increase the number of enforcement officers whose mission is to prevent illegal border crossing. In fact, the budget for 1979, which the President sent to Congress, provides for 903 new employees for the INS, 64 percent of whom will be assigned to prevent illegal entries at the border. Such proposals will result in increased violence, and I think we have seen some of that occurring in the area of San Diego, that will worsen the conditions with Mexico.

Ms. BURKE. I am sorry to cut in. Our problem is we are getting very close to the end of the time that we have.

Ms. DURAND. I would like to make my closing remarks, if I may.

Ms. BURKE. Surely. Could you summarize it?

Ms. DURAND. OK.

Unconditional amnesty which, by the way, is the position that the National Coalition on Fair Immigration Laws and Practices takes—our conclusion on it is that unconditional amnesty is a reality that we feel can be accomplished, as we understand, because the struggle that many forces in this society have raised around the issue of immigration

will not die down, but will continue to unify different people, unions and the community and this society can only be stronger if such a productive element is not castigated and instead dealt with in a fair manner.

We definitely be in favor of a deeper study of the problem. Unlike what Secretary of Labor Marshall's statement that there is enough studies and data, we would differ.

The creation of committees from both countries—that is, in relation to Mexico—with the participation of community elements would be appropriate so that the matter can begin to be discussed in the context of an international situation, as it really is.

We would recommend further that this committee—action be taken from these hearings and that the word be carried to the different congresspeople who have, in the past, developed these types of laws, that we are not going to be taking them sitting down. And if the Carter plan passes or any other repressive immigration legislation, there will not only be disapproval, which has always been in our community—we have always disaproved of the kind of repressive legislation on immigration that we have had—there will not only be disapproval, but an organized resistance to it.

Thank you.

Ms. BURKE. Thank you very much.

Sister Barber.

Sister BARBER. My name is Sister Elizabeth Barber and I don't think I really have any further input than has already been given for the Committee today.

I won't go through the paper that I sent in because the examples of exploitation speak for themselves.

The only thing I have to add, I think is that I am in daily, direct experience with the exploitation that you have heard explained very well previously: Exploitation by employers, by landlords, by sellers of various commodities, anything from automobiles to photographs. And I am also aware, deeply aware, of the violation of human rights and the basic concept of justice that we have with the undocumented alien: Violation of the right to eat, the right to an adequate shelter, the right to clothing, the right to work, the right to adequate health care. These are not being provided for these human beings in our country.

Partly, the legislation that is on the records right now with regard to immigration is responsible for that. And, as congressmen in the United States, I appeal to you to do something about that legislation.

I think that we are confronting, with this problem, a modern, a little more subtile, a little more sophisticated form of slavery, but it is slavery and you are responsible for it.

I would be happy to answer any questions that you might have.

Ms. BURKE. All right. Thank you very much.

Chairman Slack, are there any questions?

Mr. SLACK. I have no questions.

Ms. BURKE. Mr. Early?

Mr. EARLY. Thank you, Madam Chairman, I don't have any questions, Madam Chairman. I would just like to thank these witnesses and thank all the other witnesses that appeared today for their testimony. It has been very interesting and informative to me, as someone from Massachusetts.

Thank you, Madam Chairman.

Ms. BURKE. Mr. Roybal?

Mr. ROYBAL. Yes. I have a question or a trend of thought that I would like to pursue with you for a moment.

Now, among the many bad features of the President's recommendation with regard to immigration and in which these bad features are embodied in H.R. 9531, known as the Rodino bill, is a very cleverly hidden proposal in which the Attorney General is given the right to determine and designate what documents will be admissible or acceptable as identification. Now, I say very cleverly hidden because it is only a small part of Section V of the entire bill and it is only one very small sentence devoted to it.

But the dangers inherent in that proposal are very troublesome.

Don't you agree that this could result in a national identification system? Would you like to answer that, as to what your opinion would be with regard to such a thing?

Mr. ALVAREZ. Well, yes, we are deeply concerned about that. We are concerned at ACLU that the near hysterical commentary and accusations of unAmerican procedure that you hear in the press and elsewhere about these hordes of people coming in and so on, which bears no relationship to any kind of factual documentation, that these statements will be used as an excuse for restricting the rights and liberties, the freedom of movement, the freedom of privacy, of all of our citizens, by use of national identification cards and things of this sort; conversion of the Social Security number into a national identifier and so on. We think that is a very serious erosion of civil rights and civil liberties in this country.

Mr. ROYBAL. Now, the other thing that could happen under this provision is that an identification card be designed, established and handed out, and that that identification card would be handed out to only those of us with Spanish-surnames and that, pretty soon, we will all have to carry a card and that it could be used for discriminatory practices. Do you envision that as a possibility under the present proposal?

Mr. ALVAREZ. I am not a lawyer, Congressman, but I think that would be a constitutional disaster to move along those lines.

You will recall that one of the first things that the Nazi government in Germany did was to identify people by the wearing of armbands and there is only a very small step between that yellow, or whatever color armband it was, to the having to present a national identifier.

And if you require it of one minority group, why not another? And then pretty soon of the entire population. And then, in effect, you wind up with internal passports where you can't move from Los Angeles to San Francisco without getting permission from your local commisar and having to turn in your card and so on.

The erosion of freedom and what it means to live in a free society is such a catastrophic vision that—I have difficulty even talking about it and I think that it would be too easy to, in the guise of trying to solve what may ultimately prove to be a minor economic problem, when all the facts are in—in the guise of trying to solve that, we may hysterically be stampeded into throwing away freedoms that, over the centuries, have been very hard-fought and very difficult to preserve in our country.

I think especially a Committee that deals with justice in the U.S. Congress ought to take itself very, very seriously when it starts allow-

ing us to erode those freedoms and move towards national identifiers and other insidious ways of eroding them.

Mr. ROYBAL. Well, this was one subject matter that was discussed at the time that we were briefed by the White House with regard to the proposed legislation and, at the time, we were told by young attorneys who prepared the proposal—not the legislation, but the proposal sent by the White House, that it was the intent to give the Attorney General the right to do this and that they felt that, perhaps, the Attorney General would come up with a card that would be given to certain individuals to make it possible for them to identify themselves as being in the United States legally. I got the impression that what they had in mind was just giving cards to a specific minority group in the United States and I share your opinion that this is most dangerous and should not happen.

But when the law is passed, it does give one person in the United States the full authority to design a card or designate any particular system of identification that he so desires and what I am afraid of is it could very well be a national identification system with a card given only to peoples with Spanish surnames or people who may appear to be foreign.

Would you like to comment on that?

Mr. BALLER. Representative Roybal, may I comment just briefly?

Mr. ROYBAL. Would you please?

Mr. BALLER. Speaking from the perspective of a civil rights law organization concerned with Mexican-Americans, we share your concerns and those of Mr. Alvarez about the specter of a national identifier. We also share very much your concern about an identification card that would be required only of minorities. That sounds to us a lot like South Africa.

But we have an additional concern as well.

Whatever the system which is eventually set up by the Attorney General or whatever the identification procedures that are established, there is the question of how it will work in practice and we are quite sure that the way it will work in practice is that employers will require identification only of people who look like national origin minorities.

Whatever the law says, it will come down to people in hiring offices asking applicants to show their papers and they are only going to ask that question of minorities which would create an additional burden on minorities that isn't placed on people who look like the traditional concept of a white American and that is the kind of discrimination that we think will grow out of those provisions.

Mr. ROYBAL. Thank you.

Mr. ALVAREZ. May I follow that up with just one comment?

We had testimony earlier to the effect that, in some employers' minds already, right now, without the use of such cards, there is no distinction between a Mexican-American and an undocumented alien that might come from anywhere in South America. That is without the benefit of such card.

What will happen if you start reverifying and setting in concrete that mindset by insuring such cards. It would be a national disaster that would move us away from freedom rather than toward it.

[The complete statements of Messrs. Alvarez and Baller, M. Durand and Sister Barber follows:]

IMMIGRATION POLICY

American Civil Liberties Union of Southern California

Adopted September 14, 1977

Preamble

This report is the result of an inquiry conducted by the Committee on Immigration Policy of the ACLU of Southern California into the civil liberties and civil rights implications of current United States immigration policy and the procedures by which it is implemented. The inquiry does not purport to be exhaustive.

In a series of meetings the Committee has sought to discover the major points of contention in the application of immigration policy. Members of the Committee have sought advice and consultation of a broad range of interested parties with varying ideological perspectives and interests. Committee members attended a conference on "Illegal Aliens" held on the California State College - Dominguez Hills campus and a follow-up conference sponsored by the National Conference of Christians and Jews which was attended by Immigration and Naturalization Service Commissioner Leonel Castillo. Members of the Committee have also consulted reports in the mass media as well as "studies" conducted by various private as well as governmental agencies; such as the Center for the Study of Immigration Policy, San Diego Board of Supervisors, Los Angeles Police Department, Los Angeles County Bar Association and others.

Proposals presented in this report call for action designed to protect the civil rights and expand the civil liberties of United States citizens, legal resident aliens, as well as of undocumented aliens without regard to the legality of their current stay in this country. To accomplish this purpose the report makes three kinds of presentations: (A) Specification of Civil Rights-Liberties issues involved in the application of current immigration policy; (B) Specification of elements believed to create or exacerbate the particular problem: and, finally, (C) Specification of ACLU policy proposals designed to provide direction and focus to the search for solution to these problems.

A. THE RIGHT TO PRIVACY AND FREEDOM OF MOVEMENT

Illegal immigration appears to be only the latest and most emotion-laden pretext for creation of a counterfeit-proof universal identifier through conversion of the social security number to this purpose. Existence of a universal identifier combined with the

use of modern computer based data retrieval methods makes it virtually impossible to insure the privacy of the details of one's medical, marital, income, religious, or political history. This would completely compromise the possibility of people who "have paid their debt to society" after violation of some law, from changing their identity or place of employment to start a new life elsewhere in the country. Moreover, a universal identifier would essentially become a "domestic passport" for both employment and security purposes compromising the right to move about freely to a very considerabl extent. In effect, a counterfeit-proof universal identifier so seriously compromises the right to privacy and freedom of movement that it is an unacceptable price to pay for the attempt to solve an immigration problem.

If all residents are required to possess "national identifier" cards, we can expect local police agencies to begin stoping and detaining persons solely to require production of their "national identifier" card. Those without cards will inevitably face long periods of detention and possible incarceration by I.N.S. Already many police departments such as L.A.P.D., Glendale, Burbank, Corona, Chino, and others throughout the United States, are detaining and incarcerating persons who fail to produce "satisfactory" identification or "proper" identification.

It can be expected that in the process of issuing "national identifier" cards persons who are not obviously of the majority ethnic group will be severely discriminated against, particularly those who cannot easily prove their lawful residence in the United States. Because it is difficult, time consuming, and costly, such workers of minority background can be expected to have difficulty in obtaining proof of citizenship by birth, thus depriving them of access to a "national identity card" with the resultant denial of access to the job market.

ACLU SOUTHERN CALIFORNIA POLICY

A.1 ACLU SC is opposed to the formal adoption or gradual development of a National Identity Card (i.e., "universal identifier") for residents of the United States regardless of their citizenship or immigration status.
Motion carried unanimously

A.2 ACLU SC calls for both the Congress and the Carter Administration to take strong measures to halt development of the social security number or any other device as a national identifier.
Motion carried unanimously

B. THE RIGHT TO MAINTAIN FAMILY INTEGRITY

The United States has a national policy for the unification of families. Under Section 201 of the Immigration Act, the unmarried children under 21, parents of citizen children over the age of 21, and spouses are entitled to virtually immediate documentation as immigrants outside the quota. Under Section 203 of the Immigration Act, the children over 21 and their spouses, the brothers and sisters of U.S. citizens over 21 years of age, and certain skilled workers are entitled to immigrant status within the quota.

Prior to 1977, parents of U.S. born citizens under the age of 21 were entitled to apply for permanent residence status. The 1976 Eilberg amendments to the Immigration Act eliminate this provision. More tragically, it results in the deportation of vast numbers of persons who are the parents of citizens or immigrant children, and consequently leads to the de facto deportation of thousands of children and immigrant children.

ACLU SOUTHERN CALIFORNIA POLICY

B.1 ACLU SC calls for amendment of Section 201 (b) of the Immigration Act to eliminate the provision that excepts parents of a U.S. citizen child under 21 years of age from being defined as an "immediate relative".

B.2 ACLU SC calls for amendment of Section 203 (a) (2) of the Immigration Act to include parents of legally admitted immigrant children.

B.3 ACLU SC is opposed to the deportation of any parent of a U.S. citizen child solely because of the parents' lack of documentation.

B.4 ACLU SC holds that parents of U.S. citizens or immigrant children should be judged documentable for immigration purposes.

C. THE RIGHT TO DUE PROCESS

A considerable number of persons currently undocumented are so only because of the delays of I.N.S. in processing their application. since they qualify for permanent residence and are fully documentable. The Internal Operations and Instructions of the Immigration Service (which are binding on the agency) require that an average "immediate relative" petition be processed within five (5) days. The Administrative Procedure Act requires that an agency process an application "within a reasonable time" and that a court shall compel action "unreasonably delayed".

Despite these requirements of law, an average "immediate relative" petition was taking eighteen months to process in Los

Angeles, California. The same petition took twelve months to process in New York, seven months in Arizona, and so on. This hardship is created by the INS's assignment of personnel to law enforcement rather than to processing the backlog of applications. Consequently, because of the unprocessed cases, the population of so-called aliens is artificially increased; frequently, persons are denied due process in adjudication of their status and are improperly subjected to removal from the country if apprehended, notwithstanding their pending application and qualification for documentation.

Current federal law provides for the right to counsel only at exclusionary proceedings, deportation proceedings, or appeals therefrom and only at no expense to the government. As a result, the overwhelming majority of aliens involved in proceedings before the INS go unrepresented by counsel.

ACLU SOUTHERN CALIFORNIA

C.1 ACLU SC calls for INS to give top priority to processing and ajudication of petitions from persons who qualify as "documentable" aliens and are therefore entitled to lawful immigrant status.

C.2 ACLU SC is opposed to the deportation, solely for the lack of documentation, of any person who qualifies as a documentable alien.

C.3 ACLU SC calls for cancellation of any current proceedings against documentable aliens, solely for the lack of documentation, leading to voluntary or involuntary departure.

C.4 ACLU SC holds that the right to counsel should be expanded to provide indigents who are suspected illegal aliens with counsel at government expense at custodial interrogation, arrest, detention, deportation and exclusion proceedings, and appeals therefrom.

D. THE RIGHT TO A GENERAL AMNESTY FROM DEPORTATION OR FORCED DEPARTURE FOR ALL NON-CITIZENS LIVING IN THE UNITED STATES

ACLU SC supports a program of general amnesty from deportation or forced departure for all non-citizens living in the United States or its territories. While the committee discussed long-term desirability of the eventual establishment of unlimited international immigration, it is not prepared to make a recommendation on this issue at this time. This policy is addressed to the rights of people living in the United States and does not address the question of policing U.S. borders.

David S. North, in his study, Interactions Between Illegal Alien Respondents and the Social Security Tax Collection System: Some Preliminary Findings, prepared for the Social Security Administration, July, 1976, reported that of 793 apprehended aliens, 77% contributed to Social Security, 0.5% received public assistance, and 1.3% used food stamps. A 1975 report by the Chief Administrative Officer (CAO) of Los Angeles County estimated that the alien population of 600,000 in Los Angeles County pays $171,948,000.00 in Federal and State taxes; $11,807,000.00 in County property taxes. Virtually every study conducted in this area (see Bibliography Preliminary Report, Domestic Council Committee on Illegal Aliens) concludes that undocumented aliens pay far more into the system than they extract out of the system.

More importantly, deportations are today frequently carried out in complete violation of due process of law. See Report on the Deportation and Removal of Aliens, Los Angeles County Bar Association, pp. 18-24. Mass hearings determine an alien's lawful right to remain in the United States. Virtually all persons in deportation proceedings go unrepresented, even though the proceedings are adversary in nature and the government is represented by a trial attorney.

In 1975, INS physically removed from the United States 679,252 persons. Of this number only 23,438 actually were found to be deportable by an immigration judge following a hearing on the merits of the case. A study of expulsion statistics for the past ten years shows that with each successive year, INS is removing a higher percentage of persons without benefit of a deportation hearing. Moreover, existing deportation practices victimize and harass aliens to no lawful purpose. The effect of the periodic drives by the INS is to intimidate minority populations and to create a state of terror in the community, even among persons who are United States citizens and who fear arbitrary deportation, thus curtailing their freedom of movement.

ACLU SOUTHERN CALIFORNIA POLICY

D.1 ACLU SC supports the right of aliens living in the United States or its territories to establish legal permanent residence regardless of length of residence.

E. THE RIGHT TO EQUITABLE TREATMENT IN IMMIGRATION LAW WITHOUT REGARD TO RACE, ETHNICITY, OR COUNTRY OF ORIGIN

Congress in 1921 introduced the first Quota Law which limited aliens of any nationality permitted to enter the United States each year to three percent (3%) of the foreign-born people of that nationality living in the United States in 1910. Following a number of amendments, all laws concerning immigration were codified as the Immigration and Nationality Act in 1952. As of July 1, 1968, a numerical limitation of 120,000 immigrants per annum from the Western Hemisphere became effective; the numerical limitation for the Eastern Hemisphere is 170,000.

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The 1976 Amendments to the Immigration and Nationality Act created, for the first time, a per-country limitation on the number of persons who could immigrate to the United States from any one country under the quota system. In 1976, 42,218 persons immigrated to the United States from Mexico under the quota system. The vast majority of these persons had relatives in the United States and could only immigrate because the need to obtain labor certification was waived pursuant to prior Section 212 (a) (14). The 1976 Amendments reduce by approximately 50% the number of persons who can lawfully immigrate to the United States from Mexico under the quota system.

The committee recognizes that the undocumented alien problem is a direct result of imposition of numerical limitations on lawful immigration to the United States. Current predictions are that certain Mexican aliens, with relatives in the United States and petitions pending, have at least a seven-year wait before their immigrant visa will be processed.

Therefore, the ACLU SC will support Senator Alan Cranston's pending legislation which would raise the Western Hemisphere quota to 150,000 and to assign an additional 15,000 quota numbers each to Mexico and Canada.

ACLU SOUTHERN CALIFORNIA POLICY

E.1 ACLU SC supports proposals to substantially raise the Western Hemisphere quota and to assign additional quota numbers to both Mexico and Canada.

E.2 ACLU SC holds that immigration should be made available a first come-first served basis to citizens of a Western Hemisphere country that had already exhausted its annual immigration limitation up to the number available in a pool of unused Western Hemisphere quotas.

F. THE RIGHT TO HUMANE WORKING CONDITIONS AND TO EQUAL PAY FOR EQUAL WORK

The ACLU-Southern California should oppose re-introduction of the Bracero Program or any temporary worker plan, such as the one recently approved by President Carter for Presidio, Texas. These programs deprive both alien and domestic workers of their right to a fair wage and humane working conditions. Workers are exploited under temporary programs in that they are not paid the price their labor is worth in this country. Their condition of poverty, ignorance, and willingness to work is exploited by the lure of any wage at all. There is considerable hypocrisy in the government's blaming undocumented workers for economic problems in the United States while, on the other hand, importing large numbers of temporary workers.

The effect of bringing in temporary foreign workers is to deprive domestic workers of the right to organize for enforcement of laws for wages and working conditions. It is not too idealistic a principle to hold that all workers have a right to equal pay for equal work regardless of the legality of their stay in this country. Failure to properly enforce existing protective labor legislation has led to extraordinary exploitation of immigrant workers and the undermining of standards for all workers.

Legislation placing penalties on employers for hiring undocumented workers would have the following results:

(1) Widespread discrimination against minority and non-English speaking persons lawfully in the United States;
(2) Minimal sanctions against employers due to the difficulty in prosecution and the defense that the employer was not qualified to determine the immigration status of the concerned empoyees;
(3) No impact in terms of improving working conditions for either documented or undocumented workers;
(4) No impact on preventing the practice of paying many workers below minimum wage.

ACLU reiterates its long-standing opposition to legislation that will in any way exacerbate existing patterns of racial and ethnic discrimination in employment. We believe that such legislation that ostensibly places penalties (whether civil or criminal) upon employers who hire persons without documents increases the discrimination now widely practiced against minority workers. This type of so-called employer sanction legislation in the area of hiring non-native workers, wherever it has been enacted by State legislatures and implemented by State agencies, has resulted in employers' reluctance to hire applicants who appear to be not native born.

Current law requires a person to prove that he or she is lawfully in the United States prior to obtaining a social security number. Regulations currently provide that the Social Security Administration "will immediately notify the INS when an applicant presents invalid or expired INS documents". In light of the above requirements additional legislation to avoid the employment of undocumented persons is unnecessary.

ACLU SOUTHERN CALIFORNIA POLICY

F.1 ACLU SC opposes re-introduction of the Bracero Program or any other "temporary worker" plan.

F.2 ACLU SC calls for enactment of laws to guarantee the right of all workers to organize into unions of their choice regardless of the immigration status of the worker.

F.3 ACLU SC calls for effective government enforcement of labor laws dealing with wage rates and working conditions. Complainants should be guaranteed anonymity and protected from employer retaliatory action.

F.4 ACLU SC calls for the enforcement of all laws mandating employers to withhold and pay all required contributions to appropriate agencies for all employees.

F.5 ACLU SC is opposed to establishment of any relationship between a person's immigration status and the administration of the social security laws or other laws pertaining to the receipt of social services.

F.6 ACLU SC reiterates its long standing oppostion to legislation placing penalties upon employers who hire aliens without documents.

F.7 ACLU SC opposes the use of the Immigration and Naturalization Service by employers for the purpose of raiding their own employees during a labor dispute or an organizing campaign.

COMMITTEE ON IMMIGRATION POLICY

Rodolfo Alvarez)
Jessica Heinz) Co-Chairpersons

Carolyn Anagnos
Carmen Diaz
Mary Ellen Gale
Barbara Gedanke
John Mannella
Mary Saylin
Marvin Schachter
Peter Schey
Dennis Shanahan
Frank Wilkinson

THE EMPLOYER SANCTION AND THE ILLEGAL IMMIGRATION PROBLEM

Mexican American Legal Defense
and Educational Fund

Report prepared by Dr. Rosemary L. Lee

November, 1977

The attached report presents a review of the assumptions behind the employer sanction and their validity in sociological and economic terms. A number of recent studies on undocumented workers have been used to show:

1. There is inadequate data to support the assumption that undocumented workers are a drain on the U.S. economy or on governmental services.

2. There is inadequate data to support the assumption that the employer sanction will either curtail the influx of undocumented workers or curtail their exploitation by employers.

INTRODUCTION

President Carter's immigration proposal is a response to popular and political pressures to "do something" about the "illegal alien problem". Those pressures have been generated by the assumption that the economic recession we are now experiencing is in part due to the growing number of undocumented workers in the United States. It has been argued extensively that illegal immigrants:

1. Take away jobs from American workers, thus generating high unemployment rates;

2. Place an increasing financial burden on taxpayers through their extensive use of social services.

Because the availability of job opportunities for undocumented workers appears to be the main reason for illegal immigration, placing penalties on the employers who hire them is seen as a key factor in restricting immigration. Thus it is argued that employer sanctions would act to discourage illegal immigrants from entering the United States. This in turn would open up jobs for American workers and save tax money, giving our economy a much needed boost.

In order to assess the effectiveness of employer sanctions in solving the immigration "problem", it has to first be established to what degree, if any, undocumented workers are responsible for our current economic problems. While the logical approach to the problem is to analyze the data on illegal immigrants,

> It is generally agreed that there is no reliable estimate of the total illegal alien population in the United States. Since 1973, the estimates of the Immigration and Naturalization Service have varied from just over one million to as high as twelve million, a range which has cast some doubt on their credibility. In late 1976, the INS estimate of the illegal alien population was 6-8 million. INS is the first to acknowledge that its estimates are only educated guesses,

> based largely on the experience of INS officials in the field.[1]

The fact sheet accompanying President Carter's August 4 message to Congress states that figures of 2 to 12 million undocumented aliens are "educated guesses at best". Moreover, while INS apprehension statistics remain the most reliable information available on illegal immigrants,

> ...they are limited in usefulness as a basis for projecting the total illegal alien population for several reasons. First, they record offenses rather than offenders, and thus include repeaters, of whom there are many. Second, as the House Judiciary Committee has observed, they appear to be "primarily a function of the manpower and funds which are available to INS". Third, since these resources are limited, the apprehension statistics are more reflective of INS's enforcement priorities than of the actual distribution of apprehended illegal aliens. As the Domestic Council Committee on Illegal Aliens observed, "the apprehension rate is biased by the emphasis of the INS enforcement activity," specifically on the Southwest border.[2]

Thus, even the most basic demographic information about undocumented workers is lacking. Consequently a definitive evaluation of the effect of the influx of undocumented workers on the economy cannot be made as of yet. The Carter Administration is proposing an extensive program to deal with the immigration "problem", on the basis of very little evidence in support of its assumptions about that "problem".

A number of recent studies on undocumented workers, while by no means complete, do allow us to make some important criticisms about both the assumptions that immigration is a significant cause of our present recession and that employer sanctions will be an effective means of curtailing immigration.

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[1] Committee on the Judiciary, U.S. House of Rep., Illegal Aliens: Analysis and Background, U.S. Gov. Printing Off., Washington, D.C., 1977, p. 3. (For a complete list of sources, see bibliography at the end of this article.)

[2] Ibid.

REASONS FOR IMMIGRATION

The primary factor behind immigration is the tremendous economic disparity between the United States and underdeveloped countries like Mexico, from which, according to INS, more than 80% of the undocumented immigrants come. Mexico is in a severe economic crisis, its worst in at least 40 years. While her population is increasing at a rate of 3.5% per year, unemployment is now at 15% and an additional 30-40% of the economically active population is underemployed. In many areas there is no work, and no reasonable prospect of work, for any of the large numbers of young people now entering their maturity. Inflation has been averaging 25% this year. The per capita income in 1971 was $720 as compared to $5350 for the United States. Wages in the rural communities from which most immigrants come average $2 to $2.50 per day in contrast to hourly wages of $2.50 to $5 for undocumented workers in the U.S. Under these conditions the availability of numerous jobs in the U.S. for undocumented workers forms a powerful incentive for immigration. The complete unavailability of entry visas for unskilled workers, other than a few close relatives of U.S. citizens and resident aliens, forces this immigration into extra-legal channels. Indeed, for a Mexican peasant or laborer, migration to the United States is highly rational in terms of reducing economic risks—even if he must enter illegally and risk the sanctions of U.S. law.[3] The Mexican government has done little to discourage such emigration for compelling domestic reasons, and is unlikely to change its policy in the future.

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[3] Cornelius, Mexican Immigration to the United States: The View From the Sending Communities, Mass. Inst. of Tech., 1976.

Once in the United States, the undocumented worker is often subjected to extreme exploitation and harsh working conditions due to his low educational and skill levels. His undocumented status leaves him with no legal recourse against low pay rates and long hours. U.S. employers are well aware of this fact and are quick to take advantage of the undocumented worker. In terms of the needs of the U.S. agribusiness and of industry, the use of undocumented workers has many advantages.

In the first place, illegal immigrants, particularly those from Mexico, are available in large numbers and willing to work hard for wages that are much lower than what a U.S. citizen can live on. Their undocumented status combined with their poverty has assured that they remain a docile, easily-exploited work force. For these reasons a strong demand for undocumented workers--especially from south of the border--has built up over the years.

ALLEGED DISPLACEMENT OF AMERICAN WORKERS BY UNDOCUMENTED ALIENS

The basis for the argument that undocumented workers are taking jobs away from U.S. workers is the large number of jobs that they hold in the so-called "secondary labor market". It is further argued that the repatriation of the estimated 1-12 million undocumented immigrants would open up much needed jobs for the 8 million domestic workers who are currently unemployed.

In practice, it has been demonstrated that most of the jobs held by the immigrants are so unpleasant and low-paying that American workers will not take them when they are available. For example, the San Diego study[4] documents a case in which 2,154 un-

[4] Villalpando, A Study of the Impact of Illegal Aliens on the County of San Diego on Specific Socioeconomic Areas, San Diego County Human Resources Agency, San Diego, 1975, p. 98.

documented workers were apprehended in Los Angeles. Despite the State Human Resources Development Agency's attempts to fill the job vacancies with local citizens, these jobs remained vacant.[5] In an article on undocumented workers that appeared in New West magazine, a case is cited where 340 jobs were opened in San Diego in 1976, after the undocumented workers occupying them were deported. Eventually 90% of the job slots were filled--not by workers from the U.S. but by more illegal immigrants from Baja California.[6] Another example given by the article is that of the inability of the California apparel industry to fill job vacancies with local residents. According to Bernie Brown, the president of the California Coalition of Apparel Industries, "last year, when we advertised 850 openings, we got only 44 people from the state unemployment office."[7]

If we compare the pay rates for undocumented and U.S. workers we get a clearer picture of the lack of economic incentive for U.S. workers to take jobs that immigrants usually hold. The North-Houston study,[8] for example, reported an average hourly wage of $2.66 for undocumented workers in contrast to $4.47 for American workers. This gives yearly incomes of $5533 and $9298 respectively, or $5120 and $8193 after taxes (calculated for 5 allowances). A welfare recipient heading a family of 5 could receive $4800 per year.[9] Given that welfare payments are tax exempt

[5] Ibid.

[6] Cook, "How Illegal Aliens Pay as They Go", New West, May 23, 1977.

[7] Ibid.

[8] North and Houston, The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Exploratory Study, Linton and Co., 1976.

[9] Villalpando, p. 94.

and that the taxes on $5533 for a family of 5 would leave a net income of $5120, an American on welfare would have little incentive to take such a job for only $320 more than he/she would receive on welfare. Moreover, while they are on welfare, many people earn money "under the table" to round out their income.

The San Diego study, which is based on a study of the illegal immigrants living in San Diego County, gives an average hourly wage of $2 for such immigrants and an average yearly income of $3840. Clearly, a local resident would fare much better on unemployment ($4628 per year if calculated for unemployment payments for the average wage in California of $5.21) or on welfare.

Both of these studies suggest that the undocumented workers are not in fact displacing American workers from their jobs. On the contrary, they tend to occupy those jobs that most American workers do not want.

A further problem with the displacement argument is that it masks other factors which have had a much stronger role to play in generating the present high unemployment rate. According to the AFL-CIO, 900,000 jobs have been lost between 1966 and 1971 due to plant relocation outside the United States. The garment industry, which shows an unemployment rate of 17.8%, lost 50,000 jobs between 1956 and 1971 in this manner.[10] In the Southwest, the area that has both the highest number of undocumented workers and the highest unemployment rates in the country, the mechanization of agriculture, the main source of employment in the region, has led to a net reduction in jobs throughout the region. In recent years

[10] North American Congress on Latin America (NACLA), "Hit and Run: U.S. Runaway Shops Along the Mexican Border", NACLA's Latin American and Empire Report, July-August, 1975, p. 4.

job losses due to mechanization have been severe in areas such as South Texas, Southern California and the San Joaquin Valley. Agricultural employment dropped 48% between 1960 and 1974 in Imperial County, California, according to the Hearings Before the Subcommittee on Inter-American Economic Relationships (1977, p. 174). The relocation of the U.S. owned border industrial plants from the Mexican side of the border to other countries with even lower wages, had cost 20,000 workers their jobs by late 1975. These people are also flocking across the border in search of jobs.[11] High U.S. inflation rates and competition from foreign products also contribute to unemployment.

To attribute unemployment among American workers to the presence of undocumented aliens is gross over-simplification in the tradition of scapegoating.

ALLEGED DRAIN OF TAX-SUPPORTED SERVICES BY UNDOCUMENTED ALIENS

Data from the North-Houston and the San Diego studies as well as information available from the Hispanic Advisory Committee to the INS refute the argument that undocumented aliens are a drain on tax-supported social services. Indeed, these studies indicate that undocumented workers contribute more to the U.S. economy than they take out of it. As the following chart from North-Houston shows, most (73%) of the illegal immigrants interviewed had federal income taxes withheld from their wages.[12]

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[11] Ibid., p. 4.

[12] North and Houston, p. 142.

LEVELS OF PROGRAM PARTICIPATION

Program activity	Percentage of Respondent participation
Input	
Social Security taxes withheld	77.3
Federal income taxes withheld	73.2
Hospitalization payments withheld	44.0
Filed U.S. income tax returns	31.5
Output	
Used hospitals and clinics	27.4
Collected one or more weeks of unemployment insurance	3.9
Have children in U.S. schools	3.7
Participated in U.S.-funded job training programs	1.4
Secured food stamps	1.3
Secured welfare payments	0.5

Because of their undocumented status, combined with the fact that many of them return to Mexico after 6 to 8 months working in the U.S.,[13] they do not collect any return on their income tax withholding that they may be entitled to. By the same token, their undocumented status restricts their use of public assistance programs such as Food Stamps, Old Age Assistance, Medicaid, and Aid to Families with Dependent Children for the simple fact that they are ineligible. While there are reported cases of undocumented immigrants in receipt of welfare assistance, the INS found that in July 1977 only 69 out of 76,000 apprehended undocumented workers were receiving public assistance.[14]

[13] Cornelius, supra, n. 3.

[14] Hispanic Advisory Committee to INS, 1977.

There are an estimated 50,000 undocumented workers in San Diego County, of whom 9,000 are estimated to be holding jobs. As the table below from the 1975 San Diego study shows, the tax contribution paid from these undocumented workers from earnings totalling $34,560,000 was approximately $6,768,000. It is estimated that these same workers spend 60% of their earnings in the United States, which would be a sum of approximately $20,736,000. Thus, their total contribution to the economy amounted to $27,504,000 in the 1974-75 period.

In contrast to this, public expenditures in San Diego County on behalf of undocumented workers added up to approximately $872,011 for the 1974-75 period.[15] This figure is the total of the following:

Welfare	$24,305
Schools	227,733
Medical	513,063
Law enforcement	106,910
	$872,011

ESTIMATED TAX CONTRIBUTION BY ILLEGAL ALIENS

TAXPAYER PROFILE: Single, earning $2.00 per hour[1] and working 40 hours per week: living in rented housing and paying rent commensurate with the General Relief Allowance.

Estimated number of illegal aliens in San Diego County (9,000)[2]	
Estimated Individual Annual Income for Employed Illegal Aliens	$3,840
Total Estimated Annual Income for Employed Illegal Aliens in San Diego County	34,560,000
ESTIMATED TAXES PAID:	
Federal Income (Standard Deduction) at $381 Per Person[3]	3,429,000
State Income (Standard Deduction) at $19 Per Person	171,000
State and Local Sales (IRS Allowance) at $77 Per Person	693,000
Property Taxes (All Jurisdictions)[4] estimated at 25% of $100 Per Month Rent and $25 Renter Tax Credit Per Employed Person	2,475,000

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[15] Villalpando, supra, p. 32-39.

Total Taxes Paid	$6,768,000
County General Fund Property Taxes[5] 26% of Total Property Taxes	643,000

Source: Formula for table provided by Lynn Kirkhofer, Research Analyst, Office of the Chief Administrative Officer, County of Los Angeles.

[1]Data by Richard Batchelor, INS, San Diego and Nelson MacClaugherty, San Diego Farm Labor Bureau.

[2]Data by Donald Day, Assistant Regional Director, INS, San Ysidro, California,

[3]Data by Robert Morales, IRS, San Diego, California.

[4]Data obtained from the office of the San Diego County Tax Assessor.

[5]Ibid. San Diego County Property Evaluations and Tax Rates--FY June 30, 1975.

(TABLE FROM Villalpando, supra, p. 95.)

At least in the case of San Diego County, the economic contributions of the undocumented workers far surpass their use of taxpayer-supported services.

It may also be noted that public expenditures on education for the children of undocumented immigrants should be relatively low due to the fact that most illegal immigrants are young single males. For example, the San Diego study estimated that 87% of the illegal immigrants that had been apprehended by INS were males, of whom the majority were between 18 and 35 years of age. The North-Houston study's findings were that 90.8% of the illegal immigrants interviewed were male and their average age was 28.5 years. Only 47.4% of the sample were married. Seventeen per cent of the married men had their wives here (11% in the case of Mexican nationals) and just 12.7% had children with them.

The conclusion that undocumented workers apparently bring far more to the economy than they draw from it is consistent with what

we know about the pattern of the current immigration. Most undocumented immigrants from Mexico do not come to the U.S. as settlers. Rather, they come for stays of limited duration (often 6-8 months or at most one year), then return home, and usually return repeatedly. The purpose of their work visits here is often to get over a particularly hopeless financial period at home, or to accumulate capital by intensive short-term work at relatively high U.S. wages. The foregoing portrait emerges from the leading sociological survey, which was based on the reliable technique of interviewing Mexicans who were formerly undocumented workers after their return from the U.S.[16]

In summary, although we do not have reliable information on the economic impact and size of the nation's illegal immigrant population, the studies consulted indicate that rather than having a negative economic effect, undocumented workers contribute substantially to the U.S. economy.

EMPLOYER SANCTIONS

A further assumption of the Carter Administration is that employer sanctions would effectively curtail illegal immigration. In the Administration's proposal, an employer who knowingly engages in a pattern and practice of hiring undocumented workers will be fined up to $1000 per alien. Even if the law is enforced and the $1000 collected, there is still not sufficient economic incentive for the employer to replace undocumented workers with U.S. workers. Assuming that an employer would have to offer the going wage in order to attract domestic workers, he would have to pay an average of $3767

[16] Cornelius, supra.

more per year per worker than he pays to undocumented workers.[17] Even by paying the $1000 fine, if caught, he would still save $2765 by hiring an undocumented worker. Of course, the risk of being caught is not great for any particular employer. Therefore it would seem likely that those employers who have a practice of hiring undocumented workers will continue to do so despite any imposition of employer sanctions. They might be forced to do their hiring underground, however, which would only increase the business and profits of the smuggling rings that exist to bring undocumented workers into the country.

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[17] This estimate is based on the North-Houston study wage figures, see page 5, note 8.

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Coalición Nacional Pro Leyes y Prácticas Justas de Inmigración

National Coalition for Fair Immigration Laws & Practices
1523 Brooklyn Ave., L.A., Ca. Tel. 225-1470

Proposals to deal with the myriad of problems involved in the questions of immigration have been said to be directed at protecting the interest of U.S. citizens and permanent residents. This is also true in the area of labor.

Among the myths revolving around immigration is the one that undocumented immigrant workers negatively affect wages and salaries, benefits and execution of rights of U.S. citizens and permanent resident workers under the National Labor Relations Act. To deal with this presumed problem, laws are proposed, primarily directed at decreasing the possibility of undocumented immigrant workers securing employment particularly where such activity would negatively affect U.S. citizen and permanent resident workers, for example, in a strike situation. This objective is purportedly behind the employer sanction measure contained in the The Carter Plan and The Rodino Bill.

Key to the arguments of the negative relationships of undocumented worker to the U.S. citizen and permanent resident workers is the negative relationship of the employer and the U.S. government, vis-a-vis, the immgration and Naturalization Service, on the undocumented immigrant worker's possitive activity to increase wages

and salaries and benefits and execute rights of all workers as stated in the National Labor Relations Act. In fact, the right of workers (documented or not) to engage in concerted activity for their mutual protection, to engage in collective bargaining and to strike without intimidation and coersion is a basic right of this country.

It is the purpose of this testimony to show that in effect the Immigration and Naturalization Service is a conscious or unconscious arm of the employer to violate the National Labor Realtions Act under cover of the law. When considering that the problem of immigration is unending as attested to by history, measures must be taken to insure full guarantees under the National Labor Relations Act, for the benefit and protection of both U.S. citizens and permanent resident workers, for the undocumented immigrant worker.

THE CASE OF LILLI DIAMOND ORIGINALS

Lilli Diamond Originals is a division of Campus Casuals, manufacturers of women's sportswear and dresses and one of the fastest growing in southern California.

Lilli Diamond is located in downtown Los Angeles. At the time that a union organizing drive was initiated there by the International Ladies Garments Workers union, the workforce consisted of 60% Mexican and Central American and approximately 25-30% Asian. Of the Mexican and Central American workers, over half are undocumented aliens. Many of the workers are highly skilled and get wages considerably higher than non-union garment shops.

In October of 1976, the ILGWU initiated a union organizing campaign sparked by a company refusal to increase hourly wages to the newly set state minimum of $2.50/hour and the despotic rule of a sewing department supervisor.

There was much support for the union among the Spanish-surnamed workers, but not among the Asians. The shop committee,in its majority was composed of undocumented workers. and over half the union authorization cards were signed by undocumented workers.

As expected, the company resorted to tactics of firings, meetings with workers on company time, intimidation and interogation of leaders.

The greatest blow however was an immigration raid conducted by the INS on January 14,1977, the day of the elections. Ten workers were arrested, all belonging pro-union or on the shop organizing committee.

Evidence indicating collusion between the company and the INS includes, a list carried by the INS of the names of the 10 workers arrested, including others not present; refusal of the INS to arrest workers when told of their whereabouts by other workers,actions by the sewing department supervisor, putting workers in the situation of getting arrested; the INS releasing of a woman arrested when told by company management; providing of personal information by company management to the INS; comments of approval of company management to the INS; and management's telling some workers to come in later , the day of the raid and later driving others to work to vote in the election.

CUSTOM PLATING COMPANY CASE

Custom Plating Corporation is a manufacturer of license plate frames and car jacks. It is located in East Los Angeles. Its workforce is predominantly Spanish-surnamed, many being undocumented workers.

In March of 1977, the International Longshoremen and Wharehousemen's Union initiated and organizing drive and won the subsequent elections. The company contested, and new elections were set for September 28,1977.

Two weeks prior to the date of the elections, September 7,1977 to

be exact, the INS conducted a raid, arresting 100 workers, all pro-union. From affidavits abtained from workers present during the raid, it was learned that the plant manager was directly pointing out to the INS agents those to be arrested and those against the union.

As a result, the union lost the elections by a slim majority. Many of the workers arrested, returned to their jobs. It can be safely concluded that the Immigration raid negatively affected the union.

SUMMARY

The cases of Lilli Diamond and Custom Plating Corporation are only examples. It is, however, an occurance repeated at what should be considered an alarming rate. Other examples, though by far not all, include the Tolteca, INC. of Oakland, California; the elections of the United Farm Workers of America.

There are also instances of the INS interference with the right of workers to seek redress. In 1976 two events occurred. Workers, U.S.W.A. of Supervisor Fireplace took a grievance to arbitration alledging a collective bargaining agreement violation when the company refused to reinstate them after they were deported in immigration raid at the company. The INS was present at the abitration hearing. However, the union representatives and the workers refused to allow the proceedings until the agents left. They were ordered out.

In 1976 workers of Ortho Mattress were deported again during a company raid after demanding back payment of a wage increase. They were denied reinstate and applied for unemployment benefits, which were also denied. At an appeal hearing on the denial of benefits, the INS presented itself, and threatened the workers with arrest.

SUMMARY:

The INS argues lack of knowledge of labor disputes when conducting

raids. However, at Lilli Diamond a union organizer informed the INS prior to the election. Futhermore, with the repeated occurence of such events, it is inconceivable that no policy be made in regard to this. With reports of the high degree of ineffifiency of the INS, the failure to do this is expected.

The issue remains that guidelines and/or legislation is required to stop the INS from interfering in the exercise of rights under the National Labor Relations Act and negatively affecting all workers to the benefit and unfair balance of the employer.

Many assumptions have been made concerning the impact of undocumented workers on the U.S. economy. Unfortunately, many of these assumptions have not been grounded on scientific and objective facts, and have therefore served to distort the issue and perprtrate anti-immigrant hysteria.

One cannot speak of the development of mining, transportation, railroads, agriculture and modern light and heavy industry in the Southwest without mentioning the very significant role of Mexican Labor in this process. Unfortunately, Mexican workers have historically been used as scapegoats for the repeated failures of the U.S. economy.

The major economic recessions of the 30's,50's and early seventies witnessed the exportation of unemployment through the use of massive deportations, i.e.(Operation Deportation, Operation Wetback) Despite these undemocratic and inhuman practices, Mexican labor continued to be one of the motor forces of economic growth in this country. The historical facts of the Bracero Program, the encouraging of immigration in the lat 1800's and early 1900's, the H-2 temporary worker program and the present proposal to regulate millions of undocumented workers under the status of temporary resident aliens illustrate that immigrant labor has been and continues to be a fundamental element in the structure of the U.S. economy and not simply

an extra source of labor in times of economic growth. In President Carter's message of August 4,1977 he stated that undocumented workers have "displaced many American citizens from jobs and placed an increased financial burden on many states and local government." Statements such as these, which cannot be backed by facts, are representatives of the attitudes that have led to the Rodino and Eilberg Legislation and now to H.R. 9531 and S.2252 Effects on unemployment.

Mr. Wayne A. Cornelius of the Massachusetts Institute of Technology has shown that the allegations that undocuments wokers displace U.S. workers (especially in the low-wage secondary market) are totally untrue.

> " They reason that since illegal aliens(SIC) are present in the U.S. in large numbers, and since unemployment rates in the U.S. are high(especially among the young and minorities), there must be a casual relationship between the two. There is, however, no direct evidence of displacement of native Americans by illegal (SIC) Mexican workers, at least in those sectors of the job market where Mexicans typically seek employment."

What is clear, as has been widely documented (including a report by the U.S. Department of Labor in March,1976), is that widespread explortation of immigrant workers exists. However, the realities of racism, second-class status, repression and isolation from the labor movement has kept immigrant workers from successfully organizing to combat poor working-conditions, low wages, etc. Rodino-type legislation (employer sanctions) is based on a premise (that undocumented workers displace U.S. workers) that cannot be proved. What it proposes is that employers become INS agents, which in reality will lead to super-exploitative measures against those immigrants that are hired.

Thus, employer sanctions do not even come close to providing a solution, but simply leads to more repression and the intensification of discrimination against Mexican workers (with or without documents). Furthermore, by proposing a temporary resident alien status the government is attempting to maintain an integral part of the work force and intensify its control over it by allowing millions of immigrants work without the civil and democratic rights to vote, organize into unions or recieve the benefits of social services that they in fact help pay for. The facts clearly show that the Carter Administration and legislators like Peter Rodino are attempting to regulate a basic element of the U.S. economy by placing them in a second-class legal-politico status that denies them their basic human rights. Effect on state and local governments:

> "There is uniform agreement among researchers that Mexican illegals (sic) make amazingly little use of social welfare services while present in the U.S., and that the cost of the services they do use is far outweighed by their contributions to Social Security and Tax Revenues." p. 12

This statement by Dr. Cornelius sums up the facts concerning the allegations that undocumented workers have "placed an increased financial burden on many states and local governments." Studies by San Diego County, Los Angeles County and the Dept. of Labor have shown that undocumented workers, as tax-payers and consumers, contribute much more to the economy than they take out. Also, the very fact that they feed and clothe themselves, keep themselves healthy and provide themselves with shelter is evidence to prove that they help generate jobs and income by participating in the economy as active consumers.

If we are to arrive at a truly significant understanding of the

impact of undocumented workers on the U.S. economy we must consider the following: On May 3, 1977 the L.A.Times reported that Dr. T.J. Espenshare of the University of Florida had concluded that the cost of preparing a man or woman for integration into the U.S. Labor force was $44,000.00.

Thus, if we estimate the number of Mexican immigrant workers to be 7 million we find that the United States has saved $308, billion. These are the hard facts of the relationship between immigrant labor and the U.S. economy. In reality, it is Mexico that is losing the creativity, energy and strength of these young workers and with them the millions of dollars that were spent on preparing them.

The Immigration and Nationality Acts states that one of the pillars of its policy is the reunification of families. Yet most of the legislation that is being presently discussed or has been passed has not met this policy. The Eilberg Amendments of 1976 are purported to equalize the quota system between Western and Eastern Hemispheres. Yet the real impact of this legislation has been a drastic reduction in numbers of visas available to Western Hemisphere persons. These amendments have caused a tremendous backlog of applications causing many applicants to wait a period in excess of three years to legalize their status. This creates an increasing number of people who are vulnerable to deportation.

The Carter Administration has proposed legislation (HR 9531) currently up for discussion in the Congress, that purports to solve immigration problems. The Carter proposal, however, is no solution at all but will only create sub-american status for many more workers and will only create increased social and economic pressure on Mexico.

The President proposes criminal penalties and fines for employers engaging in the pattern or practice of hiring undocumented workers. The consequences, were this to be enacted would be repressive and discriminatory.

Another part of this dangerous proposal is to increase the number of enforcement officers whose mission is to prevent illegal border crossing. In fact the budget for 1979 which the President sent to Congress provides for 903 new employees for the INS, 64% of whom will be assigned to prevent illegal entries at the border. Such proposals will result in increased violence all along the border - violence which will worsen conditions with Mexico.

The third aspect has to do with legalization of status. Actually its function, were it to be adopted, would be to institutionalize road blocks to legalization and freeze millions of undocumented workers into a sub-legal status. In the first place this proposal speaks of permanent resident status for those who have lived in this country continously since 1970. This is less than 5% of persons now in the country. Many of these people would have tremendous problems proving continous residence.

For people who have just arrived a new category has been developed. This is the nebously termed, temporary resident alien status. Persons able to prove entry before January 1977 would be allowed five years residence in the country. Again the question of proof of entry becomes a problem. Persons who are eligible under this category would be forbidden from bringin other members of the family who reside with them. These persons would not be eligible for social services, whether employment insurance, welfare aid, or medical assistance to which other citizens have access to. This is a case of taxation without representation. The proposal will provide that those who have entered the country since January 1977 will be subject to immediate deportation. If we take I.N.S. figures as any sort of basis, this can mean that by next year upwards of one million may be labelled as immediately deportable. At best they might hope to prove that they are not in this category. At best they might hope to come forward and register, working under sub-human conditions.

If anything, Vice-President Mondale's denial of the administration intent to carry out mass deportations should be read as his realization that they are indirectly inevitably programmed into the Carter Plan. The President also proposes to develop plans that will increase employ-

ment opportunities in the countries of origin of undocumented workers. The vagueness of these proposals implies lack of interest when compared with the specificity of other proposals. Besides, it is clear that present U.S. economic relations with Mexico are conducted in such a way as to increase Mexico's dependency on the U.S.

We think it is important that the committee present here today be made aware of other proposed solutions to the problems of immigration and our stated position on this.

The Bracero Plan

This plan operates on the concept that migration has and will continue to serve as an escape valve reducing some of thepressures created by unemployment in Mexico, and the amount of money remitted to Mexico in dollars from Mexicans in the U.S. exceeds Mexico's income from tourism. It is clear that the Mexican government feels that the social consequences of massive deportations would be grave and that the economic cost of reducing this source of dollar income would further aggravate the economic crisis.

But this program has many disadvantages. Amongst them, that the conditions and wages of the people who come to work here are very inferior and they place in the hands of the contracting employer total control of the Mexican workers situation. He is thus insulated from the protection of trade unions. Advocacy of a bracero program establishes a de-facto political alliance between Mexican government and the reactionary right - Goldwater hayakawa, Eastland in the U.S.

The third model is the developmental model developed by Dr. Jorge Bustamante, where he proposes to develop units of production that would be largely labor intensive for the processing of farm products in

areas where agricultural laborers are presently migrating. These would be privately owned and would give preference in hiring to those persons with no prior record of arrests by the INS after a certain date. These units would be funded by either the Mexican government or private agencies and they would not be competitive with the U.S.

We wouls question the soundness of these proposals, based on the control that agencies such as the International Monetary Fund or the Inter-american development have on the money they loan out and imposition of de facto wage controls and devaluation. Besides the people working in these units would not have been apprehended by the INS,which would reach its long arm into Mexico. This is similar to the proposition that the Commisioner of the INS, Castillo, stated last week in the Excelsior a newspaper of Mexico City, that the INS should have a station in the International airport of Mexico City. We think it is important that someone tell these gentleman about the soveriegnty of other nations.

To us there is something clear from all this debate and discussion on what to do about the so-called problem of undocumented workers. We think that this discussion must include those persons who have been involved in the issue for years, for it is as a response to our positions that many politicians and media have begun to act. We see that there are many inequities in the application of the immigration law, and that at the same time the emphasis of the INS has been towards policing instead of servicing, and the attitudes of many people towards immigrants has been one based on fear more than fact. In our opinion we think that undocumented workers should be granted and unconditional amnesty, and full democratic and human rights. People who come to work in this country are productive elements to the community and create a cohesion

and economic stability in the U.S. Unconditional amnesty is a reality that can be accomplished, as we understand because the struggle that many forces in this society have raised around the issue of immigration will not die down, but will continue to unify different people, Unions, the community, and this society can only be stronger if such a productive element is not castigated and instead dealt with in a fair manner. We definetly would be in favor of a deeper study of the problem, unlike what Secretary of Labor Marshall proposes that there is enough studies, and data. We would differ here.

The creation of committees from both countries with the participation of community elements would be appropriate so that the matter can begin to be discussed in the context of an international situation, as it really is. We would recommend to this committee that some further action be taken from these hearings, and that the word be carried to the different congresspeople who have in the past developed these types of laws, that we are not going to be taking them sitting down, and if the Carter Plan passes, or any other repressive immigration legislation, that there will not only be disapproval of the laws but also organized resistance.

Thank you very much.

14827 MAYALL, MISSION HILLS 894-3361 899-3016

February 13, 1978

Rep. Edward R. Roybal
300 North Los Angeles St.
Room 7106, Los Angeles, Ca. 90012

Re: Congressional Hearing on Problems Relating to Undocumented Persons

Dear Mr. Roybal:

My name is Elizabeth Barber. I am a Sister of the Holy Child Jesus, and I work in Pacoima for an organization called M.E.N.D. This Christian Service organization, whose title stands for Meet Each Need with Dignity, serves needy families in the Northeast Valley. The majority of the families who come to us for assistance are "undocumented" aliens. Examples of problems we have encountered are as follows:

With landlords:

A family I visit regularly live in a garage for which they pay $160 rent. They were without electricity for more than a week at Christmas time because the lady in the front house had not paid the bill. I tried to intercede with the landlord, explaining that this family should not suffer because someone else had not paid their bills, but he refused to act. Another family had their windows broken and knocked, but the landlord did nothing. The house was therefore very cold.

With employers:

A young man received a heavy blow on the head at work. He complains of bad headaches and pain in his neck and shoulders, and was unable to work for some time. He was sent to the company doctor and then to a specialist. He received no workers' compensation, and the specialist did nothing. I accompanied him when he went to the specialist for the second time, after having tried unsuccessfully several times to return to work. Although the specialist had taken no tests, he told me the young man was obviously faking. He did decide to order an E.E.G. to appease me. He based his conclusions that the young man was faking on the fact that the young man had not followed his instructions when he asked him to move his arms and legs. The worker speaks no English and the doctor does not speak Spanish.

MEND: meet each need with dignity - a non profit organization

helping people people
MEND.
14827 MAYALL, MISSION HILLS 894-3361 899-3016

With lenders:
A family came to us recently with problems over a car they were buying. They had signed a contract for a loan which had to be refinanced involving two payments to two different companies each month. The man had not fully understood the terms of the contract, and when he realized how much he would have to pay in separate installments and how often, he wanted to give the car back, knowing he could not meet the payments. Of course, he could not do this without losing his down payment of $650.

Health care:
I know a number of families who have children born here who would ~~greatly~~ qualify for Medical, but the families refuse to avail themselves of it for fear of jeopardizing their chances of getting their visas eventually. These children, and their older brothers and sisters born in Mexico, are not receiving adequate medical care because of the expense involved. For example, a little three year old boy cut his foot badly on some broken glass shortly before I visited the family. The wound was deep and difficult to clean. I insisted on taking him to the emergency room of the nearest hospital, since the accident happened on a week-end. The bill was $117, far more than this family with twelve children could afford.
In another family, the baby had a very bad ear infection, but the mother would use only home remedies because she could not face the docter's bill.
I visited another family which had requested furniture to find the mother's face very swollen from a toothache. She did not intend to go to the doctor, although she was in great pain, because she could not pay. I was able to find a dentist who extracted the infected tooth without charge. This lady's little girl had developed a strange looking spot under her arm. She also did not want to have the child examined because of costs.
It seems obvious to me that in the long run American society will be very much harmed as a result of the fact that this segment of the population is not receiving needed health care.

Effect on schools:
I teach English as a Second Language at night for the Bilingual Adult School. Besides the adults who come to my class, there are a number of students on the junior high and high school level. I am very aware that many can not read or write either language. This is a problem of great magnitude with which the schools are not coping adequately.

14827 MAYALL, MISSION HILLS 894-3361 899-3016

I can give many more examples of problems I deal with daily in my work in the community in Pacoima. Aside from the basic human rights which I see daily being violated, the level of health, education, and welfare of our entire society is at stake.

I shall be happy to testify at the hearing if you wish and to answer any questions.

Very truly yours,

Elizabeth Barber, SHCJ

Sister Elizabeth Barber, SHCJ
10536 Cayuga Avenue
Pacoima, Ca. 91331
Tel.: 899-3016

Ms. BURKE. Are there any other questions?

STATEMENTS SUBMITTED FOR THE RECORD

This concludes all of the testimony that we have scheduled. However, we have received testimony submitted for the record from the Lieutenant Governor's Office, the City of Los Angeles, American Friends Service Committee, United Electrical Radio and Machine Workers of America and other organizations and individuals.

I would like to have one thing very clear for the record.

The witnesses that appeared today were selected from those that requested to appear. We invited anyone who wished to make a statement, to present that statement and they would have an opportunity to testify.

The witnesses you have heard are those that indicated they desired to testify and that they wished their remarks to be made part of the record.

I also want to indicate that there are many other groups that may want to submit testimony. We will accept that testimony at any time until the actual record is prepared.

Thank you very much, Mr. Chairman, for coming here. We recognize that you came after a tragedy in your family—a death in your family that occurred almost at the same time you were catching the plane. So I know that this was a tremendous sacrifice. We appreciate that.

We appreciate the members of the Committee who have come some distance to be with us today and the participation has been very excellent.

I would like to ask if there are any members who have any final statement they wish to make.

If not, the hearing is adjourned.

[At 4:55 o'clock p.m., the hearings on the above-entitled matter were adjourned.]

[The statements submitted for the record follow:]

MERVYN M. DYMALLY
LIEUTENANT GOVERNOR

State of California
OFFICE OF THE LIEUTENANT GOVERNOR
STATE CAPITOL
SACRAMENTO, CALIFORNIA 95814

(916) 445-9533

TO: Delegates For A New Immigration Policy

I very much regret that I am unable to be with you in person at this historic meeting. I thank you for the opportunity to speak with you briefly by way of this written communication.

As the founder of California's Council on Intergroup Relations, the California representative on the Border States Commission, and the Chairperson of the Commission of the Californias, I have had considerable occasion to ponder the fate of the undocumented worker.

It has been with some astonishment and considerable concern that I have observed the sudden preoccupation of the communications media with the "problem" of "illegal aliens." The inflammatory coverage by the media of the issue of aliens is, in my opinion, a classic example of the media creating problems. It used to be that Blacks were considered the problem--even though we knew that the real problem was racism. The problem is not undocumented workers. The problem is the state of the economy. If all undocumented workers were removed from the United States, we would still have problems with the economy.

The solution to this problem is full employment for all persons living in California. The solution is economic development in California--and in Mexico, as determined by Mexico. It is in precisely these areas that I have concentrated my efforts for the past three years as Chairperson of the State Commission for Economic Development; I intend to continue doing the same for at least the next five years.

The proposals for solution that have been made by the Federal administration, it seems to me, represent a starting point for dialogue-- a beginning effort to come to terms with an extremely complex issue. The proposals may, in fact, be well-intended. I am always inclined to give the benefit of a doubt. I am also always concerned more with consequences than with intentions.

In considering any proposals or legislation, the key question to be asked must be, "What are the human rights implications?" We cannot--and must not--and will not--tolerate any immigration policies that result in discrimination against any and all Spanish-speaking peoples.

At all times, our support should be extended only to policies and practices that affirm the dignity of all people as citizens of the world, as members of the human family.

This, I think, is the focal point of your deliberations here today. I commend your coming together in a serious mind to address this serious issue. I urge your watchful monitoring as events unfold. I stress the crucial importance of your active participation in immigration policy development.

As you may be aware, I have been designated as the Chairperson of the California delegation to the White House Conference on Economic Development and Balanced Growth and am presently in Washington, D.C. attending this conference. Again, I regret not being with you in person.

With sincere best wishes.

MERVYN M. DYMALLY.

MMD:hmf

Los Angeles Times

HARRISON GRAY OTIS, 1882-1917
HARRY CHANDLER, 1917-1944
NORMAN CHANDLER, 1944-1960

6 Pt II THURSDAY MORNING, FEBRUARY 9, 1978

Braceros? Well . . .

Is the Carter Administration considering a return to the bracero system, under which hundreds of thousands of Mexican migrants were once brought into this country to work on farms and then sent home after the harvests?

Secretary of Agriculture Bob Bergland's answer to that question has been both yes and no; and, although his latest response was no, we still have our doubts.

At the start of a recent visit to Mexico, the secretary said there had been suggestions "that we reintroduce the bracero program . . . That arrangement has not yet been agreed (to), but is being explored." According to the Mexican press, Bergland also said this county could use 3 million seasonal farm workers from Mexico.

The secretary's statement ran exactly counter to the official position of the Carter Administration, which believes that the Mexican government might minimize its own efforts to reduce massive unemployment in that country if there was hope that Washington might renew the bracero system.

Other high-ranking Administration officials visiting Mexico, including Vice President Mondale, had been told to avoid the bracero issue entirely, but the word never got to Bergland.

But it got to the secretary in a hurry after he misspoke himself on his first day in Mexico City. Within hours, Bergland issued another statement. He said that his remarks had been "misunderstood," and that the United States was "not actively considering" a return to the massive labor importation that was begun in World War II because of a shortage of domestic farm workers. The law was not taken off the books until 1964—and only then because of protests from labor unions that it was taking work away from Americans.

But Bergland's retraction—and the Administration's own insistence that it will not reinstitute the bracero program—overlooks one of President Carter's key proposals for dealing with the millions of illegal aliens already in this country.

The Administration plan would create three classes of noncitizens, and would treat each of them differently. Those who came into the country before Jan. 1, 1970, could apply for permanent-resident-alien status and, eventually, would have full citizenship. Those who came after Jan. 1, 1977, would be subject to immediate deportation.

But the largest category of all—those who came from 1970 through 1976—would be left in limbo. Under the President's plan, they would have no permanent legal status. They could not bring their families from Mexico, nor could they collect federal or state welfare, unemployment or medical benefits, although many of them have paid into such funds.

Nothing in the plan offers such workers the hope of eventual citizenship, or even permanent nonresident status. In effect, they would be a temporary alien labor force, whose only right would be the right to work.

To us, that looks suspiciously like the old bracero system—and we must disagree with Bergland's claim that the Administration "is not actively considering" a return to it.

The President should be more generous in his treatment of aliens who came to this country to escape poverty or repression in their homelands. The residency requirement to qualify for eventual citizenship should be shorter than seven years for those who have been law-abiding and hard-working during their stay in this country.

Submitted by Ken Spiker - Chief, Legislative Analyst, City of Los Angeles

TESTIMONY

OF THE CITY OF LOS ANGELES

BEFORE THE HOUSE

SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE AND THE JUDICIARY

OF THE APPROPRIATIONS COMMITTEE

FEBRUARY 24, 1978

ON

"PROBLEMS RELATING TO UNDOCUMENTED ALIENS"

Good morning, and welcome to the City of Los Angeles. I would like to take this opportunity to thank you for the invitation to appear before this Subcommittee today. I especially express my appreciation to Congresswoman Burke and Congressman Roybal for telling us that they wish to learn how much it costs the City to provide services to undocumented aliens.

No official studies have been done on how much it costs the City to provide the various municipal services to the undocumented alien population. While we do not have an accurate count as to the number of undocumented aliens in the City, we estimate that there are between 400,000 and 650,000. This would increase the City's population by just under 25 percent.....an uncounted 25 percent.

As you are aware, many State and federal grant funds are distributed on the basis of population. Because the City has this 25 percent additional population within its boundaries, we feel we are not receiving our share of funds which are aimed at helping cities more adequately cope with the ever-increasing demand for municipal services to their residents.

The undocumented alien population adds to the demand and usage of many municipal services. For example, the population increases the tons of refuse that is picked up by City forces; it increases the use of City operated and maintained facilities such as recreation centers, parks, libraries, and the City's sewer system. Public safety, such as police and fire services, are burdened by this additional population.

While there are no official studies of the cost to the City to furnish public services to the undocumented aliens, the Police Department has made estimates of its costs. The Department bases its figures on the assumption that there are 650,000 undocumented aliens residing in the City making the City's population 23% larger than the census would indicate. These figures are for January, 1977. The counted population of the City has not changed much during the year, so we have used that figure (2.84 million), the 23% figure, and the Department's current budget of $211 million to provide the following figures. Based on per capita expenditures, the cost of providing police services to undocumented aliens is about $48.5 million annually. This includes costs for all services provided by the Police Department. Department costs per capita, then, are $60 per resident rather than $74.04 per resident when the undocumented aliens are not counted.

When the undocumented population is considered, the ratio of police to citizen drops from 2.63 per thousand citizens to 2.14 per thousand, or 18 percent. The number of repressible crimes increases. Repressible crimes are burglary, robbery, auto theft, and burglary and robbery from motor vehicles. These crimes decrease as police patrolling increases. The Ramparts Area police personnel found, in a one-month study in 1974, that 42.5 percent of all repressible crimes were committed by undocumented aliens. In addition, undocumented aliens constituted 36.3 percent of all felony arrests.

For nearly a month in late Spring of 1973, the Immigration and Naturalization Service engaged in a massive roundup of undocumented aliens in this county. To determine what effect the undocumented aliens sweep had on crime in Los Angeles, the Police Department had its Hollenbeck, Harbor, and Rampart areas conduct independent comparative studies on reported crimes. During the sweep, repressible crimes fell 32 percent in Hollenbeck, 17.4 percent in Harbor, and 18 percent in Rampart. Although there were a number of variables involved in these statistics, they do tend to indicate a correlation between the sweep of undocumented aliens and the decrease in crime.

Police officers were surveyed in late 1976 for their opinions on the involvement of undocumented aliens as suspects or victims in city-wide crime. They estimated that undocumented aliens commit 50 percent of all pickpocket crimes, 30 percent of all hit-and-run traffic accidents, 25-30 percent of all shoplift crimes, 20-25 percent of all burglaries, 20 percent of all auto thefts, and five percent of all homicides.

The officers also provided some estimates of how often the undocumented alien is a victim. They estimate that 15-20 percent are burglary victims, 20 percent pickpocket victims, four percent rape and homicide victims, and eight percent extortion victims.

Finally, in the area of career criminals who are also undocumented aliens, the Police Department believes that these people come to the United States because of the higher profits they make and the lighter sentences they receive for their crimes in this country than in their own country.

To summarize, I would like to reiterate that all of the above figures, except the Police Department studies and its current budget, are estimates. No official or systematic study has been done on the

cost of providing public services to undocumented aliens by the Police Department or any other City Department. However, it does appear that, in general, the undocumented aliens do cause a substantial drain on police resources, and it can be assumed that the costs to the City to supply the other City services to them is considerable.

Even though the City does not know precisely how many undocumented aliens live within its borders, and since our estimates indicate a possible 23%, and since many State and federal funds are allocated based on population, we believe we are not receiving a realistic share of those State and federal funds aimed at helping cities supply municipal services to their residents.

On behalf of the Los Angeles City Council, we would ask that your Subcommittee recommend that federal grant assistance be provided to Los Angeles, and other jurisdictions, for a study to accurately assess the number of undocumented aliens and the problems associated with them.

At this time, we are interested in being the first recipient of such a grant. Our work could then serve as a model for the other jurisdictions throughout the country in determining their undocumented alien population and associated problems.

Thank you.

STATEMENT OF DR. JAMES MC GAHA *

BEFORE THE HOUSE OF REPRESENTATIVES APPROPRIATIONS SUBCOMMITTEE ON BEHALF OF THE AMERICAN FRIENDS SERVICE COMMITTEE, THE UNITARIAN UNIVERSALISTS SERVICE COMMITTEE, AND THE CHURCH OF THE BRETHREN IN OPPOSITION TO EFFORTS OF THE FEDERAL GOVERNMENT TO ATTEMPT TO RESOLVE THE UNDOCUMENTED ALIEN PROBLEMS THROUGH APPLICATION OF THE CRIMINAL JUSTICE SYSTEM.

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* Coordinator, Criminal Justice
Program American Friends Service
Committee
980 N. Fair Oaks
Pasadena, Ca. 91103 (213) 79[illegible]-1978

Mr. Chairman, distinguished members of the Committee, and guests. I am most appreciative of the opportunity to appear before this Committee to address justice issues. On behalf of the American Friends Service Committee, the Unitarian Universalist Service Committee, The Church of the Brethren , and myself I am urging that necessary action be taken to halt the use of the criminal justice system to resolve the challenge posed by the undocumented workers. Further, I am here to call upon the Congress and the Carter Administration and cognizant federal agencies to move swiftly to deal with the root causes, and apply more meaningful responses than building the proposed Los Angeles Federal Metropolitan Correctional Center to deal with the needs of aliens.

By way of introduction America is enamored of the Incarceration Model of response to societal problems. First, upon recognizing a problem we immediately criminalize it. Secondly, formal penal sanctions are enacted, and thirdly we assign it to the criminal justice system for implementation. Having early on adopted the prison as a panacea shortly after its introduction by Yankee inventiveness in the post Revolutionary war era as an alternative we persist in increasing our use of imprisonment despite its documented failure, and counter productive nature. As a measure of this use it is noted that we are currently the number one Turn Key in the industrialized free world with some 534,000 persons incarcerated today. That amounts to approximately 250,000 per 100,000 population which is the highest per capita rate among free nations. It is predominately the disadvantaged, the ethnic minorities, and the poor - poor whites, poor blacks, and poor Hispanics who are immurated. Meanwhile the crime problem, and the fear of crime continue, and our counter productive approach becomes our second major social problem.

An unprecedented prison building wave is sweeping across our land. Some 2,000 prison, jails, and juvenile halls are in various stages of design, planning, and construction. Collectively, these would if completed more than double our present lock-up capacity by about 1985, adding another 555,000 prison cells to the total count. The implications of this manifestation of inherent nature of the prison, and its failure are dier . Such a massive expansion would create a virtual penal colony economy approach to social problems, including crime and violence. New construction ranges in excess of $43,000 per cell, and per annum incarceration costs hover around $17,305 in the newer federal facilities. Moreover there are indirect costs approaching an estimated $12,000 per person for welfare, lost revenue on earnings, and other costs incurred upon the incarceration of an individual. Thus the economic impact alone is staggering. Further, the deletrious effect upon our constitutional rights, and civil liberties would be substantial. Socially the damage would be extensive. Funds would be absorbed with the prison business precluding funding human service needs, and preventing developing and utilizing viable alternatives to incarceration. Money would not be available for dealing with root causes of crime, and no dollars would be left to cope with the undocumented worker situation in a meaningful manner.

Locally, the Federal Bureau of Prisons is, as you are probably aware, seeking to construct a 500 person prison in downtown Los Angeles. However modern its design may appear, and irrespective of its euphemistic designation "Federal Metropolitan Correctional Center" it is nonetheless a prison. When funding was initially sought for this project last year various groups and concerned citizens offered data asto the counter-productive effect of prisons, and other telling arguments including reduction in crimenogenic population groups in the coming years, all of which afford compelling reasons against building more prisons. Appropriately, funding for this facility was deleted from this year's budget.

Recently, President Carter, responding to new protestations from the community rejected the Bureau's request for money for this facility for a second time. Subsequently efforts of the Bureau , supported by Senators Cranston and Hayakawa, et al., have been renewed. These efforts arise at a time when the pernicious character of the failed prison are being increasingly documented.

Commission upon commission has challenged the prison system. The Hoover-appointed Wickersham Commission in the 1930's raised serious questions about the effectiveness of the prisons. The Federal Bureau of Prisons responded by constructing thirteen (13) facilities in the ensuing ten (10) years.

Decades later in the 1960's President Johnson appointed a President's Crime Commission which strongly criticized the American Correctional System, and urged that correctional resources be shifted to the community. The Federal Bureau of Prisons' answer was six(6) community treatment centers, but the Bureau then opened four (4) new major penal institutions.

Early in 1973 the prestigious National Advisory Commission on Criminal Justice Standards and Goals recommended that a ten year moratorium be placed on the construction of new penal institutions unless it could be demonstrated "that no alternatives are possible." The Federal Bureau of Prisons responded by moving forward with a program calling for construction of sixty-six (66) new prisons over the next ten years at a cost of over $700 million.

Subseuqntly, the list of research findings documented the counter productive character and effect of penal facilities has steadily increased. The call for a moratorium on prison building in order to allow the use of alternatives which the American Friends Service Committee launched following its study of the American criminal justice system which was issued in Struggle for Justice (1971) has rapidly gained support. But the drive to build more prisons persists, reflecting as I noted earlier the growing failure of the system.

We are told by the Bureau that it is necessary to build an MCC (prison) in Los Angeles to accommodate the Federal prisons, large numbers of whom are undocumented workers. Alternatives exist, and it is important to be aware that the Senate in 1976 mandated FBOP to identify , and utilize viable non-custodial options to prisons before seeking further expansion of the prison network. However, instead , the Bureau replies with plans to build more of the facilities which have been discredited by the experts, and laity alike. Even Attorney General Bell, I am pleased to find, rejected plans to construct more Metropolitan Correctional Centers. Yet the Bureau continues to advance the case for construction of the LA MCC.

Experience of those who have close contact with MCC's is instructive. In San Diego the local Federal Public Defender, John Cleary, Esq., fought for the San Diego MCC at its inception. He argued , on humane and constitutional grounds, that it would improve conditions and the quality of treatment and care of Federal prisoners owing to its promise of superior conditions for Federal prisoners.

Following some years of working with persons incarcerated therein, Counselor Cleary has recanted. He is adamantly opposed to the facility on constitutional and humane and other grounds. He stoutly urges that it be scrapped, and that no more MCC's be built. Speaking out against it he has observed , and I agree, that the San Diego MCC has increasingly been, and continuesto be, utilized for detention of Hispanic people, primarily undocumented workers. It has also been told to me that the facility proposed for Los Angeles would, if built, house a large number of illegal aliens, and especially undocumented workers. These individuals should not be in the criminal justice system, nor should they be allocated to facilities for federal prisoners. It is shocking to find the United States Government utilizing fortress prisons in an attempt to resolve the illegal alien challenge.

Specifically, instead of dissipating tax dollars which are needed for other human services on an MCC which would aggravate the problem, I would urge the utilization of the following alternatives.

First, mandate the Immigration and Naturalization Service to modify its case-processing procedures and scheduling to facilites the expeditious and fair identification of those persons within its purview and custody who are eligible for re-classification of status. Further, to provide personnel and services to insure the swift processing and re-designation of adjustment of status of such cases consistent with humane and constitutional standards thereupon. Measures should be instituted at that point to preclude a reoccurrance of this case log-jam.

Secondly, material witness where the persons involved are undocumented workers should be critically selected to preclude involving large numbers of persons in this category who are in effect superfluous to the just disposition of the cases at bar.

Thirdly, decarcerate undocumented material witnesses. Wherever possible stipulation, and the deposition process should be employed liberally as mandated by the Bail Reform Act of 1966, inter alia, etal., to preserve the necessary testimony for trial with celerity, and remove the material witness from custody ppomptly. In those limited instances where neither the stipulation procedure, nor the deposition is appropriate the witnesses should be placed in motels, hotels, or halfway houses rather than detained in penal custody.

Fourth, direct the Immigration and Naturalization Service, and the Justice Departments in concert with other cognate agencies to develop, and implement procedures and arrangements to insure that all alleged allegal aliens, and undocumented workers are dealt with within the humane and constitutional framework, including minimal resort to physical detention. Where detention is unavoidable non-penal, non-secure arrangements should be utilized as alternatives to imprisonment.

Fifth, establish a National Commission on Undocumented Workers to undertake a comprehensive assessment of the matter, identify needs, and propose solutions which deal with the root causes. Such a Commission constituted from both the private and public sectors should focus upon long term as well as short term remedies, including economic aid and other joint ventures between the U.S. and Mexico to cope with the undocumented worker situation in a fashion which respects the rights and human dignity of all parties concerned.

Sixth, I would further urge the Congress, and this Committee to exert every effort to insure that the Federal Bureau of Prisons and other Federal Agencies cease attempting to deal with the alien question through the criminal justice system. To rely upon prisons, and to seek to justify the construction of prisons, and the maintenance of places of immuration even in part for such a purpose is an anethma to the concept of civil liberties, and human dignity. Building the proposed Los Angeles Federal prison will solve no problems of anyone. Most assuredly it will not alleviate the suffering of undocumented workers, nor will it produce a safer community, or better community, nor yet will it afford improved conditions for those who may be incarcerated. Solution to the undocumented alien problem lie elsewhere than in criminal justice. It is incumbent upon all of us including the Congress to develop and use those approaches which build people rather than building penal institutions to solve social problems. And we need such action now. It is my hope that this Committee will generate it, and pursue it vigorously.

UNITED ELECTRICAL, RADIO and
MACHINE WORKERS of AMERICA (UE)
LOCAL 1421
2525 W. 8th ST., ROOM 207 • LOS ANGELES, CALIFORNIA 90057
PHONE (213) 389-2136

165

Representative Yvonne Brathwaite Burke
#1 Manchester Blvd.
Inglewood, CA 90301

TESTIMONY BEFORE THE HOUSE OF REPRESENTATIVES APPROPRIATIONS SUBCOMMITTEE HEARINGS TO BE HELD IN LOS ANGELES ON FEBRUARY 24, 1978, SUBMITTED BY HUMBERTO CAMACHO, PRESIDENT OF UNITED, ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA (UE), LOCAL 1421.

As abnormally high unemployment continues, as inflation continues to undermine our standard of living, and as exposure of the political deals demonstrates the corruption of the corporations, the rulers of America look for scapegoats. Undocumented workers are pictured as taking jobs away from American citizens and being responsible for widespread unemployment.

It has been an historical pattern in this country to blame working people---and especially immigrant workers---for the problems confronted by the people. Once it was "No Irish need to apply" for jobs. Then there was the "yellow peril." And intense discrimination against immigrant Europeans, Swedish, Polish, Italian, Slavic peoples, and Jews was rampant. In every case, the employers and their agents tried to incite other workers against the new arrivals.

The immigrants of today are the undocumented workers (the so-called "illegals") fleeing deep poverty and depression in the Caribbean, Central America, South America, Mexico and other countries.

Looking at Mexico's economy, let us ask two important questions:

1) What percentage of workers are unemployed there today?

2) Who controls Mexico's economy?

UNITED ELECTRICAL, RADIO and
MACHINE WORKERS of AMERICA (UE)
LOCAL 1421
2525 W. 8th ST., ROOM 207 • LOS ANGELES, CALIFORNIA 90057
PHONE (213) 389-2136

In answer to the first question, according to some statistics published in Commerce America (July 4, 1977), the estimated figure is 49%.

In answer to the second question, there are other data that indicate that the USA controls 60% of the internal commerce and 75% of the external commerce of Mexico.

The Chamber of Commerce Association for the USA in Latin America reported that the investments of American companies in Mexico increased to $400 million in 1977, 70% higher than in 1976. Heberto Castillo of the Mexican Workers Party stated that in the first four months of 1977, American corporations invested $49 million and produced $366 million. This means that for each dollar invested, there was a profit of $7.46, and none of these profits stayed in the country. This indicates that the Mexican economy has a leak of 700% toward the USA.

This leads us to believe that the present economic crisis has been created by the trans-national and multi-national corporations, controling the production of goods, prices, unemployment and corruption. The millions of unemployed workers can only look north for survival.

Mexico is approximately one-third the size of the USA, but 70% of the land is covered by mountains and rocklands. The present rate of population growth is about 3.2%. This, together with the rapidly growing female participation in the work force, has contributed to the high rate of unemployment.

The deterioration in income distribution as upper incomes rise disproportionately, pressure for wage increases which are becoming more difficult, and the chronic and growing trade deficit financed by increased dependence on foreign capital, plus the monetary devaluation, are contributing factors to the movement of thousands of workers toward the USA.

UNITED ELECTRICAL, RADIO and
MACHINE WORKERS of AMERICA (UE)
LOCAL 1421
2525 W. 8th ST., ROOM 207 • LOS ANGELES, CALIFORNIA 90057
PHONE (213) 389-2136

Once in the border towns, these workers become easy prey for unscrupulous people who take away their life savings; women are exposed to rape by the "coyote" and further exploited by the second man who gets them employment in the fields, plants, restaurants, hotels, or domestic jobs in the USA.

Because undocumented workers are subject to summary deportations accomplished through sudden raids, employers use this threat of deportation to pay them sweatshop wages and deny them fringe benefits. Thousands of workers in the garment industry often work 10 hours a day, six days per week, without receiving overtime pay for the extra work; most of them are without medical insurance or the benefit of Workmen's Compensation, and their medical expenses have to come from their hard-earned miserable wages.

In the community, housing facilities most times are unsanitary. They are charged high rents and have to pay for the up-keep. When buying on credit, they are the easy prey of merchants, where high charges, late fees, finance charges amount almost to half the price of the merchandise purchased.

The massive attacks by the media depict the poor, undocumented worker as a source of crime and deterioration of our social welfare, using medical facilities, collecting unemployment, food stamps and welfare payments. The reality is that about 77% pay Social Security Taxes; 73% pay Income Taxes; 44% pay for medical care, while the rest go unattended or use home remedies. On the other hand, 27% use hospitals or clinics; 3% collect one or more weeks' unemployment; 1.3% secure food stamps; and maybe 0.5% collect Welfare payments.

The Carter Administration proposals to Congress will provide temporary solutions that in the long run will bring disastrous results, creating a permanent body of

UNITED ELECTRICAL, RADIO and
MACHINE WORKERS of AMERICA (UE)
LOCAL 1421
2525 W. 8th ST., ROOM 207 • LOS ANGELES, CALIFORNIA 90057
PHONE (213) 389-2136

second-class citizens hampered from organizing into unions for fear of being discovered and deported, leaving these workers at the mercy of the employer.

In addition, since the vast majority of undocumented workers are from Mexico and other Latin American countries, the plan to fine employers will set up automatic discrimination against all Spanish-speaking persons in the U.S. as employers demand that every person with a Spanish-sounding name or accent prove that he/she is a citizen or legal resident.

If our government were to follow a hard policy of deportations, the Mexican economy would collapse for sure, and the migration of massive contingents of unemployed workers would be greater than it is today. To avoid any further deterioration of the Mexican economy, it is essential that we, as a fully developed industrial nation, absorb these undocumented workers and avoid any mass deportation toward Mexico, in order to give their industry a chance to develop, which will create jobs and reduce the unemployment that exists today.

We believe that a long-term solution to this problem is that our government immediately grant unconditional amnesty to all undocumented workers living in the U.S., as was done in Canada. This kind of program will insure these workers the opportunity to become a part of our way of life, demand their rights, and make more visible their contributions to our society which many times we fail to acknowledge because of our narrow views about the foreign worker.

President Kennedy once said that this is a country of immigrants. Let's live up to those words and allow the undocumented workers to continue to make their contributions to this country, but at the same time let's give them the same rights and protections that citizens enjoy.

What we have today is due to the sacrifice of those foreign workers who came fought for us.

PAUL E. DREXLER
Attorney at Law

10100 Santa Monica Blvd., Suite 2500
Los Angeles, California 90067
Tel. (213) 556-3021

TO: THE HOUSE OF REPRESENTATIVES APPROPRIATIONS SUBCOMMITTEE

SUBJECT: THE LABOR CERTIFICATION PROCESS -- ITS EFFECT ON UNDOCUMENTED ALIENS

As an attorney active in the practice in immigration law, first in New York and now in Los Angeles, I have had ample opportunity to observe the practical effects of the immigration laws as presently implemented.

At this time, I would like to address myself to some problems created as part of the labor certification process: specifically, the way it has been used to frustrate the legitimate needs of U.S. employers while serving to drive many undocumented aliens into situations of exploitation.

Most routes leading to legal permanent residence (and the proverbial "green card") involve a familial relationship with either a U.S. citizen or a legal permanent resident. While it may be argued that there are valid humanitarian reasons for such an approach, these grounds for legal permanent residence have little to do with the alien's prospective economic contribution to the U.S. Of course, before such alien actually gets the right to permanent residence, he must demonstrate that he will not be an economic burden to the country -- which may be done through affidavits of support, proof of promised employment, personal means, etc. However, the job which the alien

is awaiting -- or will eventually find — may well be one in which American workers are displaced. Nevertheless, that consideration does not prevent the alien from achieving legal permanent residence.

For aliens without the requisite family relationship, the key to possible permanent residence may be found in the offer of employment by a U.S. employer. In the labor certification process, an employer with a specific job to offer an alien petitions the U.S. Department of Labor to certify that there are no U.S. workers ready, willing and able to perform the particular job and that the employment of the alien in question will not adversely affect the U.S. labor market. It should be noted that only jobs requiring certain skills have any real chance of being certified. Once the labor certification is obtained, the alien has a basis for an application for legal permanent residence.

The labor certification process has become a relatively complicated one under new regulations in effect since February 18, 1977. In addition to providing detailed job documentation, the employer must once again place job advertisements — even in cases in which it has already advertised or knows from experience that such advertising will prove fruitless. When an employer goes through this entire process, which entails considerable time and effort on its part, one can be reasonably certain that the employer legitimately feels that the alien on whose behalf it is petitioning is the person best suited for that position from the entire pool of available applicants. American employers have no particular interest in accomodating the immigration needs of aliens, nor do they have any desire to discriminate against American workers: their major interest in is the successful operation of a business. Furthermore, if they are willing to go through the

labor certification process, it indicates that they are prepared to offer at least the prevailing wage for that job in their area; otherwise, filing the labor certification petition would be an exercise in futility. The only conclusion that can be drawn is that the U.S. employer believes it is serving its legitimate business interests in offering the job to an alien. With this in mind, one would expect some measure of sympathetic treatment on the part of the U.S. Department of Labor in considering such requests. Nevertheless, there often exists a less than sympathetic attitude in the processing of these requests. Rather than being considered primarily as a means for an alien to secure permanent residence, such petitions should be viewed as serving the needs of U.S. employers in conducting and expanding their businesses. Unfortunately, many labor certification petitions are being unreasonably denied with the result that employers are in the unenviable position of not being able to find qualified U.S. workers while being denied the opportunity of recruiting qualified aliens. It is hard to see what legitimate interests of the U.S. are being served in such cases.

In addition to the difficulties caused U.S. employers, other problems result from another provision of the labor certification regulations. It has been arbitrarily determined that there are sufficient U.S. workers available in a number of skilled and semi-skilled occupations — Schedule B of the labor certification regulations — so that labor certifications cannot be granted for these occupations. Such occupations include jobs as diverse as truck drivers, bartenders, short order cooks, key punch operators, sewing machine operators, etc. However, if you speak to employers, they will tell you that they are unable to find reliable people to fill

these jobs. Generally speaking, these occupations are not the most sought after or glamorous ones in the economy, yet they need to be done. By denying the possibility of labor certification (waiver of Schedule B hardly ever being granted) what is really accomplished? An undocumented alien in these occupations soon learns that he has no chance for labor certification with resulting legal permanent residence. Therefore, he is likely to fall prey to employers who knowing the situation exploit aliens by paying substandard wages. By working for such substandard wages, the alien is clearly adversely affecting the labor market. Furthermore, in many cases because of his status, the alien will seek out employers operating at the fringes of the economy — paying workers cash and keeping them off their payrolls. Here not only are such aliens adversely affecting the labor market, but their untaxed earnings represent an enormous loss of tax revenue.

However, if Schedule B were to be eliminated, or its provisions relaxed so that employers could get labor certifications for the listed occupations upon demonstration of need, these alien workers could be integrated into a system in which they are already playing a part, albeit a potentially negative one.

The labor certification procedure seems, in part, to be based upon an unrealistic premise, viz. that without labor certification, aliens will be unable to work. Nothing could be further from the truth: several million aliens are working today and are not about to leave the U.S. of their own accord. Those aliens who are displacing U.S. workers should not have the possibility of labor certification. However, there are substantial numbers who are not taking away the jobs of Americans, yet are unable to receive

labor certifications and eventual legal permanent residence. Wouldn't it be more realistic to take note of the existence of this group and begin to legally integrate it into our system based upon its legitimate economic contribution to our society? It is hard to see how the U.S. would be harmed by such a policy.

Paul E. Drexler
February 18, 1978

February 11, 1978

The Honorable Edward R. Roybal
House of Representatives
300 North Los Angeles Street
Room 7106
Los Angeles, California 90012

Dear Sir:

There is a growing concern and interest by many in your constituency to discover and implement measures in order to combat and eliminate unfavorable tactics by employers, landlords, notary publics, and others who subtly take advantage of the undocumented person. This abuse continues to exist due to the undocumented person's lack of information and knowledge of certain rights to which he is entitled. Because of this disadvantage they will not report "anything" out of fear of being deported.

Upon the recommendation of the Honorable James C. Corman, County of Los Angeles, and advice from other authoritative sources, I am directing this communique to you with the hope it will parallel your own point of view and interest.

I am forwarding you the contents of a planned program along with copies of supportive letters from persons who express an interest in such a center. This type of programming is unique in that it involves community leaders as well as State and Federal agencies in mutual cooperation and support of a common interest of obligation and fulfillment.

Enclosed you will also find a suggestion for new legislation in favor of, and for the protection of undocumented workers in this country.

Your attention and response to this is greatly appreciated.

Very truly yours,

Mike S. Garcia

Michael Garcia
P.O. Box 123
San Fernando, CA. 91341

/f
Enc.

Prospectus

SAN JUAN MACIAS PROJECT
(IMMIGRANTS)

A SELF-HELP PROGRAM INVOLVING THE DIRECT PARTICIPATION OF OUR "NON-CITIZENS" CONSUMERS AND TAX PAYERS.

The creation of the San Juan Macias Project is conceived to expedite an active involvement of responsible people to concentrate upon alternative measures in education and in the fight against unethical practices touching "non-citizens" who reside in the United States. The intention of this project is to initiate an analysis of the realities that surround us.

The main goal in this project is:

To develop a progressive program of orientation and information whereby the "recent arrivals" will become knowledgeable in part, of federal, state and local laws that affect them i.e. rights and duties in maintaining our judicial system and principles.

The San Juan Macias orientation project constitutes a primary and rational innovative process designed for the solution of many practical problems and other complex conditions encountered by the "potential citizen."

Implementation of this policy is of crucial importance to our state and nation, social and economic well-being -- and in order that such program be realistic, efficient and effective it must be

directly influenced by the following concepts.

(A) Create and develop in a positive and humane manner, public relations programs with I.N.S. (Immigration Naturalization Service).

(B) Develop good understanding and communications with law enforcing agencies.

(C) Establish educational programs with I.R.S. (Internal Revenue Service) and other public related agencies.

(D) Achieve meaningful program coordination. a. counseling b. channeling c. educating.

(E) Emphasis on creative approach of understanding between public and governmental forces.

CONCLUSION:

The objective of this Project is to be supportative of our national interests and to offer a positive contribution in a multi-service program setting to minimize some perplexing conditions that exist.

The San Juan Macias Project and planned program implementation bases itself upon the potential citizen's capacity for self-help based upon demonstrable awareness and good citizenship thru obedience to law.

Our moral obligation to those individuals whose visa procurement is imminent, as well as to all future potential citizens is to

make known our laws: An important element to an unfoldment course of conduct, obligations and expectations.

Through this project and its programs some of the alienation, mistrust and uncertainty that now prevails among our potential citizens and citizens can be reduced and alleviated, thus creating a better understanding and a more temperate atmosphere that can be advantageous for the welfare of our country.

Our sphere of philosophy will be confined to the development and resolution for the improvement of human rights. By this commitment it is not possible to draw imaginary boundary lines around any portion of the western hemisphere or that of any foreign countries.

WASHINGTON OFFICE
2252 RAYBURN HOUSE OFFICE BUILDING
202-225-5811

ROBERT C. RUBEN
ADMINISTRATIVE ASSISTANT

WAYS AND MEANS COMMITTEE
SMALL BUSINESS COMMITTEE

JAMES C. CORMAN
21ST DISTRICT, CALIFORNIA

DISTRICT OFFICE:
14545 FRIAR STREET
VAN NUYS, CALIFORNIA 91411
213-787-1776

IRENE SLATER
FIELD DEPUTY

SARAH ETHEREDGE
FIELD REPRESENTATIVE

NELDA BARRETT
CASE WORKER

Congress of the United States
House of Representatives
Washington, D.C. 20515

September 7, 1977

Mr. Mike Garcia
San Juan Macias Project
666 South Workman Street
San Fernando, CALIFORNIA 91340

Dear Mr. Garcia:

It is indeed an excellent idea to educate first hand immigrants upon their arrival to this country. Your awareness of this problem has been spelled out in your proposal-The San Juan Macias Project and I commend you for your interest.

I appreciate the interest that you have taken in this project and am confident that good communication and understanding can heal many of our nation's social ills.

My very best to you and your organization. In the meantime, if you feel that my office can be of assistance in any way, please do not hesitate to contact me.

Sincerely,

Jim Corman

JAMES C. CORMAN
Member of Congress

LOS ANGELES POLICE DEPARTMENT

EDWARD M. DAVIS
Chief of Police

TOM BRADLEY
Mayor

Mailing Address: Box 30158
Los Angeles, Calif. 90030
782-6125, Ext. 860
Ref. No. 7.3

October 11, 1977

Mr. Mike Garcia
San Juan Macias Project
566 South Workman Street
San Fernando, California 91340

Dear Mr. Garcia:

After reviewing the statement of purpose for the San Juan Macias Project and discussing the objectives of the project with you, Foothill Area of the Los Angeles Police Department is pleased to support this program.

Your awareness of the many problems which confront the legal immigrant to the United States and your efforts to reduce the primary cause of these problems is commendable. It is indeed unfortunate that the criminal element which perpetrates crimes of fraud, extortion, etc., on these immigrants is often able to avoid punishment due to the immigrant's unfamiliarity with the legal systems available to him as a remedy.

With your efforts to educate and inform these recent arrivals to the United States regarding their rights and duties, many police problems should be reduced.

We truly appreciate your intent to bridge the social gap between the established community and the newcomer who is often unable to communicate even the most basic problems with those who must resolve them.

Foothill Area stands willing to assist you in this extremely worthwhile project in any appropriate manner.

Very truly yours,

EDWARD M. DAVIS
Chief of Police

J. J. McGilvray

J. J. MC GILVRAY, Captain
Commanding Officer
Foothill Area

Executive Director Louis S. Garcia
11101 North Maclay Avenue
San Fernando, CA 91340
(213) 365-0861

NORTHEAST VALLEY HEALTH CORPORATION

July 20, 1977

Mr. Mike Garcia
Santa Rosa Immigration Center
666 South Workman Street
San Fernando, California 91340

Dear Mr. Garcia:

At the Northeast Valley Health Corporation, we have encountered several difficulties in providing health care to immigrants. We have special programs designed to help these people understand their rights and have arranged to have bilingual personnel available at both our clinics at all times.

Therefore, we feel that we can give you our unqualified support for your program. It is much needed, not just in health care, but in all types of programs which affect the well-being of the immigrant. This is a very important project, and its benefits will be felt not just locally but throughout the country.

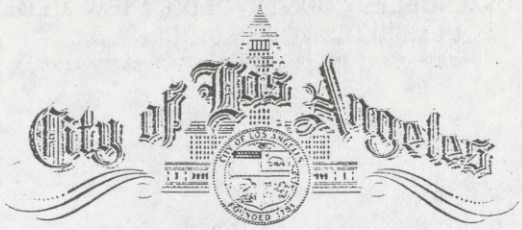
Please feel free to contact us for any assistance we can offer.

Sincerely,

Louis S. Garcia

Louis S. Garcia
Executive Director

dc



M127
CITY HALL
LOS ANGELES 90012

OFFICE OF THE COUNCILMAN
FIRST COUNCILMANIC DISTRICT

BOB RONKA
COUNCILMAN

September 22, 1977

Mr. Miguel Garcia
Assistant Director
Immigration Center
of Santa Rosa Church
666 South Workman Street
San Fernando, California 91340

Dear Mr. Garcia:

During the primary and before my election to the City Council, I met with you and members of your staff. At that time we discussed the direct involvement of my City office and the possibility of assisting documented persons in the First Council District.

The San Juan Macias project is an excellent vehicle for informing immigrants who seek American citizenship or permanent residency status of their rights.

I commend your organization for your outstanding record in 1976 and for the guidance and advice you have given to more than 7,500 people.

May you continue to help the established community as well as newcomers to our First Council District with your San Juan Macias project. Good Luck.

Sincerely,

Bob Ronka

BOB RONKA
Councilman, First District

BR:CA:dw

24-890 O - 78 - 20

LOS ANGELES COUNTY - OLIVE VIEW MEDICAL CENTER

ADMINISTRATIVE OFFICE: 14445 OLIVE VIEW DR., SYLMAR, CALIFORNIA 91324 • PHONE 367-2231
MIDVALLEY UNIT: 7533 VAN NUYS BLVD., VAN NUYS, CALIFORNIA 91405 • PHONE 997-1800

DEPARTMENT OF HEALTH SERVICES

[illegible] Center
[illegible]
Los Angeles County
San Fernando, Ca. 91340

ALAN KARP
ADMINISTRATOR
JOSEPH K. ROSENBAUM, M.D.
MEDICAL DIRECTOR

August 3, 1977

Mr. Miguel Garcia
Assistant Director
666 So. Workman St.
San Fernando, Ca 91340

Dear Mr. Garcia:

I was very interested in hearing about the efforts you are making at the Immigration Center of Santa Rosa Church.

Please accept my apologies for not having responded sooner.

It is my impression that your goals are worthy of support. Many of the clients who come to this clinic present with symptoms which are an outgrowth of/or related to situational problems.

The help which you can provide could be very helpful in alleviating much emotional stress. I will be interested in hearing more about your project as it develops and wish to express my best wishes in achieving your objectives.

Sincerely,

LOS ANGELES COUNTY - OLIVE VIEW MEDICAL CENTER
COMMUNITY MENTAL HEALTH CENTER

William Cagle, MD
William Cagle, M. D.
Psychiatrist

WC:vh

SERVING CALIFORNIA SINCE 1927.

October 10, 1977

Mr. Mike Garcia
San Juan Macias Project
666 South Workman Street
San Fernando, California 91340

Dear Mr. Garcia,

It is indeed a pleasure to be able to pledge my support as an individual and the support of my company, Topa Thrift and Loan Association, to such an important and worthwhile program as the San Juan Macias Project (Immigrants).

The main goal as it appears in your project presentation and the other closely related goals that you and I have discussed on various occasions are realistic; they are certainly commendable. With the concentrated community effort supporting you these goals are obtainable.

As a member of the lending community for the past eleven years I have seen first hand many unfortunate situations where the "non-citizen" consumer is a victim of his own lack of knowledge on the rights guaranteed him by the various local, state and federal agencies. I have also had the satisfying experience of watching these "recent arrival" and "non-citizen" consumers break away from the "potential citizen" status to become responsible documented permanent residents. With the success of the San Juan Macias Project (Immigrants) nothing less than the steady growth and betterment of the community is guaranteed.

Our congratulations and hearty thanks to you and your staff for all your unselfish efforts on such an excellent program. Our time is at your disposal.

Very truly yours,

Geo. G. Negrete
Assistant Manager - Loan Officer

GGN:rt

COUNTY OF LOS ANGELES • DEPARTMENT OF HEALTH SERVICES
SAN FERNANDO-ANTELOPE VALLEY HEALTH SERVICES REGION
7533 VAN NUYS BOULEVARD, ROOM 400, SOUTH TOWER, VAN NUYS, CA 91405
PHONE 213/997-1800, EXT. 461

DORRIS M. HARRIS, M.D.
REGIONAL DIRECTOR

July 29, 1977

Mr. Mike Garcia
Immigration Center of
Santa Rosa Church
666 So. Workman Street
San Fernando, California 91340

Dear Mr. Garcia:

I wish to write to you in support of the Santa Rosa Immigration Project. I have been familiar with the work of the Santa Rosa Project since its inception some seven years ago. It has been one of the major community forces at work to resolve the many personal and social problems of the immigrant.

One of the major problems with which Health Services programs are confronted is the reluctance of many immigrants to use vital community health and mental health services. The Santa Rosa project by counseling legal immigrants as to their legal rights and responsibilities and channeling them to appropriate community health resources has helped to protect not only the health and safety of those referred but those of other citizens as well.

We wish your organization continuing success.

Sincerely yours,

Bruce Picken

BRUCE PICKEN, M.D., Chief
Psychiatric and Substance
Abuse Services

BP:rt

OFFICE OF
CITY ATTORNEY
CITY HALL EAST
LOS ANGELES, CALIFORNIA 90012

BURT PINES
CITY ATTORNEY

November 12, 1976

Mr. Mike Garcia
14072 Herron Street
Sylmar, California 91342

Dear Mr. Garcia:

Thank you for testifying at our public hearings entitled "Estafas Contra El Consumidor - Como Protegerse". Your testimony assisted us in identifying prevalent consumer rip-offs against Spanish-speaking persons in our community.

Based upon the information presented at the hearings, we are developing recommendations regarding law enforcement procedures and community information programs which will help eradicate the kinds of illegal business practices described by witnesses like yourself.

Again, we appreciate your willingness to assist us in our efforts to curb consumer fraud which preys upon the Spanish-speaking public.

Sincerely yours,

BURT PINES
City Attorney

BP:cbc

PROPOSED:

LEGISLATIVE LAW TO PROTECT UNDOCUMENTED PERSONS FROM EXPLOITATION

BY: Michael Garcia

Concerted efforts by our government to ease the flow of aliens from Mexico was clearly seen again through the news media, the sending of officials to Mexico to discuss different avenues of improving relationships between the two countries via agriculture, creation of new jobs, etc.

The willingness of our intentions can be strengthened by other visible acts. Significantly, that attempts are being made to search for a just and viable policy in regard to the respect and dignity of all.

In lieu of this statement, we are seeking your support and request your assistance in recommending legislation before Congress of an amendment to the Immigration and Naturalization Law. The amendment being: that whereby a person or persons found guilty of exploitation be brought before trial and judgment, that the person or persons who are instrumental in bringing said party before the Courts of Law, be granted Permanent Residency in the United States for reason of compliance to, and participation in the validity of justice.

Such an important and just law can be envisioned as a major factor in removing obstacles towards the exploration of the underlying base of other wrong doings and which will eventually accomplish a progressive change for the solution of many other misdoings. This is a point of importance that we trust will be recognized by those of good judgment in policy making positions as essential in affecting our entire socio-ecomonic well being.

Because there are many who educate themselves in methods of fraud, the irony continues, escalating steadily each day. And, the agony and frustration of its victim's cry grow bitter and louder for justice of

PROPOSED: Legislative Law

one form or another, here or there.

Any attempts to effectively dislodge any possible course of exploration to completely irradicate the deplorable acts of injustice against the undocumented in this country will be a completely futile struggle as past history has demonstrated.

There must be a definite interest among our law makers, a change of attitudes; a search of our conscience, within the structure and frame work of the Justice and other "Capitol Hill" Department Heads, and of concerned people who are aware and who question the true meaning of Human Rights.

I will welcome an opportunity to discuss my interest and involvement in this matter and will sincerely appreciate a reply from your office.

Very truly yours,

Mike S. Garcia

Michael S. Garcia
San Juan Macias Orientation Immigration Center

"UNIONS AND THE UNDOCUMENTED"

A Speech by

James Herman, President, ILWU

Brothers and Sisters, over a hundred years ago Abraham Lincoln said that, aside from the family, the strongest ties binding people everywhere were the common needs of labor. It is in this tradition that I and my union take a stand for the undocumented worker in the U.S.A.

It has long been recognized that we are a nation of immigrants. In fact immigrants were the principle founders of unions, since they were the most exploited section of the population, even as is the undocumented worker today. Our grandfathers and great grandfathers were encouraged to come here because bosses needed cheap labor. Nothing has changed. Today's undocumented workers starve in their homeland where wages are a small fraction of what they are here. They are easily seduced and recruited by labor contractors who throw them to the sweatshop wolves.

Out of struggles of the past have come laws against indentured servitude, child labor, sweatshops.

Out of struggles such as you are waging today will come a Bill of Rights for undocumented workers and immigrant labor all over the world.

This is not a local problem. In Europe too the nationals of one country are brought to another, paid low wages, mistreated, then kicked out when they are no longer needed.

The trade union movement must be concerned with the living conditions of all workers. International attention to the question of immigrant labor is long overdue.

The ILWU has known only too well the special status to which employers have traditionally relegated immigrants.

The past president of the union, brother Harry Bridges, immigrated here from Australia. He was harassed for over 20 years for his political and trade union beliefs, and his immigrant status was used against him throughout. Four times the government had him up for deportation. We know what the "Migras" are like.

Today the government is seeking new scapegoats for the horrors of unemployment and inflation. So it creates hysteria around the question of the undocumented. But we know what the facts are.

These undocumented are hard-working garment makers, pickers of crops, bus boys and food handlers, sweepers of floors. These are workers worthy of their hire. Social security taxes are deducted from their paychecks, but social security is denied to them. It is part of the shame of this nation that medical

centers, Blue Cross, etc., are ordered to turn over the names of the undocumented to the Immigration Service and the Mexican Consulate. To seek medical care is to risk deportation. To claim unemployment insurance is like committing suicide.

Yet the undocumented pay many taxes besides social security: a portion of the rent they pay, all their sales taxes, gasoline taxes - yet they are denied the benefits of these. This is just one more form of wage cutting. It will be successful to the extent that the undocumented are divided from each other and from us. It will fail as soon as we get our act together and community and labor united demand an end.

The history of the ILWU, particularly in Hawaii, may serve as an example. The tactic of pitting one worker from a given nationality, race or color against another in order to extract a greater degree of exploitation has forced us into bitter struggles with the employers. Brothers and sisters, to win that struggle we had to eliminate racism within our union first, and then, united, force the employer to desist.

To the degree that the community at large can counter the divide-and-conquer tactics of the establishment and unite in its struggles, to that degree we will be successful.

Sorry to say, I find many points of contention: haves vs. have-nots; Black vs. Brown; Anglo vs. both; men vs. women; language barriers; politics. We are overwhelmingly a people

who want peace and justice and prosperity in a healthy environment, yet we are a veritable Tower of Babel when it comes to uniting around any given cause.

Perhaps out of this coming together ~~that I see~~ here this afternoon will come a new surge forward.

A moment ago when I spoke of points of contention, I mentioned politics. I think particularly of the politics of the cold war vs. the politics of detente. The division within the trade union movement around this question is deep. Yet there is no question in my mind but that the politics of the cold war have cost us all a bundle. It is the after effects of the cold war that overwhelms us with taxes, inflation, debt. It is U.S. imperialism that allows multi-national corporations to export capital to developing countries where harsh dictatorships are supported to guarantee that no trade union movement can develop. Our paranoia and preoccupation with socialism and communism prevent reduction in unemployment, defers the rebuilding of the inner cities, and frustrates all attempts at ecological improvement.

Brothers and Sisters, we must not allow the image makers to tell us that undocumented workers are responsible for these ills. Nor can we afford to heed the siren song that we "must lower our expectations".

On the contrary, let us raise our expectations! Let us demand a peaceful world in which the billions being spent on cold and hot wars are diverted to an economic bill of rights for all.

The struggle for undocumented workers is tied up with the struggle for a world at peace in which developing nations will be freed from the pressures of rampaging imperialism that depress their standards of living. When no person is forced to leave a homeland in order to put bread in the mouth of a child, there will be no need for meetings of this sort. Until that day, let us hang together to speed that day, to fight step by step against all harassment of immigrants, of the undocumented, of working men and women. The ILWU pledges to stay in that fight.

1/23/78

Immigration Center of Santa Rosa Church

Co-sponsored by the Los Angeles County Northeast Valley Community Service Center
P.O.Box 123
[redacted]
SAN FERNANDO, CALIF. 91340

EDUARDO PALACIOS
DIRECTOR

MIGUEL (MIKE) GARCIA
ASSISTANT DIRECTOR

361-2211

361-4617
896-5302

, February 12, 1978

The Honorable Edward R. Roybal
House of Representatives
300 North Los Angeles Street
Room 7106
Los Angeles, California 90012

Dear Sir:

Enclosed please find six of the most recent legitiment complaints. Complaints which I am submitting as written testimony to be incorporated into the record on problems relating to the undocumented aliens.

To be realistic, we can only imagine the margin and depth of the drama of another episode in the lives and struggle of latins, particularly the Mexican; which totals in nearly five centuries, and includes thousands of persons and which encompasses our entire history. His stamina to endure the oppression, the hardship, the discrimination, and other conditions necessary to exists, as well as his constant search to find his true identity are far and beyond words that can be written in this report.

This is in part, my reasons for asking you to give me your undivided support, to our proposal of creating the San Juan Macias Orientation Immigrant Center. (Proposal and supportive letters from political and community leaders have previously been sent to you).

By means of this center, we will alliviate burdens of frustation, anxieties and false hope, and we can begin to mitigate problems relating to health, education and welfare, that currently plague our society.

Testimonies:

1. Lady looked for work. Man told her she would receive only part pay until she learned the job. After 8 hours work, she was paid $1.00. It cost her $5.00 that day for babysitting.

2. Lady's husband was deported. She had four children. She was forced to work 12 hours a day, 6 days a week for .95¢ an hour. The boss picked her up and took her home. She was paid cash, her boss was very upset when she asked for a receipt so that she could apply for food stamps for her children. He refused and gave her $20.00 for food but he also was very angry.

Immigration Center of Santa Rosa Church

Co-sponsored by the Los Angeles County Northeast Valley Community Service Center

EDUARDO PALACIOS
DIRECTOR

MIGUEL (MIKE) GARCIA
ASSISTANT DIRECTOR

[redacted]
SAN FERNANDO, CALIF. 91340

361-2211

361-4617
896-5302

Testimonies (continued)

3. A lady's mind cracked under the pressures of lack of food, clothing, unemployment, housing etc. She was 21 years old, married with 2 children. She had to be admitted to the Olive View Mental Hospital in Van Nuys. None of the psychiatrists who handled her case spoke Spanish. She was given very strong medication including lithium, an experimental drug. She was given a two page description in English of the possible ill effects of lithium, which she was asked to sign. (She was in no condition to sign anything not even in Spanish). Finally she was released from the hospital, though still in great need of care and we arranged for her, her husband and the two children to return to Mexico.

4. A small factory on San Fernando Rd., in Pacoima hires women for $2.20 an hour. After theywork a week, thy are told they will not receive $2.20 an hour, instead 2¢ for putting a pocket on the jeans, etc. In reality a very small amount of pay. Immigration was called on those women who would not except the wages, others were not paid. Our client was not paid.

5. A lady worked for four years, at one place, they never allowed her to take a vacation. The institution where she worked, burned down, she did not receive the last 2 weeks pay. Plus the vacation pay for the four years. They have refused to pay our client.

6. A lady who lives in the projects in Pacoima with her 7 children was approached by a photographer who offered to take pictures of her children for $1.00. She received a large envelope with a number of pictures of different sizes and was told she had to pay $25.00.

Very truly yours,

Mike S. Garcia

Mike S. Garcia
P.O. Box 123
San Fernando, CA. 91341

February 11, 1978

Mr. Bernard P. McEvoy
Internal Revenue Agent
14450 Erwin St.
Van Nuys, CA. 91401

Dear Bernie:

I am enclosing a copy of my correspondence to Congressman Roybal which I hope you will find of interest.

As we discussed in the past, I'm sure the Internal Revenue Service would find this beneficial in that it would assist in exposing those that find it to their advantage to exploit the undocumented.

I look forward to hearing your comments.

Sincerely,

Mike S. Garcia
San Juan Macias Immigration Center
P.O. Box 123
San Fernando, CA. 91341

/f

Enc.

931 NORTH VIGNES ST. OF. # 1
LOS ANGELES, CALIFORNIA 90012
TEL. (213) 628-1929

REPRESENTATIVE EDWARD R. ROYBAL
FEDERAL BLDG. ROOM 7106
300 No. Los Angeles St.
Los Angeles, California 90012

TESTIMONY BEFORE THE HOUSE OF REPRESENTATIVES APPROPIATIONS SUBCOMMITTEE HEARINGS. LOS ANGELES FEBRUARY 24 1978 SUBMITTED BY THE COMITE EN DEFENSA DE TRABAJADORES MEXICANOS (COMMITTEE IN DEFENSE OF MEXICAN WORKERS) SPEAKER: JACOBO RODRIGUEZ

It is with the best intentions that we are here today, speaking before the Congressional Hearings relating to Undocumented Workers. A just solution for undocummented immigrant workers will benefit the American Workers as a whole.

The electronic and print media have been the medium used by irresponsible Government Officials with their careless talk about undocumented workers from Mexico and Latin America, this has contributed nothing to an understanding of the Problem.

The leadership of the largest labor federation in the United States is guilty of trying to pit worker against worker by fostering ethnic resentment against anybody, who looks, feels and breathes his or her own Nationality or race. Misguided patriotism has always preceded fascist repression on people who look different.

We are sure that other speakers already have or will bedirecting their remarks to the impact of Mexican Emigration on the economies of both Countries. But most important the impact of those big multinational corporations on the people and the economies of Mexico and Latin America.

One thing sure is that the immigration plan presented by Mr. Carter is not the answer to this economic and political question. we know that sanctions on employers who hire undocumented workers will never be a reality, but rather will also serve for more exploitation.

As oppose to the 30's and 40's and specially the 50's in which the Mexican Population from both sides of the border did not present an organized defensa against mass deportations, at this time in history we are organizing ourselves to defend our right to be in this land, it is a fact that our offensive efforts will prevent more violations of our human and civil rights. We will never accept that Mexicanos and Latinos are different from each other. Right and reason are with us historically and as producers of the goods and the wealth of these United States those are our points of unity.

931 NORTH VIGNES ST. OF. # 2
LOS ANGELES, CALIFORNIA 90012
TEL. (213) 628-1929

The Congress, The Senate, The Department of Justice did not do anything when a Mexicano Immigrant worker was murdered in El Paso, Texas by Border Patrol Officers on April 20, 1977.

Alejandro Ramos, another Mexicano was beaten by Border Patrol Officers near San Ysidro, California last year, Ramos died in a hotel room in Tijuana, Baja California.

The exploitation and abuse of Mexicano and Latino immigrants within our justice system can be best exemplified en the case of Jesus Salazar Martinez, a coyote (smuggler or transporter of undocumented immigrants) who was caught in Downey, California on January 21, 1978. Mr. Salazar Martinez was transporting approximately 30 people when he was arrested by Police. This individual was released from Federal Court on a $ 2,500.00 Bail Bond. Many of these immigrants had to stay in jail as witnesses because they lacked the monetary means to be freed.

The abuse, exploitation and degradation of our people in their condition as undocumented persons has contributed to a situation of superexploitation by the employers. the Immigration Service has been used by the employers as a repressive weapon by invading factories and places of employment to break union organizing efforts or when the workers start demanding their rights.

The Department of Immigration maintains officers and a phone number at the Los Angeles County Jail (213- 974-4058). When a person is about to be released from jail after serving time or paying a fine for a traffic violation or a criminal conviction, the inmates are stopped at the release area by the I.N.S. officer on duty at the Los Angeles County Jail.

The great majority of Police Officers in Southern California are excercising duties as I.N.S. officers by inquiring for the immigration status of a person when they stop a vehicle for traffic violations.

The so-called Voluntary Departure alternative given by Immigration is a farce, because is not administered by an impartial Judge or the help of Attorneys it is administered by the same arresting officer.

It is time that the Federal Government guarantee to people who are detained by Immigration the availability of permanent legal counsel before they are interrogated by I.N.S. officers. All Immigration proceedings, deportation hearings and interviews must be in the Spanish Language.

We are oppose to the Carter Immigration Plan because it is also part of the escalate represion against Mexicanos and Latinos. We will oppose any type of voluntary servitude imposed by economic and political systems on immigration workers.

How can our government speak of amnesty or giving people rights when every day across the United States thousand of our people are arrested and deprted by the Immigration service.

(2)

COMITE EN DEFENSA DE TRABAJADORES MEXICANOS
931 NORTH VIGNES ST. OF. # 1
LOS ANGELES, CALIFORNIA 90012
TE.L. (213) 628-1929

We are opposed to the measures taken by Immigration Director Leonel Castillo who is already implementing the use of more border patrol guards, the adquisition of more military and police equipment.

We are opposed to the planned restrictions (which will be in effect at the end of 1978) to prevent workers from obtaining a Social Security Card. The lack of a Social Security Card number will only increase the vulnerability of a worker and he will be easy prey of the employer to work for a lot less wagges. This situation is already accuring in many sweat shops across the country.

It is the duty of the Federal Government to make sure and guarantee that every person, man, woman or child be given medical attention in all County, local and State facilities regardless of their status.

The basic human right for a person to recive medical attention when needed, is been used as a political banner by certain local and state public officials to denny health and medical treatment to undocumented people. But, what competence does a hospital worker have to determine who has immigration papers and who doesn't?

Our proposal on behalf of undocumented workers is that the government grant legal residence status to all the undocumented workers and their families who are now residing in this county.

One does not solve a problem by trying to isolate it or in this case by trying to alienate millions of people. On the contrary all these workers should be given all their rights and previleges which every American is enjoying today, based on their work and contributions to this society. Let us remember that the clothes and shoes that we wear were most likely made by an undocumented worker, at least part of them. The food we eat was probbly picked or cooked by an undocumented worker. It is just impossible to say that Mexicano and Latino workers are not an integral part of the work force in this country.

RESPECTFULLY SUBMITTED
COMITE EN DEFENSA DE TRABAJADORES MEXICANOS.

cc, REP. YVONNE B. BURKE
One Manchester Blvd.
Inglewood, Ca. 90301
(213) 678-5424

Before the Appropriations Subcommittee of the United States House of Representatives on hearings regarding immigration matters to be held in Los Angeles, California on February 24, 1978.

INS procedures and practices in the arrest, detention, release and adjudication of undocumented workers in the United States and their impact on labor and constitutional rights.

Carlos Vellanoweth
Attorney at Law
2040 S. Third Street
Alhambra, California 91803

INS PROCEDURES AND PRACTICES IN THE ARREST, DETENTION, RELEASE AND ADJUDICATION OF UNDOCUMENTED WORKERS IN THE UNITED STATES AND THEIR IMPACT ON LABOR AND CONSTITUTIONAL RIGHTS.

I

The history of immigration laws and regulations as it pertains to the present international border between Mexico and the United States has witnessed an attempt to regulate and control the flow of labor to the United States while at the same time, and for the purpose of, permitting the free flow of U.S. capital south of the border with as little restraints as possible. This has been the case since 1848 when the United States annexed over half of the Mexican territory, and continues to the present day. On the one hand, the federal constitution grants to Congress an inalienable authority to regulate and control immigration under Article 1. The control and regulation of immigration is essentially the restrictions upon the right to travel of human beings, and since historically most immigrants whether legal or not, were and continue to be laborers by reason of their social position in relation to economic production, immigration laws have been engineered to manipulate the maneuverability of human labor power. On the other hand, not until recently has Congress attempted to restrain although in a timid fashion, the free flow, transportatio and exportation of North American capital abroad; and U.S. expansionist policy both in the economic as well as political field has predominated the consciousness of federal legislators throughout the entire development of U.S. capital expansion.

One might ask what does the relationship between labor and capital have to do with our present immigration laws and practices and especially, what does this relationship have to do with the present attempts both by the Administration and Congress in the formulation of new immigration laws and practices as they pertain to the millions of undocumented persons in the United States. Essentially this: every immigration law and procedure codified into law is a result of particular economic conditions pervailing at a certain point in time, and such laws affect the relationship between labor and capital in the United States and in those nation economically dependent upon the United States economy.

We should not be alarmed by interpretations which juxtapose labor and capital on opposite poles, that perceive U.S. economy as based upon the concept of private property where one class of people own production and their means and another class of people who own only their labor power to sell for production purposes. Congressional enactment of the National Labor Relations Act and its subsequent amendments is a clear demonstration that our federal legislators were cognizant of the relationship between owner-employers and laborers, and the necessity for laborers to join labor unions in order to compete adequately with the owners for economic and political benefit.

It is in the area of immigration legislation, where we begin to perceive this relationship vis a vis immigrants from Mexico. In the 1920's Congressional enactment of the quota system specifically excluded Mexican immigrants from the restrictions in order to supply North American agribusiness with an abundant supply of cheap labor. In the 1930's during the period of mass unemployment

1 caused by the Great Depression, over one million undocumented
2 persons were deported while many other U.S. citizens of Mexican
3 descent were repatriated. Alarm was raised in the press that
4 Mexican immigrant workers were partly responsible for the growing
5 unemployment at the time, and these workers became likely targets
6 of rascism and political repression. When World War II produced
7 a shortage of manpower in overall industrial production, the
8 Bracero Program was enacted to reinsure a fresh supply of cheap
9 labor. The Treaty was not abrogated until 1964 as a result of
10 political pressure mounted by the labor movement charging that
11 big business was utilizing braceros to prevent effective union
12 organizing, since braceros were not allowed to join labor unions.
13 Again in 1952 Congressional enactment of the Walter-McCarren
14 Act overriding a presidential veto categorized strict restrictions
15 on immigrants from all over the world. The policy behind such
16 legislation was twofold: first, it was an attempt to prevent
17 labor importation as a means to combat inflation and a recession,
18 and secondly, it served to exclude the Communist "menace" that
19 was "endangering the precepts of American democracy."
20 Two years later, the Administration initiates a campaign
21 "Operation Wetback" thereby restricting the free flow of Mexican
22 labor to the United States.
23 The relationships between the restrictions upon the free flow
24 of Mexican immigrant labor during ecomonic recessions, and a
25 lessening of restrictions during periods of militarization based
26 upon a war economy, are vitally clear.
27 Currently, both the Carter Administration and the U.S. Con-
28 gress have the fundamental task ahead of arriving at a just and

1 realistic solution in regards to the approximately 10 million
2 undocumented workers that reside in the United States. But form-
3 ulas cannot adequately deal with social phenomena such as migratic
4 without a comprehensive and general understanding of a problem
5 that is both complex and international. In this perspective,
6 we must ask ourselves three basic questions:
7 1) Why the present trend of massive migrations from Mexico
8 and what has caused this phenomena?
9 2) Whether or not massive deportations of undocumented
10 persons is an adequate solution to migration and whether the same
11 can achieve in rectifying a stagnant and recession-ridden U.S.
12 economy.
13 3) What realistic solution can Congress present that will
14 serve to guarantee immigrants in the U.S. who are currently und-
15 ocumented constitutional, legal, social, economic and political
16 safeguards that are guaranteed to the rest of the North American
17 population?
18 Only after an adequate analysis and determination of the
19 above questions is Congress then in a position discuss possible
20 solutions. I am of the opinion that undocumented workers cont-
21 ribute profoundly to the economy of the U.S. both as laborers
22 and as consumers. I ask that this subcommittee take into full
23 consideration the written testimony presented by Humberto Camacho,
24 President of Local 1421 of the United Electrical, Radio & Machine
25 Workers of America. His testimony, in a general sense, presents
26 a clear picture of the contradictions between labor and capital
27 as related to the plight of the undocumented workers in the United
28 States.

The following will be an attempt at focusing on two basic problems in which many Congresspersons are not fully aware of: The first is the utilization of the Immigration & Naturalization Service as an official strikebreaker and intermeddler in the attempt by workers to achieve union organization and protection under Section 7 of the National Labor Relations Act. The second problem deals with the gross and repeated violations of constitutional rights by the INS in the arrest, detention and adjudication of undocumented persons.

II THE FACTORY RAID AND ITS EFFECT ON THE LABOR MOVEMENT

Since early 1975, the INS began to change its procedure and method in the manhunt of undocumented persons in the United States. Previously, particularly in the Los Angeles area, INS apprehending officers would conduct raids in predominantly Mexican and Latin American communities in order to question and arrest all persons of Latin appearance suspected of being in the United States in violation of our immigration laws. During the early 1970s, these raids proved effective, many people were uprooted from their dwellings at all hours of the day to be subsequently deported from the U.S. But as a result of repeated protest by Mexican organizations in 1974, the INS officially announced it would cease conducting raids in the communities. Then in 1975 INS changed its tactic and began to conduct raids in factories and work places, particularly in the light industries where Mexican and Latin American labor power predominates. The factory raids proved much more effective in the apprehension of undocumented labor from the INS

1 point of view. The higher concentration of undocumented persons
2 in designated factories than in the communities is demonstrated
3 by the increase in annual deportations of persons by the INS
4 since 1975.

5 In relation to the labor movement, I have personally exper-
6 ienced two set of instances where these factory raids conducted
7 by INS had been used either to defraud undocumented workers
8 in the exercise of their rights already acquired under a collect-
9 ive bargaining contract, or to prevent undocumented workers from
10 exercising their rights under Section 7 of the National Labor
11 Relations Act.

12 A. FACTORY RAID AT TECHNIBILT CORPORATION IN BURBANK, CALIF.

13 On November 12, 1976, approximately 29 employees of Tech-
14 nibilt Corporation in Burbank, California, all dues paying members
15 of a certain Teamster local, were arrested by officers of the INS
16 after a factory raid had been conducted on the premises at the
17 plant. That morning these officers approached the plant and
18 requested permission to enter the plant. Consent was granted
19 by the employer. After the raid, on November 23, 1976, Joseph
20 Sureck, District Director of INS sent a letter (See Exhibit A)
21 to the president of Technibilt. Essentially, the letter stated
22 that the employer was precluded from rehiring these 29 employees
23 arguing that Section 2805 of the Cal. Labor Code provided penaltie
24 for employers who knowingly hired undocumented workers. What
25 the District Director never mentioned in his letter, was that
26 Section 2805 is not enforcible in the State of California. In
27 a letter by the Director of the Department of Industrial Relat-
28 ions, (See Exhibit B) the only agency empowered to enforce Section

1 2805, he states that his agency is precluded from enforcing
2 said section by reason of a state court injunction. Thus, neither
3 federal or state law exists to penalize an employer for knowingly
4 hiring or rehiring undocumented workers. In Sureck's letter
5 he attached a list (See Exhibit A1) of all the employees apprehended by INS informing the employer not to hire these individuals.
7 All 29 employees returned to Technibilt by the 14th of
8 November and requested their jobs back. Many of them had accum-
9 ulated years of seniority. The employer, showed the employees
10 the letter by Mr. Sureck and informed them that he was precluded
11 from rehiring them by virtue of Section 2805.
12 The employees retained my assistance, and with the help of
13 the Teamster local, we attempted to persuade the employer to
14 no avail that Section 2805 was unenforcible and that by refusing
15 to rehire them the employer was in fact violating the seniority
16 clause and the dismissal clause of the collective agreement.
17 We finally took the case to arbitration and successfully got
18 all the 29 employees back on the job without a loss in their
19 seniority. It was obvious to the arbitrator that the employer
20 discharged these workers without just cause.
21 The Technibilt experience is not the only experience. We
22 have encountered numerous experiences where the INS instructs
23 employers after a factory raid not to rehire these workers lest
24 they be penalized by an unenforcible code section. In fact,
25 this practice by INS goes beyond the limits of proper immigration
26 conduct and constitutes a conscious attempt to defraud workers
27 of their rights acquired by virtue of a collective bargaining
28 agreement. In the instances where the workers are without the

1 benefits of union protection, this INS practice has prevented
2 even potentially documentable workers from continuing in their
3 employment.
4 B. FACTORY RAID AT CUSTOM PLATING CO. IN LOS ANGELES, CALIF.
5 Since March of 1977, the employees of Custom Plating Co.
6 were involved in a vigorous campaign to obtain union represent-
7 ation for the first time. They affiliated with a Longshoremen's
8 local and on May 20, 1977, the employees and union achieved a
9 victory in an NLRB sponsored election. Due to various circum-
10 stances, among them the firing of key organizing employees by
11 the employer, the union accepted to conduct new elections with
12 the Company and to discard the previous ones. The new elections
13 for union representation were set for September 28, 1977. Dur-
14 ing the entire campaign, the employer had utilized various dec-
15 eptive tactics to prevent the employees from voting for the union.
16 One of the repeated tactics, was to threaten the employees that
17 the Company would notify the INS if they continued in their attem
18 to solicit unionization of the plant. On September 7, 1977,
19 the employer kept his word. He notified INS (who was fully aware
20 of the unionizing campaign), and INS raided the factory arresting
21 and summarily deporting 60% of the work force elegible to vote
22 in the upcoming elections. When many of these employees returned
23 to Custom Plating, the Company had told them that they could not
24 be rehired lest the Company would be penalized under Section 2805
25 On September 28, 1977 elections were held without the presence
26 of many of the deported elegible employees. The union was defeat
27 C. FACTORY RAID AT HIGH TIDE IN LOS ANGELES, CALIF.
28 In 1975, the employees of High Tide in Los Angeles were on

1 strike for union recognition. During the strike, the employer
2 hired many undocumented workers. Incidently, 99% of the striking
3 employees were undocumented or potentially documentable. Erron-
4 eously, the union called INS to assist the union by arresting
5 the hired replacements. One of the union officials informed
6 me that INS would not raid the factory to assist the union be-
7 cause it would cost INS too much time, money and effort. A week
8 later, as a result of a conversation with one of the striking
9 employees, I was informed that the INS had arrested all of the
10 striking employees and did not make the attempt to enter the
11 factory to arrest the replacements. This same employee concluded
12 that it was the company who called the INS to arrest the strikers
13 in order to prevent unionization of the plant. The plant was not
14 unionized.

15 These three examples, and particularly the last two, demon-
16 strate without a doubt that in labor related instances, the INS
17 utilizes its service paid through by taxpaying dollars to prevent
18 a class of workers from achieving basic protection under Section
19 7 of the National Labor Relations Act. There appears to be a
20 contradiction in national policy. From one perspective, it has
21 been congressional policy since 1935 that it is in the best econ-
22 omic interest to protect the rights of employees in the exercise
23 of their attempts in achieving union protection and collective
24 economic benefit. But on the other hand, it is also de facto
25 national policy to prevent undocumented or potentially documentabl
26 workers from achieving those same rights that are guaranteed to
27 permanent residents and citizens in the area of labor relations.
28 I say de facto, because there has been no attempt made by the fed-

1 eral government to either concern itself or investigate the pre-
2 sent practices by the INS in the area of labor-management relatior
3 Just as in 1974, when the Mexican and Latin American commun-
4 ities were successful in stopping the discriminatory and unconst-
5 itutional raids in the communities, it is time for Congress to
6 take cognizance of the fact the the INS factory raids infringes
7 upon the rights of workers, whether documented or not, from
8 effectuating our national labor relations policy. By stopping
9 the factory raids, a democratic society can be insured that its
10 governmental agencies are not acting as conspirators in the
11 violation of the our labor laws, and can guarantee to Mexican
12 and Latin American workers, whether documented or not, the same
13 degree of protection guaranteed to other workers in the exercise
14 of their rights under the National Labor Relations Act.
15 D. THE RODINO BILL LEGISLATION IS NO SOLUTION.
16 Experience proves that massive deportations is incapable
17 of preventing the continued and uninterrupted migration of undoc-
18 umented labor to the United States. Whether the U.S. further
19 militarizes the border or steps up massive deportations which
20 already surpass one million per year, unemployed masses will not
21 be detered from seeking a better way of life. When work is the
22 goal, new means of undetected entry into the U.S. will be achieve
23 This has been the history of our immigration experience. Police
24 measures are never adequate solutions to alleviating social and
25 economic problems. These police measures only guarantee more
26 repression to the victims of economic poverty, and at the same
27 time, bring into critical question the validity of our constitut-
28 ional framework. The crucial question that our congressional

1 leaders must ask themselves is whether or not the solutions they
2 offer to the people will uphold the precepts of our national
3 labor policy and our federal constitution, or will they, by
4 creating a class of second-degree citizens, degenerate the const-
5 itution and labor policy and create a legal framework equal in
6 scope and content to an aparthied South Africa or a Nazi Germany?
7 The AFL-CIO Executive Council position (See Exhibit C)
8 calling for harsher Rodino-type legislation by preventing the
9 employment of undocumented or potentially documentable persons
10 in the U.S. is a divisive policy which divides the labor movement
11 instead of protecting it from the tactics of employers. The
12 policy of the United Farm Workers of America AFL-CIO, is more
13 humane and realistic in their position for unconditional amnesty
14 for all undocumented workers and their families. This position
15 insures the safeguard of our labor policy and constitutional
16 framework while the former is anti-labor, anti-immigrant remin-
17 iscent of fascist type legislation.
18 Only a complete unconditional amnesty with all labor, social
19 political and economic rights guaranteed can insure an economic
20 growth while at the same time preserving democracy. The solution
21 of unconditional amnesty is realistic as well as just because
22 its policy realizes the fact that U.S. transnational corporations
23 and U.S. expansionist policy are completely responsible for the
24 massive migration of unemployed to the U.S. in recent years.
25 It also recognizes that undocumented and potentially documented
26 workers actually contribute to the economy by their labor, inc-
27 reasing production in key areas of the economy such as agribusines
28 and light industry. They also contribute as consumers, millions

of consumers, who daily purchase many products thereby creating a vast market for many commercial employers and companies. By absorbing the undocumented workers and their families, the U.S. economy will insure greater economic growth. The myth that undocumented persons take away jobs from U.S. citizens is increasingly becoming detected as a fraud in an attempt to create police gestapo solutions to social and economic problems. The U.S., if it ever was to achieve a massive deportation without continued migration (although completely unrealistic), the Mexican economy would suffer worse from an already 50% unemployment due to U.S. investment policies which create superprofits and not labor intensive jobs.

Thus unconditional amnesty with full labor rights guaranteed is a solution which Congress must seriously consider.

III THE FACTORY RAID AND ITS EFFECT ON CONSTITUTIONAL RIGHTS

The area of arrest, detention, release and adjudication of undocumented workers is probably the least known area of immigration law and procedure than any other area of the immigration area. What I will outline is a brief description of INS practice in this area in which I have had personal experience in interviewing and defending hundreds of undocumented persons before deportation hearings.

A. THE ARREST

As previously stated, virtually all arrests except for a few exceptions result from INS factory raids. Practically 90% of all INS employees are involved in the police-prosecutorial

aspect of immigration practice, while only a mere 10% of these employees are actually involved in service-oriented work, that is, processing visa petitions for permanent residency and citizenship.

INS officers obtain information about potential factories employing suspected undocumented persons through employers themselves, tips, or previous experience. Factory raids are usually conducted in the early morning hours between 8:00 A.M. and 11:30 A.M. In places that employ upwords of 100 to 150 workers, INS will send anywhere from 10 to 20 officers and about 2 to four vans. They will usually ask permission to enter. The employer will usually consent. INS officers will enter the factory and approach either workers individually at their work location or will enter a department and ask the workers to form a single line. In both cases they will begin questioning the workers whether or not they have "papers" or whether they are in the country legally. In some instances, where the work force is multi-racial, the INS officers will only question those of Latin appearance and will not question anglo workers or black workers. Do these officers have any previous information or do they have any reason to believe that the workers they question are undocumented? No. They have obtained no information which would suspect the persons interrogated to be undocumented. According to Title 8 U.S.C. Section 1357, an apprehending officer must have reason to believe that the person in question is in the U.S. in violation of the law. Subsequent cases have determined that "reason to believe" is the same as probable cause under the

1 4th Amendment to the U.S. Constitution and the 4th Amendment
2 requirements for probable cause means that the arresting officer
3 without a warrant must have reason to suspect on the basis of
4 specific, articulable facts and reasonable inferences drawn there-
5 from that a person is an alien illegally in the country before
6 the agent may stop and interrogate that person pursuant to auth-
7 ority of 1357(a)(1). (See Illinois Migrant Council v. Pilloid,
8 398 F.Supp. 882 (N.D. Ill. 1975), aff'd 540 F2d 1062 (7th Cir.1976)
9 Therefore, the only basis for questioning the worker is
10 because of his/her Latin or Mexican appearance. And on this basis,
11 thousands of persons are interrogated and arrested to be sub-
12 sequently deported from the United States. This is the first
13 violation of constitutional rights in the arrest stage.
14 B. FIRST INTERROGATION
15 After the arrest, the person is taken to an INS van parked
16 outside of the factory. In the van, the person is asked 1) whether
17 he/she is a citizen of the U.S., 2) from what country the person
18 is a citizen of, 3) when and where the person entered the U.S.,
19 and 4) how the person entered the U.S. This information is written
20 on Apprehending Officer's Form WR-424. During cross-examination
21 of these officers at subsequent deportation hearings, every officer
22 has testified that he had not previously advised the person of
23 his/her Miranda rights under the 5th Amendment, and in fact, almost
24 all have stated that they are not required to advise these persons
25 of their Miranda rights.
26 Nevertheless, according to the
27 Code of Federal Regulations Section 287.3 (the rules and procedures
28 that govern the practices of immigration officers) all immigration

are required to inform persons of their Miranda warnings before conducting any interrogations. The importance of Miranda warnings at this stage of the proceedings is that if the person answers the four questions posed to him/her, he/she admits deportability from the U.S. And these admissions under custodial interrogation are sufficient to prove deportability and deport the person from the country.

C. DETENTION AND SECOND INTERROGATION

Once the above information is obtained, the person is transported to the detention facilities at INS where they are re-interrogated by a different INS officer. The officer will first question the person as to the same questions posed in the first interrogation and will type this information on Record of Deportable Alien Form I-213. After the interrogation the INS officer will hand the person Form I-214 which basically advises the person of his/her Miranda rights to remain silent and that he/she is not required to answer any questions. At this stage of the proceeding, Form I-214 is useless since since the person answered all incriminating questions prior to ever being warned of his/her right to remain silent.

At this stage, the officer will then ask the person whether he/she wishes to sign voluntary departure to leave the country or whether he/she wishes to have a deportation hearing. The entire process is cloaked with an air of intimidation, at times the INS will threaten the person with excessive bail if he/she does not sign voluntary departure and insists upon a deportation hearing. This is circumstantially evidenced by the fact that only 10% of all persons arrested and interrogated by INS ever have a dep-

ortation hearing in their case while 90% sign voluntary departure to leave the country. This is crucial, since many people who sign voluntary departure by doing so give up many equities in the United States.

D. RELEASE AND ADJUDICATION

Once they are release for a deportation hearing, many are released on bail in the amount of $2,000. Bail in some instances is around $5,000.

At the hearing, defense counsel is virtually prevented from vindicating the constitutional rights of those persons detained and interrogated in violation of the law. It is common practice and law in criminal courts as well as in other administrative court hearings to allow for the suppression of evidence that is obtained illegally in violation of the 4th and 5th Amendments to the Constitution. Nevertheless, in deportation hearings the Board of Immigration Appeals and some Federal Circuit Court of Appeals have ruled that the failure of INS to inform undocumented persons of their Miranda rights prior to interrogation, as well as arrests in violation of the 4th Amendment, and the evidence obtained in violation thereof, is not suppressable in a deportation hearing. Thus evidence otherwise unconstitutionally inadmissable in criminal as well as certain administrative hearings is nevertheless admissible in deportation hearings. The rationale used by the courts is that these violations can continue without restraint since a deportation proceeding is civil rather than criminal in nature.

The purpose of Miranda warnings is to prevent police miscond-

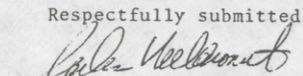
uct by suppressing evidence illegally obtained by the police as a method of detering such police misconduct. What is there to deter immigration police misconduct if the courts will not respect the constitutional rights of undocumented persons when they are arrested and interrogated in violation of the law?

If the courts cannot or refuse to respect the rights of undocumented workers, then it is the duty of our federal legislators to do so. Legislation which demands our INS officers to comply with the constitution is a proper safeguard which is urgently needed if this country is to abide by its constitutional democratic principle of equality and justice before the law.

Hopefully, this presentation will shed some light on the everyday practices and procedures conducted by the INS and will serve to advise Congress to take steps to insure the constitutional applicability to millions of persons who are ostricized from the mainstream of society merely because they are unable to produce the proper documentation to prove their right to live and work in this country which had forced them to come here in the first place.

DATED: FEBRUARY 17, 1978

Respectfully submitted,



Carlos Vellanoweth
Attorney at Law
2040 S. Third Street
Alhambra, Ca. 91803
(213) 572-8993

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
300 NORTH LOS ANGELES STREET
LOS ANGELES, CALIFORNIA 90012

November 23, 1976

TECNIBILT CORPORATION
1 West Alameda
Burbank, California 91502

Attn: Mr. N. Piano

Dear Mr. Piano:

On November 12, 1976 , officers of the United States Immigration and Naturalization Service during a survey conducted at your place of business, 1 West Alameda, Burbank, California arrested 29 persons who were determined to be aliens illegally in the United States.

This Service operates under a mandate from Congress to locate and remove illegal aliens from the United States. I regret that the arrest of these illegal aliens may have caused any disruption in the normal operation of your business.

I wish to take this opportunity to advise you that Section 2805 of the State of California Labor Code can provide penalties to an employer who knowingly hires an alien who is not entitled to lawful residence in the United States. A person found guilty of violating the provisions of this law is punishable by a fine. In view of the provisions of this law, I am attaching a list of the persons employed by you whom this Service has identified as aliens illegally in the United States.

I would like to encourage you to only employ persons who are in the United States legally. Officers of this Service are available to assist you or your staff in determining if aliens, whom you intend to employ, or who are now in your employ, are authorized to work in the United States.

If you are interested in having any of my officers instruct your personnel managers or other supervisors how to determine if aliens are authorized to work in this country, please telephone my Assistant District Director for Investigations, Mr. Philip H. Smith at (213) 688-2826, who will be happy to schedule an appointment to discuss the matter.

Sincerely,

Joseph Sureck
District Director

Exhibit A

November 12, 1976

TECHNIBILT CORPORATION
1 West Alameda
Burbank, California

	Name	Place of Birth	Date of Birth	Social Security
1.	REYES-Sepulveda, Ruben	Mexico	10/24/44	None
2.	OLIVAS-Dominguez, Leopoldo	"	6/22/30	None
3.	CASILLAS-Placencia, Miguel	"	8/05/52	None
4.	SALDANA-Davila, Guillermo	"	7/11/45	None
5.	MARTINEZ-Marquez, Lucio	"	7/06/47	None
6.	GARCIA-Castaneda, Francisco	"	8/21/37	None
7.	GLASCANO, Eduardo	"	5/30/23	None
8.	PEREZ-Aguirre, Juan	"	8/05/33	None
9.	CONTRERAS-Ibarra, Jose	"	3/31/51	None
10.	ORTIZ-Madrigal, Eduardo	"	11/28/48	None
11.	SERRANO-Villagrana, Jose	"	8/06/48	None
12.	LARA-Sotelo, Salvador	"	1/14/34	None
13.	RAMOS-Rauelas, Jorge	"	4/22/56	None
14.	SALAZAR-Mendoza, Claudio	"	10/30/42	None
15.	AVILA-Sandoval, Refugio	"	7/03/55	[redacted]
16.	DAVILA-Ruiz, Juan	"	5/16/50	None
17.	OSUNA-Zamora, Francisco	"	12/03/36	None
18.	ENRIQUEZ-Aguallo, Ramon	"	8/30/54	Unk
19.	GOMEZ-Zamora, Alberto	"	9/09/49	None
20.	GALVEZ-Rigoza, Antonio	"	?/?/30	None
21.	PEREZ-Medrano, Roberto	"	9/11/50	[redacted] OSC/[illegible]
22.	BARRETO-Gudino, Rafael	"	10/24/44	[redacted] OSC/[illegible]
23.	VILJAPUDO-Sanchez, Erasmo	"	6/18/30	None
24.	PARAJAS-Sanchez, Daniel	"	8/23/51	None
25.	ARO-Marquez, Eliasar	"	10/14/49	Unk
26.	PENA-Ayala, Geronimo	"	3/24/54	None
27.	VELASCO-Salcedo, Alfonso	"	5/27/55	None
28.	GUDINO-Ramos, Librado	"	2/13/40	None
29.	VILLALAS-Ramirez, Jose	"	10/16/37	None

DEPARTMENT OF INDUSTRIAL RELATIONS
455 GOLDEN GATE AVENUE
SAN FRANCISCO 94102

ADDRESS REPLY TO:
P.O. Box 603
San Francisco 94101

May 11, 1976

Robert L. Miller, Esq.
Miller & Miller
Attorneys at Law
1930 Wilshire Blvd. #209
Los Angeles, Calif. 90057

Re: Labor Code § 2805

Dear Mr. Miller:

My legal staff has advised me that the U. S. Supreme Court in DeCanas v. Bica determined that the States have the right to legislate in the regulation of employment of illegal aliens provided that such legislation does not run counter to the Federal scheme and meets other tests of constitutionality.

The decision requires the California Appellate Court to answer the question as to whether Labor Code § 2805 and the rules and regulations promulgated (Title 8 Administrative Code) are in conflict with Federal law.

The Division of Labor Standards Enforcement, the Division charged with the enforcement of said Section, has been permanently enjoined since 1972 from enforcing said Section. Dolores Canning Co. v. Howard, 40 C.A.3d 675. The U. S. Supreme Court decision does not disturb the injunction. We are awaiting further clarification from the courts.

Until such clarification and final court determination, we are not making procedural plans for enforcement of the Section.

Very truly yours,

Donald Vial

DONALD VIAL
Director

EXHIBIT B

Statement by the AFL-CIO Executive Council

on

Illegal Aliens

August 29, 1977
Washington, D.C.

The massive flow of illegal aliens into the United States is a serious problem. Illegal alien workers -- estimated at 6 to 12 million -- take jobs from Americans and undermine U.S. wages and working conditions.

Their status puts them at the mercy of unscrupulous employers who rely on their fear of deportation to keep them from protesting low wages and intolerable working conditions. Businesses which comply with the law suffer from the unfair advantage taken by competitors who exploit illegal alien workers.

The presence of illegal aliens puts extra burdens on government services at all levels, drains tax revenues and creates major law enforcement problems. For a society that prides itself on humanitarianism, the exploitation of illegal aliens creates immeasurable social problems. President Carter's proposals to deal with the problems of illegal aliens are constructive, as well as compassionate. The proposals aim in the right direction.

However, the President's proposals for penalizing the unscrupulous employers of illegal aliens are much too weak. A $1,000 civil fine is a mere slap on the wrist. Under the President's proposal, criminal sanctions would be applied only after an employer violates an injunction against a "pattern or practice" of hiring illegal aliens. We believe the responsibility for compliance should be clearly and directly on the employer with realistic penalities for violations and injunctions to stop continued violations.

This is a key issue because it is the lure of a job that brings most illegal immigrants into the United States. In some cases illegal immigration is actively encouraged or assisted by employers and by their labor-broker-smuggler agents. To stop the flow it is essential to cut off the job lure.

A general identification system, based upon the social security number, is indispensible for the program to have a chance of success. While there are potential dangers in this requirement, for most citizens today such a card and number is essential for a license to drive an automobile, to pay taxes and to hold a job. Two fundamental safe-guards are essential in a free society: The requirement that no person eligible under law be denied a card and that no card should ever be revoked once issued according to law. The dollar outlays of installing such a system are small compared to the costs of not beginning to treat systematically with this key problem.

UNITED FARM WORKERS of AMERICA AFL-CIO
National Headquarters: La Paz, Keene, California 93531
(805) 822-5571

SECOND CONSTITUTIONAL CONVENTION

Resolution 16

SUPPORT OF AMNESTY FOR ILLEGAL WORKERS

Submitted by National Executive Board

WHEREAS, America is a land of immigrants, built with the sweat and toil of foreign born peoples from every part of the world, and

WHEREAS, the history of American agriculture has been marked by a ruthless exploitation of immigrant workers by the masters of agribusiness, and

WHEREAS, unscrupulous employers have used illegals to defeat farm worker strikes and have pitted brothers against brothers and sisters against sisters, and

WHEREAS, illegal workers often suffer more at the hands of the growers than legal residents, and

WHEREAS, the United Farm Workers of America, AFL-CIO is dedicated to liberating all farm workers who suffer regardless of color, creed, ethnic origin, religion or residence status,

NOW THEREFORE BE IT RESOLVED by the membership of the United Farm Workers of America, AFL-CIO, sitting in convention in Fresno, California, that this organization urges the enactment of legislation granting amnesty to all illegal workers, and

BE IT FURTHER RESOLVED that if growers can bring illegal workers to this country for the purpose of exploiting them, then we can organize illegal workers to liberate them.

Viva la Causa! Viva la Huelga!

DR. JOSEPH GONNERS
UNIVERSITY OF CALIFORNIA
AT SAN DIEGO
LA JOLLA, CALIFORNIA

The Problem of the Undocumented Worker:

A View from the United States

For the average citizen of the U.S., the problem of the undocumented worker--and all its human, economic and political consequences--will likely be even more important in 1978 than it was during the past year. For several reasons, Congressional debate on the subject, scheduled for late February or early March, will suffer from pressures tending on the one hand to limit analysis of the real issues, and on the other to magnify the chauvinist element in the discussion.

For one thing 1978 is an election year, a fact which traditionally renders elected congressmen especially fearful of being seen in their home districts as anything less than patriotic. For another, the Panama Canal issue, now the subject of what will be weeks of public congressional debate, promises to exacerbate the insecurities of those citizens and officials who hold that our policy in Latin America should be rooted in the Monroe doctrine and the Big Stick. Further, the imminent discussion on the concrete proposals comprising the Carter Plan (dealing with undocumented workers) will be taking place against a national backdrop of continuing economic crisis, with unemployment being a major factor. On the other hand, a counter current to these rather negative tendencies is the increasing awareness of Mexican Americans that this issue is of vital importance to their own destinies.

I

In order to avoid the trap of immediacy into which many discussants of this issue have fallen-- including President Carter and Ambassador Hugo Margáin-- it is useful to see the issue on two levels. The surface level is important because it involves ideology, politics and tactics. It is complex, constantly shifting in emphasis, and always dramatic. But equally indispensable is the sub-surface level, bringing into play considerations of history, of long range strategies and of social and economic theory.

With regard to the ideological discussion on the surface, there has been a year-long bombardment of the American consciousness by all the major institutional sources of ideological messages-- the news media have highlighted again and again stories of the "silent invasion," have headlined the coming of "hordes" of Mexicans. The federal government, through the Immigration and Nationalization Service (I.N.S.), has issued statistics month after month concerning arrests and deportations, consistently linking its admittedly inaccurate estimates of illegal residents in the U.S. with figures for unemployment. City and county health authorities throughout the Southwest have on the one hand restricted social and health services to undocumented families, while on the other they kept up a constant public lament concerning the drain on local funding created by the theoretical democratic obligation to deliver health services to all, regardless of citizenship or immigration

status. Police authorities, especially in Los Angeles, have laid the blame for increased crimes of violence on the presence of undocumented workers, just as public health officials found the same explanation for the increase in measles and other contagious diseases. The comic strip, "Dondi" in the Chicago Tribune, which introduced the undocumented family into its daily anecdote during the month of November, 1977, stressed the pitiful conditions in which the Mexicans lived, victimized by the coyotes who brought them, but inevitably breaking the law. Sadly but necessarily, the law finally triumphed and the readers of the Chicago newspaper could take comfort in the solidity of the American system. On November 20th, the Mexicans were deported from the comic strip.

Innumerable examples of ideological bombardment could be given, but more important is to analyze the message and the specific target. The most prominent stress is on the notion that undocumented workers take jobs from qualified American workers, thereby contributing to higher unemployment. The target of this message is the American worker, both employed and unemployed, and the organized labor movement, the leadership of which has its own private reasons for welcoming anti-Mexican messages. (This ignores the studies showing that most undocumented workers hold jobs which American workers are unwilling to fill. It further discards the economists' data on social cost of training workers. Before an American worker enters the job market, society must pay some $40,000 (U.S.) to educate and train him. American society, naturally, pays nothing for Mexican workers, whose preparation is financed by Mexican society).

A second ideological message is directed at the taxpayer, especially the large homeowning sector of the American middle class. It purports to show that undocumented non-citizens, living outside the law, are recipients of social benefits--welfare, education, health services, disability payments-- which means that the undocumented worker is a social burden, who causes higher taxes. (Ignored are many studies such as the one carried out by the County of San Diego, showing that undocumented workers paid $48,000,000 in taxes one year, and in return received $2,000,000 in social benefits).

Another message encoded in the media coverage of undocumented workers is aimed at the law-abiding citizen with faith in the American system. Its basic text is that by entering and existing outside the law, the undocumented worker is tearing at the hallowed American fabric of law and order, thus helping to undermine confidence in American institutions at a time when the American system stands as a shining model for a world suffering from economic, social and political disorder. The logic implied by this message is to strengthen the machinery and the resources of the law enforcement authorities, particularly the Immigration and Naturalization Service (I.N.S.). Needless to say, this message overlooks the fact that Congress has reduced legal channels of immigration. Further, it fails to heed the lessons of Vietnam: that the application of force, no matter how sophisticated the theory of behavior modification which underlies it, cannot alone determine a people's social behavior.

A related implicit message, addressed to the white Anglo-Saxon citizenry, is never made explicit, except by the Ku Klux Klan. It involves the issues of race, more often addressed subtly, by means of photograph or the stereotypes associated with dark-skinned Mexicans. Simply put, it is that the influx of undocumented workers and families is upsetting the racial balance. Much publicity, for example, has been given to studies showing that within a decade California will be a "third world state." In the spectrum of the minority groups in California which together will become the majority, the largest and the fastest growing is the category of Mexican and Mexican-descended. Needless to say this message of racial fear goes counter to all democratic traditions of racial equality which can be located in the Constitution and the officially proclaimed policy of the executive and legislative leadership of the United States.

A final feature of the overall ideological bombardment is that of isolating and fragmenting the message. What is not said is as important as what is overtly or indirectly stressed. Thus the media inform the American public of the undocumented worker in a manner which separates the message from other major issues in U.S.-Mexico relations: natural gas, oil, loans, investment, foreign alignments.

The political alignment of forces in response to the immediate focus of debate, the Carter plan, involves unexpected alliances. Grosso modo, two powerful groupings can be identified. The first and more powerful grouping speaks for 1) transnational corporations and large agri-business groupings which increasingly invest in capital-intensive high technology forms of production and no longer need a constantly growing, unlimited pool of unskilled or semi-skilled labor. The present pool satisfies their needs. Rather

these corporations are more interested in suppressing competition from smaller factories or agricultural producers which can survive by paying sub-standard wages to an impermanent and unprotected work force. 2) the leadership of organized labor which, by explaining the problem of the working class as one of excessive and illegal competition from foreign workers, can in effect maintain divisions among its constituency and thus avoid having to confront corporate interests with genuine demands for economic and social vindication. 3) "liberal" groups who see population control as the answer to the nation's problems, ignoring both the issues of distribution of wealth and relations with other nations. 4) protectionist politicians who thrive on the rhetoric of a narrowly defined patriotism, which they see as threatened by people of the Third World. 5) some segments of the Catholic hierarchy who feel that the supposed amnesty features of the Carter plan represent a merciful advance, and who are prepared to receive federal funds to administer, in cooperation with the Immigration and Naturalization Service, limited services to those few Mexicans who may receive amnensty. 6) economic liberals, proponents of the policy of "development," who understand that the problem is one of unemployment in Mexico, and who see in the Carter plan the possibility of increasing what they deem to be the necessary role played in the Mexican economy by foreign capital sources ranging from the U.S. government, U.S. and foreign financial consortia, and lending institutions such as the International Monetary Fund.

In general it is this group, whose main representative is Secretary of Labor Marshall, which has authored the Carter program. But they have had to listen to powerful opposing voices speaking for traditional agricultural interests (which depend less on mechanization) and for businesses which rely heavily on cheap labor for production of either goods or services. Thus Senator Hayakawa and former Secretary

of Agriculture Earl Butz propose revival of the bracero program of the 1950's, and Senator Eastland speaks of exempting agricultural employers from any new version of the Rodino Bill. And a new, more sophisticated "guest worker" plan, designed to eliminate the flagrant abuses of bracero programs, is proposed by Prof. Wayne Cornelius with the assurance that "guest workers" would fill the need of the "free market" for labor, and would tend largely to stay only for short periods. Finally, it is clear that Attorney General Bell and I.N.S. Director Castillo are offering the concession to this group that individual cases, such as the farmers of Presidio, Texas, will be given sympathetic hearings and allowed in special situations to import large numbers of Mexican braceros for limited periods of time.

No discussion of the alignment of political forces can be complete without accounting for the disposition and the level of consciousness of the Mexican-descended sector of U.S. population, along with its allies. Best available estimates indicate that present Mexican-American population is in the range of 10-12 million. (Calculations of how many undocumented Mexicans are presently in the U.S. are even more speculative, ranging from 4 to 10 millions).

What must be emphasized is that public discussion of the issue of undocumented workers has not been characterized merely by a one-way media bombardment. Rather, there has been a two-way process of action and reaction. In general the majority of Chicanos and the majority of their organizations, including moderate, culturally nationalist and left wing oriented groups have expressed solidarity with Mexican workers. In specific terms they have recognized that repression against Mexicans, whether in the form of street raids and deportations in East Los Angeles or legislation penalizing employers

who hire undocumented workers, inevitably is applied against Chicanos. So there has been a clear recognition of identity of interests, and of a shared threat.

Several specific forms of tactical response are worth reporting in order to document this recognition. In the first place the changed situation of the United Farm Workers, (UFW) led by César Chávez, has highlighted the role of undocumented workers. Since the withdrawal in early 1977 of the rival Teamsters Union, the UFW has been able to concentrate, under terms of the Agricultural Labor Relations Act of California, on two objectives: first, the winning of elections, provided by law, to determine union recognition; secondly, on ranches where elections are won, organizing the workers to pressure for a formal contract. In both these endeavors the UFW had many successes in California during the last year, winning elections on 164 ranches, and negotiating 88 formal contracts covering 25,000 workers. These victories are based upon the support of all farmworkers, regardless of citizenship. Since the law does not require that a regular farmworker present his or her documentation in order to vote, undocumented workers in large numbers have given their support for the Union. The position of Chávez, in his own words, "We look at workers as workers, not at their nationalities."

A further example of farmworker militancy and solidarity between Mexican and Chicano came in Arizona in October and November, 1977. On the huge ranch of Goldmar, Inc., (of which the Goldwater family are part owners), near Phoenix, Arizona, some 200 migrant workers (many or most of them undocumented) went on strike. Within a day raids were conducted by the I.N.S. and the county sheriff, resulting in arrests and deportations. However, with local Chicano support, court rulings were won declaring the strike legal, thus preventing the I.N.S. from further intrusion. After

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one month the strike was won, with a 25% wage increase and other guarantees. In U.S. labor history this is the first successful strike by a workforce of undocumented workers. César Chávez visited the area on November 2nd, encouraging the strikers and other workers. On January 6, 1978, a second such strike was won at Bodine's Pleasant Valley Ranch in El Mirage, Arizona, again involving more than 250 undocumented workers supported by local Chicano community leaders. At this writing some 2,500 workers, seeing that gains could be made, are on strike in the same area, with the support of the UFW. Of these 2,500, some 25% are estimated to be undocumented.

Community movements protesting deportations and opposing the Carter plan have sprung up throughout the Southwest. In Los Angeles in August, 1977, a rally of some 1,500 people expressed its opposition to the ongoing deportations being carried out by the INS. In San Diego, California, in October, some 2,000 people conducted a peaceful march to the Border, protesting the policies of the INS and the presence of the Ku Klux Klan. And in San Antonio, Texas in late October, 2,500 people from the Southwest and the Midwest came together, despite obvious political differences, to launch a national movement of opposition to the Carter plan. However this movement has been slow in taking shape and in recovering the ground lost since the political thrusts of the Chicano movement of the late 1960's.

II

These, then, are some of the essential characteristics of the national discussion presently unfolding. To see them in proper focus, it is useful to account for key elements of background as well as context. Taken together they constitute what I have referred to as sub-surface.

For one thing it is important to examine American history of the 19th and 20th centuries for the record of the U.S. government and the groups in power in dealing with minority sectors during moments of economic conflict of

interest. Much new research and many new insights have been generated by the social upheavals of the US in the 1960's. One result has been the demise of the myth of the "melting pot"-- the idea of one American nationality forged from the many contributing ethnic elements each of which contributed immigrants to be absorbed into a supposed unitary culture. Minority history in the US shows that dark skinned groups--Black, Chinese, Native American, Japanese, Mexican, Puerto Rican and others--have been systematically excluded, that racism has basically coincided with economic exploitation, and that a strategy of removal, relocation or deportation has been deployed in systematic fashion throughout the history of the US. The following are merely representative examples from among many, many others which could be cited. I assume that the contours of slavery and the slavetrade in the U.S., involving the most massive forced relocations of all, are familiar to the reader.

1) In 1838 the entire Cherokee nation was forcibly removed from the state of Georgia and relocated in Oklahoma. By the 1880's, under pressure from railroads, banks, and settler interests, a new treaty was imposed upon the Cherokees, whereby 2,000,000 acres of the land on which they had been relocated (belonging to the Cherokees, Creeks and Seminoles) were turned over to settlers, with railroad rights duly protected, for the sum of $2 per acre, most of which never reached Indian hands.

2) Three years after the gold rush of 1848 in California a tax was levied against foreign miners (principally Chinese and Mexican). Fixed at $20 per month it imposed both a real hardship and a symbolic threat, since in many cases, the tax was collected by mob action. The effect was to drive Chinese and Mexicans out of gold mining, and to force the Chinese to

relocate, largely in San Francisco. There the racist laws and practices pertaining to labor restricted them from holding jobs in the construction industry and other skilled trades. Only marginal areas of employment, such as cigar-making and laundry, were allowed to the Chinese.

3) On March 21, 1942, just 3 months after the entry of the US into World War II, President Franklin D. Roosevelt signed an Executive Order providing for relocation of Americans of Japanese descent living on the West Coast. Of the 120,000 such citizens, 112,000 were uprooted and forcibly removed to 11 camps in six states, where they were forcibly held until the end of the war. A large proportion of relocated families lost their land and their businesses. Property losses were fixed at approximately $400,000,000.

4) In 1930 and again in 1954 the U.S. Government launched coordinated, officially sanctioned plans to remove (deport) as many undocumented Mexicans as possible. Each of these years was a time of depression, and in each case the "repatriations" were applied to Mexicans whose entry into the US to fill the need for cheap labor had been tolerated rather than opposed. Figures are inaccurate for 1930, but it has been verified that the massive deportations of 1954 expelled more that 1,000,000 Mexicans from the country, under conditions involving deprivation of civil rights, physical hardship, disruption of families, and economic suffering.

What this range of historical experiences demonstrates is that despite the principles of the American Revolution and the U.S. Constitution, despite the process of articulation of a modern democratic nation during the 116 years which transpire between the Cherokee removal of 1838 and "Operation Wetback" in 1954, the engrained tradition among the groups in power has always been to deal with minority groups, at times of crisis, in a manner involving forcible removal and almost always, the flouting of constitutional rights.

Switching focus from the deep structures of American history, the issue of undocumented workers has to be seen against a second background, that of the broad framework of U.S.-Mexico relations since World War II.

In general, as seen from Washington, relations with Mexico over the last three decades have developed satisfactorily. There have been occasional unpleasant moments (Mexico's initial support for the Cuban Revolution, 1959-1960; Mexico's reluctance, throughout the 1950's, to harness its military training and equipment programs to those of the U.S.; Mexico's alignment, during the Presidency of Echeverría, with the Third World in general, and the Arab world in particular, on important issues of foreign policy). However, a review of the essential themes of these relations can only be satisfactory to high figures in the State Department.

1) Mexico has been open to foreign investment to such a degree that today foreign companies account for 31% of the total value of Mexico's industrial production. Of the 290 largest Mexican corporations, almost half the shares are controlled by transnational corporations.

2) U.S. agri-business, in the shape of corporations such as Del Monte and Anderson Clayton, has been allowed to extend investment and high

technology farming in Mexico's Northwest. This has been made possible by the concentration of land in fewer hands and by the incorporation of much of Mexico's production into the marketing structures of the United States.

3) Mexico's border cities have been increasingly linked to the economy of the U.S. southwest. Despite the decline in production of the maquiladoras due to the present recession in the U.S. economy, the process of integration continues. An example is the recent grant request to the U.S. government by San Diego and Imperial counties. The bases for the funds is to launch a program covering these counties and the cities of Mexicali and Tijuana, construing them as one development region.

4) The worldwide U.S. response to socio-economic imbalance in the Third World has been to promote population control as a long-range means of reducing social unrest, and as an alternative to redistribution of income. This policy (as distinct from the legitimate demands of the women's movement, involving women's control of their own bodies, freedom of choice as regards abortion, etc.--all in the context of the larger movement for social change) has been receiving ever greater official support and funding in Mexico.

5) The consciousness industry--ranging from the mass media through advertising, the control of taste in patterns of consumption, the norms governing choices in reading or use of leisure time-- has been increasingly penetrated either directly by the transnational corporations (television, film, press, advertising), or indirectly by the adoption of U.S. models (to take one gross example, "Exorcista" shoes).

6) In the face of the deepening energy crisis of the U.S., which has raised the demand for oil and natural gas, the present Mexican government has shown itself willing to reverse the nationalist policies

institutionalized by Lázaro Cárdenas, and to adjust its exploration, its level of production, and its export of unprocessed oil and gas in accordance with the needs of the US. economy. (The same policy orientation would seem to be gestating in the case of uranium).

7) Since the end of the bracero program, Mexico has been willing to accept the unspoken policy of the U.S. in regard to cheap Mexican labor. This policy has been to restrict legal immigration but to allow illegal immigration (even while using the I.N.S. to monitor and control it) in order to satisfy the widespread demand in agriculture and in certain industries for a cheap, impermanent, manipulable work force.

It is in this contextual frame of interrelated issues that the question of undocumented workers is perceived in the U.S. Beyond question, the Mexican government is seen to be on the defensive, what with its huge foreign debt, its still uncontrolled inflation, its swollen pool of unemployed and dislocated population and its dependent economy. An example of this perception is the article by George Grayson in the Winter 1977-78 issue of the important journal Foreign Policy. Writing on Mexico's oil situation, on barriers to U.S. access to this oil, and on enlightened measures necessary to "advance Mexico's economic interests, while satisfying U.S. security needs," he recommends several policy measures, the first of which is, "The US. must act at once to stem the flow of illegal or 'undocumented' workers to this country." The point of this, he says, is that "Closing the border escape valve will force the Mexican government to confront difficult questions about Mexico's economic development." The sub-text of Mr. Grayson's article: implementing the

Carter plan will persuade Mexico to sell oil and gas at prices and in quantities desirable to the U.S..

This, then, is the context in which the larger issue of undocumented workers is being brought to the attention of the U.S. public. Actually four approaches to the issue can be identified, each embodying a distinct set of assumptions and proposals. The first, that of the Carter Administration, in effect purports to see "the alien" as the problem and stresses the need, with a degree of sugar-coating, to prevent the "alien" from penetrating the border. The second, that of the Mexican government, derives from Mexico's need for an escape valve for its unemployed workers, both rural and urban. It proposes whatever arrangements are necessary so that Mexican workers can be made available to satisfy needs in the U.S. for cheap labor. The third approach, put forth by liberal Mexicans and Americans, identifies the problem as one of unemployment in Mexico. Their proposal: increase the role played in the Mexican economy by the U.S. government and other foreign capital sources. And the fourth approach, the least defined, is embodied in the thinking and the programmatic suggestions of individuals and groups in both Mexico and the Southwest who assume that people, rather than the problem, can be the solution.

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The Carter Plan

Examining these approaches individually, one begins with the Carter Plan, soon to be debated in Congress. It was unveiled at the White House on August 4th, after a long series of delays and of contradictory press releases. Its supporters are Attorney General Bell (Carter's trusted policy adviser), Labor Secretary Marshall (the link to organized labor and those officials in the world of trans-nationals concerned with "labor management"), Leonel Castillo (the token Mexican American who is becoming increasingly unpopular in Mexican circles) and influential Congressmen

from industrial states, such as Rep. Peter Rodino (Democrat-New Jersey) and Senator Charles Percy (Republican-Illinois).

A careful reading of the presidential language, and of the accompanying fact sheet issued by the White House Press Secretary, shows that the style of the Carter Plan appears moderate, but the substance is hard-line.

On the one hand the proposals carefully use the term "undocumented aliens" in order to avoid the criminal connotations of "illegal aliens." Further, the President seems to remember the immigrant tradition in American history when he says, ". . . many of them have been law-abiding residents who are looking for a new life and are productive members of their communities." On the other hand, the proposals themselves, when analyzed, are hardly moderate. If adopted they would result in deportations for many, sub-American status for many more, and dramatically increased social and economic pressure on Mexico. Let us examine the specific proposals one by one, and then analyze the assumptions on which they are based.

Firstly, the President proposes criminal penalties and fines for employers engaging in the "pattern or practice" of hiring undocumented workers. The consequences, were this to be enacted into law, would be both repressive and discriminatory. Repression would derive from the fact that employers would then be functioning as agents of the I.N.S.. They would be required to examine documents and in effect to make judgments on legality. Needless to say, this newly imposed status would give them control of the destiny of job applicants. Such a law would create discrimination against Mexican Americans, since the employer concerned with avoiding a fine or prosecution might well decide that the only safe course is to hire <u>no one</u> with a Spanish surname or the appearance

of Mexican descent.

A second proposal emanating from the White House is to increase radically the number of enforcement officers whose mission is to prevent illegal border crossings. In fact the budget for 1979 which President Carter sent to Congress on Jan. 23, 1978 provides for 903 new employees for the I.N.S., 648 of whom would be assigned to prevent illegal entries across U.S. borders. Such proposals can only do damage. They will result, if adopted, in increased violence all along the frontier-- violence which will aggravate relations with Mexico. Further, it is predictable that with many agents at its disposal, I.N.S., conscious of new limitations on legal residence, will increase its already demonstrated capacity to conduct roundups and raids in border cities, leading to mass deportations.

The third and perhaps most potentially harmful proposal apparently has to do with legalization of status. Actually its function, were it to be adopted, would be to institutionalize road blocks to legalization and to freeze into a sub-legal status millions of undocumented workers. In the first place this proposal speaks of "permanent resident status for those who have lived in this country continuously since 1970." The reference here is to a tiny fraction, probably much less than 5%, of those undocumented workers now in the country. Further, even these apparently favored individuals would, beyond question, have tremendous difficulty proving continuous residence. For those workers who have arrived between 1970 and January 1, 1977, a new category is proposed. This is the most dangerous category, now being described in "value-free" language as temporary resident alien status. Persons able to prove entry before January 1, 1977, would be allowed five years of residence in this country. Once again

the question of proof of entry raises its ugly head. How does one show continuous residence if one has been paid in cash or if one has been unemployed part of the time involved?

However, beyond this booby-trap in the proposal, the President's specifications contain additional negative features. For example, holders of temporary resident alien status would be forbidden from bringing other members of the family to reside with them. Further, holders of this status would not be entitled to the social services, whether employment insurance, welfare aid, or medical assistance, to which other American citizens have access. Mind you, they will be paying the taxes which finance these benefits. What happened, so soon after our Bicentennial celebration, to our revered American tradition, "no taxation without representation"?

Finally, this proposal provides that those who have entered since January 1, 1977, will be subject to immediate deportation. If we take I.N.S. figures as any sort of basis, this can mean that by next year upwards of one million persons may be labeled as immediately deportable. Even more ominous is the fact that other millions would be unable to prove that they are not in this category. At best they might hope to come forward and register, gaining the ambiguous right to work under sub-American conditions for five years, knowing that they would then be deported. At worst, they would have to remain in hiding and fear, holding only sub-standard jobs, and subject to wage extortion or to expulsion at any time. The spectre of mass deportation, harking back to ugly moments in our national history is once again evoked by President Carter's plan. If anything, Vice President Mondale's denial of the Administration's intent to carry out mass deportations should be read as his realization that they are indirectly but inevitably programmed into the Carter plan.

The fourth and vaguest section of the Carter Plan comes as a statement of general intent. The President promises, on a long range basis, to develop plans that will increase employment opportunities in the countries of origin of undocumented workers. There is nothing apparently wrong here but we feel that two comments are in order. First, the very vagueness implies delay or lack of interest when compared with the specificity of the other proposals. Second and even more potentially difficult, it is clear that present U.S. economic relations with Mexico are conducted in such a way as to increase Mexico's dependency of the U.S.

The Bracero Plan

The second approach, the bracero plan, is that of the Mexican government, which has argued covertly rather than publicly. This policy is based on two simple but basic socio-economic facts: 1) that the opportunity for large numbers of Mexicans to work in the U.S., no matter the conditions, functions as an escape valve reducing some of the pressures created by unemployment in Mexico 2) that the amount of remittances to Mexico in dollars from Mexicans in the U.S. exceeds Mexico's income from tourism. It is clear that the Mexican government feels that the social consequences of massive deportations would be grave, and that the economic cost of reducing this source of dollar income would further aggravate the present crisis.

On October 18th, 1976, Ambassador Hugo Margáin made a rare public statement, in a syndicated interview with the Copley Press, a national news network. He clearly and explicitly called for a bracero program, whereby the two governments would return to the obsolete form of sponsoring contracted Mexican labor.

The disadvantages of such a program should be made clear: 1) they provide for Mexican labor to work under wage and living conditions inferior to the already low standards prevailing in the agricultural labor market. 2) by contracting the laborer to a specific employer, they place in the

employer's hands total control over the Mexican worker's situation. He is thus insulated from trade union organization, or from any other activities designed to protect him against abuse or exploitation. Further he is locked into agricultural labor--other types of work are closed off by this plan. 3) such a program, officially denounced by the Chicano organizations, by the United Farm Workers Union of César Chávez, and by the AFL-CIO, would place the Mexican worker in a doubly disadvantaged position. He would be open to exploitation by agricultural interests, and he would be seen as a divisive and negative presence by labor interests. 4) advocacy of a bracero program establishes a de facto political alliance between the Mexican government and the reactionary right--Goldwater, Hayakawa, Eastland--in the U.S.

The Development Model

Meanwhile a third and more sophisticated approach has emanated from Mexico, from a distinguished consultant to the President's commission on immigration--Dr. Jorge Bustamante, who is one of Mexico's eminent authorities in the field. His suggestions, presented in San Diego in late 1976, begin intelligently by criticising the tendency in the U.S. press toward inflammatory journalism which reinforces false stereotypes. He then demonstrates by impressive statistics that charges about the negative impact by undocumented workers on the U.S. economy are largely unfounded. Next come a series of programmatic suggestions which are apparently enlightened (the cause of illegal immigration is unemployment and poverty--let's attack those problems).

In fact however, they are at best questionable. The essence of the Bustamante proposals is fourfold: 1) the creation of "units of production,"

largely labor intensive, for the processing of farm products, to be located in areas from which agricultural laborers presently are migrating. These units would be privately owned, and would give preference in hiring to "those with no record of apprehension in the U.S. by the Immigration authorities after a certain date." 2) the units would be financed by either the Mexican government sources or "international agencies which finance development programs." 3) the products of these units would be bought by the U.S. for use in its foreign aid programs. Presumably this would on the one hand avoid competition with U.S. agricultural interests for the U.S. market, while on the other hand it would guarantee that the Mexican food products would have a sure outlet. 4) the anticipation that once the production units begin to function, the demands of U.S. labor concerning undocumented workers residing in the U.S. might be met. Concerted U.S.-Mexico action would "orient those who do not qualify for adjustment of migratory status toward the production units in Mexico."

The basic questions which these proposals provoke would seem to be the following: 1) "agencies which finance international development programs," such as the Inter-American Development Bank and the International Monetary Fund, are closely tied to the U.S. State Department. Their consistent tendency when making loans has been to impose anti-working class conditions such as de facto wage controls and devaluations. 2) workers in these rural "production units" would in effect have to show a clean bill of health from U.S. immigration authorities. Thus the I.N.S., with its repressive record, would have a voice in the destinies of agricultural workers in the interior of Mexico. 3) Mexican food production, locked into marketing agreements with the U.S. government, would be assimilated into the U.S. food export and foreign aid programs, which in tandem with the military aid program, are basic instruments of U.S. foreign policy. Mexico's autonomy as a Third World

nation would thus be seriously undermined. 4) instead of amnesty, the last proposal seems to promise a modulated but forced repatriation, capitulating to the false protectionist philosophy of the AFL-CIO leadership.

This approach of Jorge Bustamante combines a penetratingly critical evaluation of U.S. treatment of Mexican workers (consistent with his excellent record of research for many years) with a consciously conciliatory set of proposals. Presumably the rationale for this present conciliatory policy can be found in the apocalyptic paper presented by Dr. Bustamante in Houston, Texas at the meeting of the Latin American Studies Association, in November, 1977. It speaks of the probability that the U.S. Congress will produce a series of laws legitimating only the worst features of the Carter Plan. The consequences in Mexico of large-scale repatriations and of a closed border will lead to increased social disorder and a strengthened hand for the authoritarian elements in the Army and the government. The argument against this conciliatory rationale is that it appears to evoke the specter of defeat in order to justify a more sophisticated surrender.

A variant of the Bustamante model has been put forth in the United States by Dr. Wayne Cornelius, an eminent U.S. scholar who also has studied seriously immigration patterns of Mexicans on both sides of the border. Dr. Cornelius, borrowing his terminology from Europe, speaks of a "guest worker" plan which would authorize limited work-visits for Mexican workers, whose intention is to return to Mexico and not to become legal residents of the United States. This would seem to combine some of the disadvantages of both the Carter and the bracero models. Dr. Cornelius, who proclaims himself to be critical of the Carter Plan, is taken seriously by official circles in Washington. His second stress was evident in the rhetoric of Vice President Mondale during his visit to Mexico. Cornelius proposed development loans, once again from the same banks and agencies referred to by Bustamante, to create labor-intensive economic activity in the areas from which

undocumented workers are emigrating. Once again, the issue of cause and effect appears. By appealing to the benevolence of those institutions which have contributed greatly to creating the problem, can one hope to find a solution?

A Progressive Approach

The final approach, still in the process of articulation, derives from the experiences of different groupings in American society and their confrontations with the existing structures of power--corporate, governmental, political. In the first place, the renewed vigor and unity of the Chicano community has stimulated much expression. Some trade unionists, active on a local and regional basis, have adopted a critical posture toward the Carter plan, as have a small but growing number of clergy and academicians. Independent researchers, such as the productive group in NACLA (North American Congress on Latin America) have contributed much significant research on runaway shops, on transnational investment in Mexican agriculture, and on the specific Mexican operations of corporations such as Del Monte.

On the immediate level these groupings are generating pressure to prevent the victimization of the undocumented worker. Their programmatic thrust: 1) stop the relentless, ongoing deportations. 2) grant unconditional amnesty to undocumented workers. 3) mobilize opposition to specific components of the Carter Plan, such as legislation penalizing employers who hire undocumented workers 4) guarantee that these workers shall enjoy the social benefits and the civil rights to which workers in the U.S. are constitutionally entitled 5) revise and expand the quotas for legal immigration which the last Congress reduced (under the leadership of Rep. Eilberg, who is now under investigation on charges of corruption).

However, on a longer range basis, it is possible to discern, in different places and at different stages of development, a set of working assumptions which can underpin an effective approach, capable of producing an impact on American reality. It is not unreasonable to see these assumptions as more than hopes or abstractions.

1) the need to bring together groups and organizations on a community and regional basis, to analyze changed relations on both sides of the border, without dependence on official political or governmental benevolence.

2) an understanding that the quest for agricultural employment is transnational. For tens of thousands of landless Mexicans, the migratory cycle begins in Nayarit, passes on to the irrigated valleys of Sinaloa and Sonora, proceeds to California's Imperial and Coachella Valleys, and follows the lettuce and grape harvests up to Salinas, Delano and the fields of Northern California. The struggle of these workers, as well as that of Chicano, Filipino and other agricultural workers who are U.S. citizens, is less a national issue defined by a border, and more and more an international one requiring unified action in both Mexico and the U.S..

3) a recognition that the increased deployment of capital-intensive technology by transnational corporations on both sides of the border, the soaring rate of population growth in Mexico, and the concentration of land (in the U.S. and Mexico) in ever fewer hands, are creating a rural population of permanently landless workers, especially in Mexico but also in the U.S.. As a consequence, the familiar peasant demand for land, highlighted during the Mexican Revolution and echoed through the years, not only in Northern

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Mexico but also in Río Arriba County in New Mexico and Crystal City, Texas, must now be reexamined. While it still is applicable in many rural areas, it now ceases to be an issue for hundreds of thousands of migrant field workers, who in effect constitute a rural working class rather than a peasantry. As under-employed wage laborers, their needs can best be answered by the struggle to improve conditions of labor, and by organization into unions.

4) that U.S. investment in Mexico, U.S. government loans to Mexico and loans by U.S.-dominated institutions such as the International Monetary Fund, rather than constituting solutions or palliative responses to the present crisis, are in effect primary causes of this crisis. This is not to argue against all forms of economic aid financed from outside Mexico, but to suggest that the terms and conditions of loans, investment, technology transfer, reinvestment of profits, wage policy, and marketing policy all need critical analysis and radical revision.

5) that on a long-range basis, solutions must be structural. Further, given the symbiotic nature of U.S.-Mexico economic and social institutions, the structural changes--such as correcting inequitable distribution of income, control of political institutions, democratization of trade unions, limits on transnational corporations--must occur in both countries.

6) that the American worker can benefit from the experience of his English counterpart, and absorb the lessons which British workers have yet to derive fully from the experience of empire. American labor cannot defend itself by participating in the social chauvinism and the economic protectionism which are offered as the spoils of domination of an underdeveloped segment of the world. These spoils have always been inadequate and ultimately poisonous. The interests of the American worker, at bottom, lie closer to the Mexican undocumented worker than to the corporate interests of Exxon, Anderson Clayton and Del Monte.

TESTIMONY BEFORE THE "HOUSE OF REPRESENTATIVES APPROPRIATION SUB-COMMITTEE HEARINGS IN LOS ANGELES, CALIFORNIA ON FEBRUARY 24, 1978

SUBMITTED BY PROFESSOR BERT N. CORONA, CSULA, SECRETARY OF THE NATIONAL COMMITEE TO UNIONIZE UNDOCUMENTED WORKERS IN THE UNITED STATES:

AMONGST THE FACTORS MOST KEENLY FELT BY AMERICANS TODAY IS THE INCREASING COSTS OF GOVERNMENT ESPECIALLY THOSE FOR SERVICES THAT IN PAST EPOCHS WERE BORN BY THE PRIVATE CITIZENS THEMSELVES. THE PRESENT FOCUS UPON THE CONSEQUENCES OF MILLIONS OF PERSONS WHO ARE PRESENT IN OUR NATION AS WORKERS HAVE BEEN MUCH MISINTERPRETED AND LIGHTLY EXPLAINED TO A PUBLIC, WHICH INCLUDES LAWMAKERS, THAT IS DEEPLY SUSPICIOUS ABOUT THE EVENTUAL COSTS TO BE BORN BY TAXPAYERS. THE MEDIA HAS FOUND IT EASIER AND MORE ATTENTION-GETTING TO DRAMATIZE AND SENSATIONALIZE STATEMENTS THAT ARE FELT ENHANCE AND INCREASE THE PUBLIC'S SUSPICION THAT SOME GROUPS ARE NOT PAYING THEIR JUST SHARE OF COSTS FOR SERVICES AND BENEFITS. THUS, IT HAS BECOME ALMOST AN ACCEPTED RULE TO ASSERT PUBLICLY AND IN THE HALLS OF CONGRESS "THAT UNDOCUMENTED WORKERS PRESENT IN OUR NATION ARE A HEAVY BURDEN TO OUR COUNTRY SINCE THEY GET SERVICES FOR WHICH ALL OF US HAVE TO DIG DOWN FROM OUR ALREADY EXHAUSTED POCKETBOOKS TO PAY FOR, EVEN EVENTUALLY DEPRIVING NATIVE BORN AND PERMANENT RESIDENTS OF THESE SERVICES."

AN AREA I WOULD LIKE TO CALL THE ATTENTION OF THIS SUB-COMMITTEE TO EXAMINE IS THE PAYROLL DEDUCTION TAKEN EVERY PAYDAY FROM EVERY WORKER'S PAYCHECK AND SENT IN TO THE FEDERAL GOVERNMENT, KNOWN AS FICA. IT AMOUNTS TO ABOUT 6.1% OF HIS PAYCHECK. THIS GOES TO THE SOCIAL SECURITY ADMINISTRATION TO PAY FOR SOCIAL SECURITY PAYMENTS, PENSIONS, WELFARE PROGRAMS, HEALTH AND REHABILITATION AIDS, SOME STUDENTS SUBSIDIES AND DISABLED AID. THIS DEDUCTION IS AN INSURANCE PREMIUM THAT PAYS FOR SERVICES AND BENEFITS TO BE EXPENDED WHEN THE PREMIUM PAYER COMES OF AGE OR IS IN NEED. THESE DEDUCTIONS ARE SEPARATE FROM STATE DISABILITY DEDUCTIONS AND OF COURSE SEPARATE FROM THE DEDUCTIONS OF STATE AND FEDERAL INCOME TAX KNOWN AS THE WITHHOLDING TAXES.

SIX AND ONE POINT PERCENT OF THE ANNUAL AVERAGE WAGE PAID TO A WORKER WHO IS RECEIVING THE FEDERAL MINIMUM WAGE OF $2.50 PER HOUR AND WORKING 50 WEEKS AT STRAIGHT TIME IS $5,000.00 X .061 OR ABOUT $300.00. THIS IS THE AVERAGE PAYMENT ANNUALLY MADE BY ALL WORKERS EARNING THAT INCOME. IF WE TAKE THE MODERATE FIGURE GIVEN TO US BY THE IMMIGRATION AND NATURALIZATION SERVICE AND THEIR FRIENDS IN CONGRESS THAT THERE ARE FROM 6,000,000 TO 12,000,000 UNDOCUMENTED WORKERS IN OUR LAND, THAT IS 6,000,000, AND MULTIPLY IT BY THE $300.00 THEY ARE DEDUCTED BY F.I.C.A. IT COMES TO THE STAGGERING SUM OF ONE BILLION 800 MILLION DOLLARS THAT THESE WORKERS ARE PAYING INTO THE FICA ACCOUNT. AN ACCOUNT FROM WHICH THEY ARE BARRED FROM RECEIVING BENEFITS, PENSIONS OR ASSISTANCE BECAUSE THEY DO NOT POSSESS A VALID PERMANENT RESIDENT VISA. THIS REQUIREMENT CANNOT BE BY-PASSED SINCE THE SOCIAL SECURITY ADMINISTRATION CLEARS ALL BENEFITS AND PAYMENTS WITH INS BEFORE APPROVING THEM FOR PAYMENT.

IT APPEARS THAT THESE MUCH MALIGNED UNDOCUMENTED WORKERS ARE MAKING A SIGNIFICANT CONTRIBUTION TO OUR EQUALLY TROUBLED SOCIAL SECURITY SYSTEM, OF ALMOST TWO BILLION DOLLARS EACH YEAR, RATHER THAN DRAINING IT. IN EUROPE WHERE NEIGHBORING COUNTRIES ARE MORE WILLING TO DEAL STRAIGHT ACROSS THE BOARD ABOUT WHO BENEFITS FROM IMMIGRANT WORKERS, PROVISIONS ARE MADE SO THAT THE SENDING COUNTRIES ARE GIVEN CREDITS FOR THESE CONTRIBUTIONS THEIR WORKERS PAY INTO SUCH FUNDS. IT BEHOOVES US TO LOOK SERIOUSLY INTO THIS AREA BEFORE WE PASS LEGISLATION PREDICATED ON EMOTIONAL FEELINGS THAT ARE DESIGNED AS POLITICAL STATEMENTS RATHER THAN ON SERIOUS CONSIDERATION OF THE TOTAL IMPACT OF WHAT UNDOCUMENTED WORKERS CONTRIBUTE AND TAKE FROM OUR ECONOMY.

THE ECONOMIC EFFECTS OF IMMIGRATION FROM MEXICO INTO THE U.S.A.

John Parke Young, former Chief of the State Department's Division of International Finance, in an article written for the Los Angeles Times on December 8, 1976 stated very accurately and from a position of experience and knowledge that *"Indeed we do a lot of loose thinking about the supposed harm caused us by the illegal alien. The simple assumption that more than a nominal inflow of Mexican immigrants is bad for the United States is LARGELY UNFOUNDED. Do those illegal aliens take jobs which would otherwise be filled by U.S. nationals? In an immediate sense, there are occasions when that is the case, but it is far from the whole story.*

Much of the work Mexican aliens perform is of an ardous kind shunned by American workers. Moreover, as economists recognize, IT IS A FALLACY TO ASSUME THAT THERE ARE JUST SO MANY JOBS TO BE FILLED--A FIXED AMOUNT OF WORK TO BE PERFORMED. If this were true, our population growth would have created intolerable unemployment. Actually, each person in this country--whether here legally or not--has not only two hands to work, but also a mouth to feed and a whole body to shelter. In other words, he not only adds to the work force but also to the amount of work that must be performed TO MEET THE NATIONAL DEMANDS HIS VERY PRESENCE CREATES." (1)

This view was also very aptly expressed by Dr. Oscar Handlin, Professor of History at Harvard University and a Pulitzer Prize winner for his studies on immigration effects in American History. In his excellent book entitled IMMIGRATION AS A FACTOR IN AMERICAN HISTORY, Dr. Handlin affirms the following: *"Immigration brought wealth to the United States, many billions of dollars. The immigrants did not bring this wealth in their baggage--many arrived penniless and in debt--but in their skills, their trades, and their willingness to work. In his testimony to the Presidential Commission on Immigration, Dr. Louis I. Dublin, statistician and second Vice President of Metropolitan Life Insurance Company, pointed out that a young adult immigrant of eighteen years is worth to the nation at least $10,000, since that is what it costs to raise the average American.[(As of 1953) see next paragraph for 1977 figures of same study by Dr. Thomas J. Espenshade] The average net worth of such a person to the economy of the United States falls between $30,000. and $80,000, (1952), depending on his potential earning power. Throughout our history immigrants have in this way represented additional wealth to our country...*

In the 145 years of unrestricted immigration into the United States from 1776 to 1921, immigrants generally came when and where they were needed. THERE IS NO EVIDENCE THAT THEIR ARRIVAL CAUSED EITHER UNEMPLOYMENT OR IMPOVERISHMENT. (2).

In a recent study disclosed in an article appearing in the Los Angeles Times of Tues. May 3, 1977, Dr. Thomas J. Espenshade, Associate Professor of Economics at Florida State University, that a low-income family must spend an average of $44,000 in order to raise a child to be of working age. These findings are part of a report on costs to raise and maintain families from costs data as of 1977 of the Population Reference Bureau, INc., of Washington, D.C. (3)

Possibly the best treatment of this question is contained in Dr. William S. Bernard's book "American Immigration Policy. In his chapter "Economic Effects Of Immigration" he brings out the following:

JOB DISPLACEMENT *One of the most persistent and recurrent economic*

fallacies in popular thoughts is the notion that immigrants take away the jobs of native Americans. This rests on the misconception that only a fixed number of jobs exist in any economy and that any newcomer threatens the job of any old resident. Such a theory, sometimes referred to as the "lump of labor fallacy", has been repeatedly refuted by competent economists. To quoted Norman Bentwich:

> "An idea is abroad that there is alimited amount of work to be done in the country, and if a stranger is allowed to nibble at the lump, there will be less of it for the natives. All economists of repute have shown this to be a fallacy.'

William H. Beveridge similarly shows that the popular notion of a rigidly determined limit of job opportunities is erroneous:

> 'The popular conception is of industry as rigidly limited--a sphere of cast iron in which men struggle for living room; in which the greater the room taken by any one man the less must there be for others; in which the greater number of men the worse must be the case of all. The true conception is of a sphere made of elastic material, capable of expansion and being in fact continually forced to expand by the struggling of those within.'

Job opportunities in any society are not fixed at any particular level but expand with a rising population. The extent of the opportunities for employment depends on the stage of technological development and on the division of labor in relation to natural resources. The economies of modern industrialized nations are extremely fluid and have a high absorptive capacity for new workers. This is especially true of a country such as the United States. The facts of American economic history clearly demonstrate that with the increase in population both wealth and industry have expanded and job opportunities have multiplied." (4)

The Bulletin of the European Communities, Supplement of the 3rd quarter of 1976 has this to say about the 15,000,000 worker immigration that exists in Europe:

"The influx of migrant workers on this scale has had profound consequences for the economies of the Member States. Their presence has contributed to a faster rate of economic growth than would have otherwise been obtainable-- at least without much greater rates of capital investment, and they have given the system a greater degree of flexibility than it would otherwise have had.

Migration has also had important and adverse effects on the balance of activity between regions in the Community. It has contributed to the continuing concentration of resources and manpower in the Community's central, and already heavily industrialized areas, at the expense of the peripheral regions. These regions tend to lose the most dynamic elements of their population, in many cases after THEY HAVE INVESTED CONSIDERABLE RESOURCES IN EDUCATING AND TRAINING THEM. IN THIS SENSE THE POORER REGIONS HAVE TO SOME EXTENT BEEN SUBSIDIZING THE RICHER."(5)

The Wall Street Journal of June 21, 1976 in an editorial has this to say on this matter:

"The easiest, cheapest and fairest way toprotect the labor market will be to legalize the immigrants, putting the law to work protecting

them rather than persecuting them. Legal or not, the present wave of Western Hemisphere immigrants is already enriching and contributing to North American society. As we ought to know from our historical experience, that is what can be expected of those whose desire to immigrate is demonstrably so strong."(6)

And again the Wall Street Journal in its Editorial of May 2, 1977 stated that:

"The entire illegal alien question suffers from lack of reliable figures. For example, no one really knows if there are 4 million or 20 million illegals in the U.S. But we know their presence is a handy excuse for the politicians who blame them for every imaginable community shortcoming. Certain New York politicians even claim their city would be economically prosperous but for all the illegals draining off jobs and social services.

Most of this is nonsense, inspired by organized labor and by people who erroneously believe there are only a given number of jobs and a limited amount of work to be done. And so they have resorted to disseminating fairy tales about a problem whose effect cannot really be measured. But consider the following:

'Although the impact of illegal immigration is probably greater in San Diego than elsewhere in the U.S., a recent report prepared for the San Diego County Board of Supervisors says that "the fact that illegal aliens displace local U.S. residents from jobs has not been proven or verified." (7)

A survey of the present media campaign to present the immigrants and their tremendous economic contributions to our economy at this very moment indicates that it is more interested in opressing and alienating immigrants than anything that even suggests constructive or effective solutions. In its most extreme exagerations the media seeks to make the undocumented immigrant into the scape-goat for all of the ills that our government and our entire society is unable or unwilling to attack seriously.

The CArter administration's "package--program" is revealing in that it carries with the oppressive measures and ostensibly control measures a new Bracero type of labor importation program. This tells us what we all should already know and understand. That is that those who are in positions of power know full well what great and inmensely rich contributions to our economy and to our society as a whole are being made by the undocumented immigrant workers. That they do not intend to do without them but that what they really want is to maintain them in a position of permanent and "legal" vulnerablilty to guarrantee that the super rich contributions continue to be made by them.

Bert N. Corona, Professor
CSULA Los Angeles, Calif.

(1) Los Angeles Times Dec. 8, 1976, Part II Page 7.
(2) Immigration As A Factor In American History., pp. 202, Oscar Handlin
(3) Los Angeles Times, May 3, 1977, Part I Page 19.
(4) American Immigration Policy, William S. Bernard., PP. 55-97.
(5) Bulletin of the European Communties, Supplement 3rd Quarter 1976'
(6) Wall Street Journal, June 21, 1976. Editorial
(7) Ibed May 2, 1977 ., Editorial.

Samoan Un-documented
= Aliens =

As you know, there are 65,000 Samoans in the United States - the 55% of the population shown about are Samoans from the Independant Government of Western Samoa — and the 45% are people from American Samoa.

Western Samoa:

During the signed up treaty between the United States and other Governments concerning Samoa — Most of the people never realized what will be the situation could be now as is divided into two groups

The U.S.A. ruling the Eastern side of Samoa and also the Western part under the British is now Independent.

Case Pending: 1973 The Mitchell Children Come into the United States Claiming their status as Citizens through their father "Frank Mason Mitchell" a son of an American Consul was in Samoa during the time period mentioned above -

CASE Pending: 1968 = The Teo's family filed for Father "Ieti Teo" still no response not even documented

Case Pending: 1969 = "Tupemi Gaugau" still on and over stayed

not even considered his age - but also not a single programs could qualify him.

Case Pending 1972 = "Mark Young" Still overlooked the status of his as petitioner for such long time of waiting.

World War II Status Undocumented Aliens:

During the world war II - Marines, Navy, Arnies came to Samoa and lots of babies borned in both Samoans Islands American Samoa and Western Samoa - Most of the Samoan Immigration Cases are from this area because the Armed Forces babies who are 18 years old

or over are not qualify for anything — even their own status.

There are many more of these problems that the Samoan Community are facing now with the office of the Immigration and Naturalization Service —

National:

We have the Samoan Committee On Immigration to serve as a Liason in conjunction with the Samoan problems on INS — I am "Loy F. Teo" Bi-lingual Worker and Chairman for the SAMOANS —

Address = 404 E. CARSON ST.
CARSON, CA. 90745
(213) 834-6404

(over)

(note) I know its late for this – but your announcements was received too late to reach our Community –

Thanks

Samoan Committee on Immigration
404 EAST CARSON ST. • CARSON, CALIF. 90745 • TELEPHONE: 834-6404