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MEDICAL TREATMENT OF ILLEGAL ALIENS

GOVERNMENT

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HEARING

BEFORE THE

SUBCOMMITTEE ON

HEALTH AND THE ENVIRONMENT

OF THE

COMMITTEE ON

INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

H.R. 2400, H.R. 3697, H.R. 5031, H.R. 5977,
and H.R. 6440

BILLS TO AMEND THE PUBLIC HEALTH SERVICE ACT
TO PROVIDE FINANCIAL ASSISTANCE TO MEDICAL FACIL-
ITIES FOR TREATMENT OF CERTAIN ALIENS

JUNE 9, 1977

Serial No. 95-34



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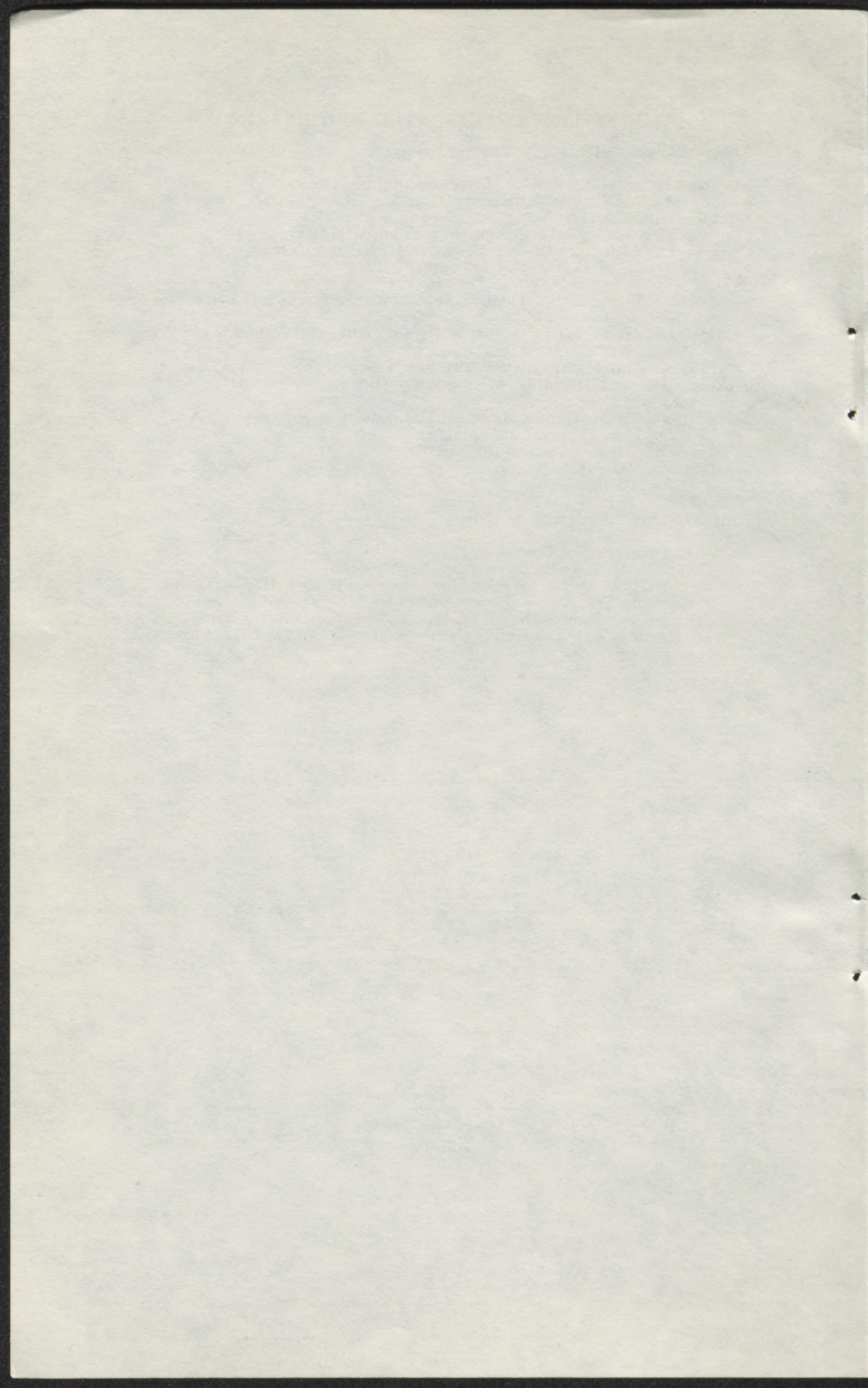
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- Arizona Medical Center, University Hospital, Tucson, Ariz., Daniel W. Capps, administrator.
- Congress of Neurological Surgeons, Inc., John A. McRae, M.D.
- Cook County, Ill., Health and Hospitals Governing Commission, James G. Houghton, M.D., executive director.
- Health, Education, and Welfare Department:
- Levine, Kenneth S., Deputy Assistant Secretary for Legislation (Designate).
- Martens, Robert C., Deputy Director, Office of Migrant Health, Health Services Administration.
- Spiegel, Paul M., Legislative Division, Office of the General Counsel.
- Jackson Memorial Hospital, Miami, Fla., Glenn F. Peterson, associate director.
- Justice Department, Immigration and Naturalization Service:
- Castillo, Hon. Leonel, Commissioner.
- Crosland, David, General Counsel.
- O'Brien, William P., Assistant Commissioner for Detention and Deportation.
- Schmidt, Paul W., Office of General Counsel.
- Kings County Hospital, Brooklyn, New York, Ira Clark, executive director.
- National Association of Counties (NACo):
- Gemmell, Michael K., Legislative Representative.
- McNutt, D. Gayle, Washington Representative, Harris County, Houston, Tex.
- Panarisi, Frank, Health Care Administrator, San Diego County.
- Wright, Burdette, Legislative Representative, County of Los Angeles.



MEDICAL TREATMENT OF ILLEGAL ALIENS

THURSDAY, JUNE 9, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2322, Rayburn House Office Building, Hon. Paul G. Rogers (chairman of the subcommittee) presiding.

Mr. ROGERS. The subcommittee will come to order, please.

Today the subcommittee will hear testimony on H.R. 2400, legislation to provide financial assistance to medical facilities for the cost of emergency medical care for indigent illegal aliens. This legislation and other identical bills are sponsored by Congressman B.F. Sisk from California and 22 other Members of the House of Representatives, including four members of this subcommittee: Mr. Scheuer, Mr. Waxman, Mr. Maguire, and Dr. Carter, and of course our distinguished colleague from the full committee, Mr. Van Deerlin.

The subcommittee would like to begin the hearings by receiving the testimony of several of our distinguished colleagues in the House of Representatives from California. Then we will hear the testimony of representatives from the Immigration and Naturalization Service of the Department of Justice and from the Department of Health, Education, and Welfare. After those witnesses have completed their testimony, we will hear distinguished witnesses on two panels. The first panel is composed of individuals representing local governments and the second panel is composed of individuals representing hospitals across the country. Finally, we will receive the testimony of the American Association of Neurological Surgeons and the American Congress of Neurological Surgeons.

Before we begin these hearings, I would like to say that we are holding them at the request of these distinguished Members of Congress because of the impact upon county governments and hospitals in certain areas of the United States in providing and paying for the cost of emergency medical treatment of aliens who have illegally entered the country. It is my understanding that most of these aliens cannot pay for the cost of emergency medical treatment, particularly where the costs are high, and that local governments and hospitals sustain the resulting economic losses.

In many respects, the problem to be addressed by these hearings is part of the larger public problem of how to curb the flow of illegal aliens into the United States and related problems associated with our current illegal alien population. This subcommittee does not have legislative jurisdiction over most Federal programs dealing with illegal alien problems. Thus, I believe there is an urgent need to develop a more comprehensive approach to these problems through the effort and cooperation of the administration and the appropriate committees of Congress. If we fail to take such a comprehensive approach, I fear that illegal aliens may place an ever-increasing burden on our health care delivery system which would impair the scope and quality of health care for our own citizens.

Without objection, the text of identical bills, H.R. 2400, H.R. 3697, H.R. 5031, H.R. 5977, and H.R. 6440, and agency reports thereon will be printed at this point in the record:

[The text of the bills and agency reports referred to follow:]

[H.R. 2400, introduced by Mr. Sisk on January 26, 1977;

H.R. 3697, introduced by Mr. Sisk (for himself, Mr. Anderson of California, Mr. Burgener, Mr. Carter, Mrs. Chisholm, Mrs. Collins of Illinois, Mr. Danielson, Mr. de la Garza, Mr. Ketchum, Mr. Krebs, Mr. Lagomarsino, Mr. Maguire, Mr. Moss, Mr. Murphy of New York, Mr. Rangel, Mr. Scheuer, Mr. Simon, Mr. Udall, Mr. Van Deerlin, Mr. Waxman, Mr. Bob Wilson, Mr. Charles H. Wilson of California, and Mr. Won Pat) on February 17, 1977;

H.R. 5031, introduced by Mr. Sisk (for himself, Mr. Hannaford, Mr. Moorhead of California, Mr. Richmond, and Mr. Solarz) on March 14, 1977;

H.R. 5977, introduced by Mr. Thompson on April 4, 1977; and

H.R. 6440, introduced by Mr. Sisk (for himself and Mr. Panetta) on April 20, 1977, are identical as follows:]

A BILL

To amend the Public Health Service Act to provide financial assistance to medical facilities for treatment of certain aliens.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 That part C of title III of the Public Health Service Act is
 4 amended by adding at the end the following new section:

5 “MEDICAL TREATMENT OF ALIENS

6 “SEC. 330. (a) If—

7 “(1) any alien unlawfully in the United States is
 8 provided emergency medical treatment and is unable to
 9 pay the cost of such treatment or can pay only a portion
 10 of such cost; and

I—O

1 “(2) the alien or the medical facility which pro-
2 vided such treatment is not eligible under any public
3 assistance program for payment of or reimbursement
4 for such cost or is eligible under such a program for pay-
5 ment of or reimbursement for only a portion of such
6 cost,

7 the medical facility which provided such treatment may ap-
8 ply to the Secretary for reimbursement for that portion of
9 such cost which is not paid.

10 “(b) An application for reimbursement under this sec-
11 tion shall be submitted in such form, and contain such in-
12 formation, as the Secretary may prescribe. The Secretary
13 may not approve such an application unless (1) Attorney
14 General has determined that the alien with respect to which
15 the application is submitted is unlawfully in the United
16 States, and (2) the Secretary finds (A) the treatment for
17 which reimbursement is sought was given for a medical
18 emergency, and (B) the medical facility which provided
19 such treatment is unable to recover from the alien or any
20 public assistance program its costs in providing such treat-
21 ment for the alien.

22 “(c) The amount of any payment under this section
23 for the cost of emergency medical treatment shall be deter-
24 mined by the Secretary, except that no payment may exceed

1 the value of such treatment as determined under regulations
2 of the Secretary.

3 “(d) The Secretary shall take such action as may be
4 necessary to make an alien for whom a payment is made
5 under this section eligible for treatment and care as author-
6 ized by section 322 (c).”.

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D. C. 20530

JUN 13 1977

Honorable Harley O. Staggers
Chairman, Committee on Interstate
and Foreign Commerce
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice on H.R. 2400, a bill "To amend the Public Health Service Act to provide financial assistance to medical facilities for treatment of certain aliens."

The bill would amend Part C of Title III of the Public Health Service Act (Public Law 410, 78th Congress; 58 Stat. 682). The bill would add a new section 330 at the end of Part C.

Section 330(a), refers to an alien who is unlawfully in the United States and is provided emergency medical treatment and cannot pay for part or all of the treatment. In such case if the alien or the medical facility which treated him is not eligible for payment under any other public assistance program, the medical facility may apply to the Secretary of Health, Education and Welfare for reimbursement for the portion of treatment cost which was not paid.

Under section 330(b) the Secretary may approve reimbursement to the medical facility if he finds the treatment was for a medical emergency and the medical facility cannot recover from the alien or any public assistance program. The Secretary may not approve reimbursement unless the Attorney General has determined that such alien is unlawfully in the United States.

Subsection (c) provides that the Secretary shall determine the amount of payment not to exceed the value established by regulations.

Section 330(d) of the bill provides that the Secretary shall take such action as may be necessary in order to make an alien for whom payment is made under this section eligible for treatment and care as authorized by section 322(c). Section 322(c) of Public Law 410 is codified as

42 U.S.C. 249(c). In Title 42 U.S.C. section 249 it is provided:

- (c) Any person when detained in accordance with quarantine laws, or, at the request of the Immigration and Naturalization Service, any person detained by that Service, may be treated and cared for by the Public Health Service.

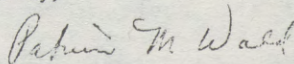
Under H.R. 2400 the stated responsibility of the Attorney General is to provide the Secretary with the information that the alien, who needed emergency medical treatment at a time when he was not detained by or at the instance of the Immigration and Naturalization Service is unlawfully in the United States. The Secretary would thereupon bear the unpaid cost of such treatment. Such activity would have a minimal effect on the budget of the Department of Justice.

Proposed section 330(d) is too vague and can be interpreted as allowing the Secretary of Health, Education and Welfare to require the Immigration and Naturalization Service to detain an alien in order to make him eligible for treatment and care as authorized by section 322(c). The power to order an alien detained under the Immigration and Nationality Act should not be delegated to the Secretary of Health, Education and Welfare.

With the exception of the preceding comment, the Department defers to the Secretary of HEW for comment on whether or not the bill should be enacted, since the Secretary has the responsibility for reimbursing medical facilities under the bill.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,



Patricia M. Wald
Assistant Attorney General



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUN 16 1977

Honorable Harley O. Staggers
Chairman, Committee on Interstate
and Foreign Commerce
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to your request of March 1, 1977 for the views of this Office on H.R. (2400) a bill "To amend the Public Health Service Act to provide financial assistance to medical facilities for treatment of certain aliens."

In testimony before your Committee on June 9, 1977, the Department of Health, Education, and Welfare stated its reasons for recommending against enactment of H.R. 2400. The Department stated that it would be premature to require the Federal Government to pay the health costs of certain illegal aliens before the Administration has had an opportunity to develop a comprehensive immigration policy. In this connection, the Department also noted that it is presently engaged in a large research effort to gather data associated with the provision of hospital services, particularly emergency care, to illegal aliens.

We concur with the views expressed by the Department and, accordingly, recommend against enactment of H.R. 2400.

Sincerely,

James M. Frey
James M. Frey
Assistant Director for
Legislative Reference

Mr. ROGERS. We are very honored to have distinguished Members of Congress with us this morning. First, we will begin with the prime sponsor, the Honorable B. F. Sisk of California. We know of your great concern with this problem and we will be pleased to receive your testimony.

You may proceed as you desire.

Excuse me, Mr. Sisk. Dr. Carter?

Mr. CARTER. Mr. Chairman—I would like to congratulate our good friend and colleague, Bernie Sisk, for his longstanding interest in the problem of health care for illegal aliens—and for his leadership in developing this legislation.

I have co-sponsored this legislation, Mr. Chairman, because I share Mr. Sisk's concern about this problem and I believe it merits careful consideration by our subcommittee.

The question of who bears responsibility for providing health care for indigent illegal aliens is simply one we cannot afford to ignore. It has been estimated that there are as many as 6 to 8 million illegal aliens in this country. For those who seek and receive emergency room care, the cost is estimated by HEW to be between \$150 and \$462 million a year. At the present time many local taxpayers are footing the bill for this type of emergency care.

I believe it is incumbent upon us to examine the scope of this problem carefully, and to try to develop appropriate recommendations.

I look forward to the testimony today to help us address this important health care problem.

Thank you, Mr. Chairman.

Mr. ROGERS. Thank you, Dr. Carter.

Mr. SKUBITZ. Mr. Chairman.

Mr. ROGERS. Yes.

Mr. SKUBITZ. I regret very much that I cannot stay because I have another appointment in another committee over in Interior, but when you called and said it was Mr. Sisk's emergency bill I knew it was an emergency and that a quorum ought to be made, so I came up to make a quorum. It is good to have you here, Mr. Sisk.

Mr. SISK. Thank you, Mr. Skubitz.

Mr. ROGERS. Appreciate your coming by.

Please proceed, Mr. Sisk.

STATEMENT OF HON. B. F. SISK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. SISK. Thank you very much, Mr. Chairman.

Before I start my statement, Mr. Udall of Arizona had forwarded to me a statement, including some additional material, newspaper reprints and so on.

Mr. ROGERS. Without objection they will be made a part of the record.

Mr. SISK. I would ask that it be made a part of the record following my statement [see p. 14].

Mr. Chairman, I have been, I suppose, somewhat of a bother to you. I know how busy your committee is, and I know the vast amount of work you have under your jurisdiction. This has been a

serious problem with us, and we have been pushing to get some hearings to study the issue and attempt to resolve it.

I very much appreciate your calling these hearings today on a problem which has been of great concern to me and the people I represent for many years now--the costs incurred by medical care facilities and local government entities in providing essential emergency medical services to illegal aliens.

I will try to be brief. I would like to cite the thing that really got me started on this, one specific case, and then make a few recommendations. I do not desire to tell you, Mr. Chairman, or your committee what to do or how to conduct these hearings, but we do have some suggestions that hopefully the committee might see their way clear to take care of.

Illegal immigrants, as I am sure you realize, are a shadow population. More often than not they live on the fringes of society in fear of detection and deportation and seek medical attention only in dire emergencies requiring the most intensive and costly levels of care. Hospitals at the very least have a moral obligation to treat those who seek care in an emergency, but in most instances they have a legal obligation as well.

My interest in this problem goes back to May of 1972 when I was contacted by the county counsel for Merced, California, a small rural county in the central San Joaquin Valley. On May 1st of that year, four Mexican nationals who were living and working in the area illegally were involved in an automobile accident. The 23 year old uninsured driver of the car ran a stop sign and his car was broadsided by another car driven by a local school teacher. The school teacher received major injuries as did the uninsured illegal alien driver and his three passengers. The illegal alien driver, however, was by far the most seriously injured. According to hospital reports, he arrived at Merced General Hospital with a crushed chest and abdomen and a massive cut in his liver. He was given 40 units of blood within the first four days, suffered shock and kidney failure, and on his fourth day in the hospital had to be flown by air ambulance 90 miles across the Diablo Mountains to Stanford University Hospital.

The alien, although employed at a local nursery, had no health insurance and no automobile insurance. He and his fellow passengers were being treated at county expense and in the first two weeks alone, the costs to the County of Merced were approximately \$30,000. Because the one alien's condition was so grave, his continued hospitalization at county expense threatened to wipe out the entire medical budget for the year. I was asked to help in getting him transferred to a Public Health Service Hospital or other government facility.

Public Health Service officials told me that they had authority to treat him under Section 322(c) of the Public Health Service Act, and would do so, if they received a request for treatment from an interested Federal Government agency. The Immigration and Naturalization Service was the logical agency to make the request, since it has responsibility for enforcement of our immigration laws, and since the alien was in the country illegally, it would handle his deportation proceedings. But INS took the position that it would not

accept jurisdiction over the alien until he was well enough to be returned to his own country, and it would not request the Public Health Service to treat him, because it did not have jurisdiction over him. I was told that not unless the illegal alien was injured or otherwise in need of medical care while actually in the physical custody of the INS or the Border Patrol would that agency utilize the provisions of the Public Health Service Act and request that he be treated in a Public Health Service Hospital. The INS, which has been plagued with manpower and funding problems for years, can ill afford to absorb the costs involved in treatment of seriously ill illegal aliens, and its refusal to ask the Public Health Service to provide treatment in cases such as this one is understandable.

But that type of care has to be paid for in some way, and as it is now the local community bears the eventual cost in taxes for a county or city hospital or in increased fees for private hospitals.

In the 1972 Merced County case I mentioned, treatment of that one illegal alien cost the taxpayers more than \$75,000—nearly the entire county budget for medical care for indigent citizens. Merced County now spends about \$150,000 a year on emergency medical care for illegal aliens. Merced, as I have noted, is a small rural county. But Fresno County, which is also in my district, with a population of roughly 400,000, spends over \$1 million annually in providing medical care to illegal aliens. Los Angeles spends considerably more, as officials from that county will testify later today. Boston, Chicago, Miami and New York are but a few of the cities which I am told have similar problems.

To me the key issue is whether local communities, who have no responsibility for maintaining the integrity of our borders, should continue to bear the burden of providing essential medical care to aliens whom the Federal Government maintains have no right to be in this country in the first place. Immigration is an area of law mandated by the Constitution to the Federal Government, and whether or not one chooses to believe estimates of the Immigration and Naturalization Service that there are between 6 million to 8 million illegal aliens in this country, the fact is that their numbers are substantial and will continue to grow. To what extent the Federal Government can stop the flow of the poor from underdeveloped nations around the world from seeking refuge at our shores will depend upon many factors. But as long as the control of that flow remains a Federal responsibility, I believe that the Federal Government must bear the responsibility of paying for the costly emergency health care which illegal immigrants receive.

The legislation before this subcommittee which I have introduced, along with a number of others, H.R. 2400, H.R. 3697, H.R. 5031, and H.R. 6440, would authorize the Secretary of HEW to reimburse medical care facilities for treatment rendered in emergencies to illegal aliens, if the Attorney General certifies that the alien is in the United States unlawfully and the facility is unable to recover the cost of such care from the alien or some other public assistance program. It would also give the Secretary the authority to utilize Section 322(c) of the Public Health Service Act to place the alien in a Public Health Service Hospital, if appropriate.

I do not consider the bills to be the perfect solution, but they are at least a step in the right direction by requiring the Federal

Government to pay for essential emergency medical care to illegal aliens—care which no hospital can legally refuse to provide.

I must truthfully admit that I do not know, beyond the limited estimates we have received from a few selected counties and hospitals, how great the problem is or what it would cost the Federal Government.

Therefore, I have come here today to urge this subcommittee to hold field hearings in various areas throughout the country to study the problem first hand because of the millions, I think actually hundreds of millions, of dollars that even this portion of the illegal alien problem is costing this country. I also feel it would be advisable for the subcommittee to ask GAO to conduct an in depth study of the problem to ascertain the costs involved in providing emergency medical care to illegal aliens and to present legislative recommendations to provide relief to hard-pressed local governments for these soaring health care costs.

The Carter administration is shortly expected to announce its plan for dealing with the illegal alien problem. But regardless of what steps are taken to reduce the flow of illegal immigrants to this country, it is doubtful that we will ever stop that flow completely. The poor and jobless from Mexico, Latin America and many other Third World countries will continue to seek entry in any way they can and those who do manage to enter will still require medical care in emergencies. The Federal Government must assume responsibility for that care, whether in direct payment to the hospitals, or through reciprocal treaties with foreign governments to provide for reimbursement. Considering the fact that most illegal aliens do come from the underdeveloped countries of the world, it is highly unlikely that those countries would be willing to give their citizens in this country care they cannot afford to give their citizens at home. In either case, this is an issue which must be addressed by the Congress, and this subcommittee is the logical starting point.

Mr. Chairman, in conclusion, let me again thank you very much for this opportunity to appear and for these hearings and the opportunity that others will have on this occasion. I had an opportunity this morning very briefly before the committee started to visit with our new Commissioner of Immigration and Naturalization, Mr. Castillo, and I am rather impressed with some of the things that he proposes, and I have discussed this matter, not only this specific part but generally illegal alien problems, with both the Attorney General as well as on one occasion with the President of the United States himself.

It is a big problem, and there are no easy answers, but I do express to you, Mr. Chairman, my deep appreciation for taking the time and making an effort to attempt to handle this aspect of the overall problems.

Mr. ROGERS. We appreciate your being here.

What would you think of a provision—it just came across my mind as you were talking—to require by law that anyone who hires an alien without ascertaining what his legal status is, be responsible for any health costs incurred by that alien?

Mr. SISK. Let me say this is one avenue that, very frankly, we have explored to some extent. There, of course, are two problems on

that. My colleague from Florida and I, through the years, have observed efforts by our colleague, Mr. Rodino of New Jersey, Chairman of the Judiciary Committee, in the so-called Rodino approach which would require a penalty for the employment of illegal aliens. Actually the House has passed the Rodino bill, as I recall, Mr. Chairman, two or three times. Of course, if that became law your proposal might very well be tied in with it to make the employer liable for essential medical care that might be required by aliens he illegally employs.

There is one other aspect of this problem, if I may just mention it.

Mr. ROGERS. Sure.

Mr. SISK. You would be amazed at the number of people who get into the country and the first thing they do when they get a few dollars is buy an old clunker somewhere, unfortunately, from some used car dealer. I don't want to appear to be against used car dealers, but they manage to sell some old clunker and the alien goes down the highway and in many cases is not very familiar with the law, and may not be working anywhere at the moment, is in transit, and ends up in a serious automobile accident. We constantly have these people in the hospital, and in these cases you get into an area where in fact no one is directly responsible, at least no employer is involved.

Mr. SCHEUER. Will the witness yield?

I ask my Chairman, did you mean to make this an exclusive remedy, or an additional remedy?

Mr. ROGERS. Additional.

Mr. SCHEUER. I would think so. In other words, let's say he ran up a medical bill of \$10,000, \$20,000, \$30,000. If the man was employed and the employer had reason to believe that he was an illegal alien but nevertheless employed him, he would become liable in the initial instance, and if he couldn't pay or didn't pay after a reasonable period of time then I would think then the Federal Government would come in. I would favor such an approach.

I don't want to put words in my Chairman's mouth, but I didn't know that he suggested this as an alternative.

Mr. ROGERS. In other words, this will make them check and report a man if he is illegal. If they know they are going to be responsible for any medical care he is going to have to receive in this country, you can be sure they are going to check. I think you might be thinking about it and we will be glad to have your thoughts.

Mr. SISK. I would like to see the staff study this. I think it would be well worth looking into.

Mr. ROGERS. That would be another way perhaps to approach it.

Are there any local ordinances or State laws saying such a person would be responsible if he hired an illegal alien?

Mr. SISK. Not to my knowledge. The matter has been explored at considerable depth. Of course there wasn't much awareness of the problem because in the case of the more common type of emergency care, which is overnight or something like that, the hospitals and then the counties go ahead and absorb it. In many cases we are dealing with county hospitals, Mr. Chairman, as most States have, and so it wasn't a great burden at the beginning.

Actually this thing has developed over the last 6, 7 years. There were discussions then when it became evident that illegal aliens couldn't be referred to these Public Health hospitals. There still is a feeling that, after all, there shouldn't be any reason why you couldn't transfer illegal aliens to Public Health hospitals. We have them on the west coast, of course, as you do here on the east coast. Again the Public Health Service says no, we cannot do it unless there is an agency of government that will assume the cost, and of course Immigration and Naturalization, and I think they are right—I am not criticizing them—and I think I would have to defend them—could not assume it unless in fact the person is in their custody.

We explored with the State the possibility of the State doing something. Here again the States are not interested in going in and assuming extra burdens if they can avoid it. They turned around and said wait a minute. These people are constitutionally the responsibility of the Federal Government. That is about where we wind up in every case we explore.

Mr. ROGERS. Any other questions?

Mr. SCHEUER. No.

I want to congratulate the gentleman for bringing this to our attention. It is an enormously complicated subject. It crossed all kinds of jurisdictional lines in the executive branch and I think that is probably the reason that it has taken the executive branch so long to put their act together on the subject of illegal immigration.

We in the Congress haven't fared much better. The very problem that you are talking about probably crosses over the jurisdiction of this committee, the Ways and Means Committee in terms of Medicare, certainly the Judiciary Committee, and if you wanted to think of the cost of education, the cost of law enforcement, expenses and so forth, you end up with a good many committees of the Congress involved.

The gentleman has studied this problem long and hard, and he has given great leadership to raising the level of consciousness of the entire Congress on this problem, and I think that he has in effect been a point man in bringing this to us in a coherent and intelligent form. I welcome his leadership, and I congratulate him for it, and I am grateful for it.

Mr. ROGERS. Thank you very much. We appreciate your presence.

Mr. SISK. Thank you very much, Mr. Chairman.

[The statement of Representative Udall follows:]

STATEMENT OF HON. MORRIS K. UDALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. Chairman, I was pleased to join our colleague, Mr. Sisk, and others in cosponsoring H.R. 3697, and I appreciate his kindness in submitting my statement for the hearing today.

The two bills, H.R. 2400 and H.R. 3697, before this subcommittee address a very serious problem faced by medical facilities not only in California and the Southwest border States but in other areas as well. I believe the list of cosponsors gives a fair geographic reading of the problem where large numbers of aliens, many of them having entered this country illegally, have congregated, placing untoward demands on local health, welfare and other services.

All of you are aware, I'm sure, of the whole range of issues concerning our Government's policy toward illegal aliens which has received attention by the

administration and various congressional committees. My State of Arizona and other border States have been especially concerned about economic impact of the recent Mexican peso devaluation. I have been working with the Governor and State officials in providing information to the Federal agencies involved, and we have actively sought establishment of the new Border Regional Commission where specific attention can be devoted to some of the unique problems we face in our area.

Not the least among those problems is the increasing financial drain placed on already overburdened medical facilities in providing emergency medical care to illegal aliens regardless of their ability to pay. While the entire State has suffered some loss, Cochise County, lying along the Mexican border and in the Second Congressional District which I represent, has perhaps been hardest hit, for obvious reasons of proximity.

The Arizona Hospital Association estimates, after a survey of hospitals around the State, that emergency treatment of indigent Mexican nationals resulted in a loss of \$1,750,000 in uncollected fees in 1976 alone. Of that amount, the Cochise County Hospital Association "wrote off" \$74,000, which represents 42.3 percent of the total for 1976. The Association, incidentally, is a nonprofit corporation formed to run a central hospital serving the five major communities in sparsely populated Cochise County. The hospital has failed in its efforts to have the county government absorb the costs of treating nonpaying aliens, a burden which the county supervisors assert would overrun its budget and add to the tax levied on county residents. Both hospital and county officials believe it is an unfair burden for either regular patients or local taxpayers to bear these emergency treatment costs and the responsibility should be shared nationally.

No one has suggested that persons in need of medical treatment, whatever their financial or immigrant status, be denied such care. Indeed, the Arizona Supreme Court has ruled that such care cannot be denied. Yet, when hospitals nationwide experience skyrocketing costs, patients astronomical bills, health insurance rates climb higher and higher, unrecouped costs of this type simply exacerbate a growing problem.

Hence, the need for the legislation we have introduced is clear—to reimburse those medical facilities left with unpaid bills by illegal aliens by amending the Public Health Services Act. In terms of the entire Federal budget or even the budget of the Department of Health, Education, and Welfare, I suspect the sums involved would be fairly small, and in view of the President's determination to reduce Federal spending, I hope they are. However, to a fairly small community hospital trying to provide services to a wide range of local residents, the impact of thousands of dollars in uncollected bills can be severe.

Attached to my statement are several documents which I would like to include in the record for they graphically illustrate the points I have tried to make. I have included a letter dated January 28, 1977 to me from James F. McNulty, Jr., a Bisbee, Arizona attorney and one of the directors of the Cochise County Hospital Association, describing the specific problem they have faced for the last several years. Also attached is a one-page statement from the Arizona Department of Health Services in support of this legislation, as well as an article from the Arizona Daily Star (Tucson, February 14, 1977) describing the plight of Cochise County in this regard.

All of this, I believe, points up the necessity of enacting legislation to provide some relief to these medical facilities which are providing necessary services regardless of patients' ability to pay. Again, I want to stress that this is not merely a southwestern problem but one that affects many areas of the country, as you will hear in other testimony. I hope the subcommittee will act favorably on H.R. 3697, paving the way for Federal assistance to be made available.

[The attachments referred to follow:]

Gentry, McNulty, Borowiec, Hewlett & Desens

JAMES T. GENTRY
(1894-1952)MARTIN GENTRY
JAMES F. McNULTY, JR.
MATTHEW W. BOROWIEC
ROBERT A. HEWLETT
STEPHEN M. DESENSATTORNEYS AT LAW
BISBEE, ARIZONA 85603P. O. BOX 87
COPPER QUEEN PLAZA
TELEPHONE 432-2279
AREA CODE 602

January 28, 1977

Hon. Morris K. Udall
House of Representatives
1424 House Office Bldg.,
Washington, D.C. 20515

Dear Morris:

There were a lot of scandals surrounding the county operation of the County Hospital ten years ago. So a group of public minded people put together a non-profit corporation which contracted with Cochise County to acquit the county's statutory responsibility to those who were medically indigent and to run the hospital. We have been doing it ever since.

On the whole, I think we have done a good job. We allow county card-holders to choose their own physician, to be hospitalized in Bisbee, Douglas, Sierra Vista, Benson or Willcox, to purchase drugs at their local pharmacy.

The doctors bill us for their services at one rate and we pay at another rate, and everyone is happy with that arrangement, strangely enough.

We have 15 directors, 3 from each of the five communities. We meet monthly for no pay and little glory. We even contracted to take over the Bisbee Hospital from the Phelps Dodge when it discontinued operations. That nearly doubled our work.

A few years ago the Bisbee Phelps Dodge Hospital refused to admit a Mexican National patient on the grounds that it was a proprietary hospital. The patient was taken to the County Hospital and treated and is now well. What is important about all of this is that there was a test suit to determine the responsibility of the Copper Queen Hospital under these circumstances. It went to the Supreme Court and it was ruled that Arizona Hospitals are obliged to accept all medical emergencies even those emanating from the Republic of Mexico.

The shock waves of all of this continue to be felt. In 1974 our County Hospital Association wrote off 30 accounts from the Republic of Mexico for \$2,000.00. In 1975 we wrote off 59 accounts for \$12,000.00 and in 1976 we wrote off 234 accounts for \$74,000.00.

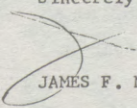
The trend is worrysome and the amounts of money are beginning to be consequential. What is to be done? We could pass a law and tell these unfortunate people to go back to Mexico for medical treatment. It is available in Agua Prieta and Nogales but not in other border towns. I do not favor this proposal.

We could try and sue these folks in Mexico but I think that's a waste of time. I suppose we could try to get some negotiations going with the government of Mexico, but I don't know that these would materialize in my lifetime.

We could ask that the financial impact be raised to a point where this burden is shared by more than just the taxpayers of Cochise County in general or the many people who use the hospital in Douglas in particular. Our new County Hospital is a very beautiful and large facility of 155 beds. It is new and it is patronized very heavily by private patients, most of them from the Douglas area.

I suppose this is one of the ramifications of living on the border. But our Board is concerned by it and has asked that I make a formal approach to you for any thoughts or advice that you may have. Best wishes.

Sincerely yours,



JAMES F. McNULTY, JR.

JFM:eg



ARIZONA DEPARTMENT OF HEALTH SERVICES

Office of the Director

RAUL H. CASTRO, Governor
SUZANNE DANDY, M.D., M.P.H., Director

Title: Financial Assistance to Medical Facilities for the
Treatment of Aliens

Number: H.R.2400

Issue:

In the past year hospitals in Arizona have expressed concern about unpaid medical costs associated with the treatment of Mexican aliens. In January, 1977 the Arizona Hospital Association conducted a survey of its member hospitals and received an estimate of \$1,750,000 in uncollectable monies spent in 1976 for services to indigent Mexican nationals who gave Mexican addresses of residence.

The Department of HEW has also awarded a contract to Health Research Services and Analysis, Inc. to conduct a study which will estimate unpaid medical costs attributable to illegal immigrants. Arizona is one of the six states being surveyed in that study which should be concluded in about six months.

I understand that the House Interstate ^{and} Foreign Commerce Committee will soon be conducting hearings on H.R.2400, which will permit medical facilities providing treatment to such aliens to apply to the Federal government for reimbursement for such unpaid expenses. I believe you will find strong support for such a measure from the health care institutions in Arizona.

Mexicans' bills going unpaid, hospital says

By ELAINE DAVIS
The Arizona Daily Star

A.D.S.
2/14/77

DOUGLAS — Cochise County Hospital officials say a growing number of Mexicans are using their medical facility and returning across the border without paying their bills.

Comptroller Ron Jones said the hospital carried 234 delinquent accounts last year with total bills of \$73,860. He said that was 33 times higher than Mexicans' bad debts in 1974.

"If the taxpayers in my district knew about this, there would be a lynching," said Joe Lane, one of three Willcox area hospital board members. Lane, a critic of the hospital's debt situation, suggested that Mexicans be refused treatment in many cases or transported with medical attendants to a hospital in Mexico.

But other hospital board members, including Bisbee attorney Jim McNulty, said the county hospital could face legal problems with that practice.

"We can't refuse treatment," McNulty said, "because of an Arizona court decision which states a hospital cannot refuse to treat someone requiring emergency care." Even if the hospital knows the person cannot pay the bill, an emergency patient cannot be turned away, he said.

Jones said the situation "will raise hospital rates, and patients and insurance companies will have to absorb the costs."

The hospital does try to collect on bad debts, Jones said. "Before the peso devaluation, they (Mexican aliens) used to pay \$5 a month, now they can't even pay that."

Before the devaluation, Mexicans were paying the hospital bills in pesos worth eight U.S. cents, McNulty said. Now, those pesos are worth only 4½ cents, in effect almost doubling Mexicans' bills, McNulty explained.

But McNulty said devaluation is only part of the problem. "The shaking out of the Mexican economy has only been in the last three or four months of 1976, and the problem has been all year," he said.

McNulty has corresponded with U.S. Rep. Morris K. Udall, D-Ariz., and the state Dept. of Health Services. He said he is expecting aid from state and federal agencies.

Jones said many of the Mexicans are pregnant when they get here. "We can't send them back, we have to take them. They do this so their children can be (United States) citizens," he said.

Under immigration laws, any child born in the United States whose parents are not diplomatic envoys is a citizen.

"No citizen can be deported," said Rufus

D'Albini of the U.S. Immigration Service. "But the mother can be deported. It is up to her whether she will leave the child here with relatives or take it back to Mexico with her." More frequently, the mother takes the child with her, he added.

In the past, D'Albini said, as soon as a child was born here, the names of the parents were put on an eligibility list to immigrate.

As of Jan. 1, 1976, the law was changed, so that the child, on reaching 21, can petition for his or her parents to become U.S. citizens.

The hospital has filed a lawsuit in Superior Court seeking to force Cochise County to pay for services rendered to Mexicans. The supervisors have refused to reimburse the hospital, McNulty said.

Supervisor V. L. "Tommy" Thompson said the board has been told by the Cochise County attorney that it would be illegal to pay the Mexicans' hospital bills.

Thompson said the supervisors' problem is complicated because total medical costs for indigents in the county will be \$300,000 more than the \$2,216,000 budgeted.

Referring to the Mexicans' hospital bills, Thompson said, "It is a problem, but we can't add to the burden of taxpayers."

The counties along the border should not have to pay all the costs, Thompson said. At a meeting of boards of supervisors in Las Vegas, he said, "the problem was discussed and it was recommended that the costs be extended throughout the United States. It is a national problem."

Mr. ROGERS. The next witness is the Honorable Lionel Van Deerlin of California, who is a member of the full committee and distinguished chairman of the Subcommittee on Communications.

We welcome you to the subcommittee. Your statement will be made part of the record in full without objection [see p. 21].

**STATEMENT OF HON. LIONEL VAN DEERLIN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. VAN DEERLIN. Thank you, Mr. Chairman.

I compliment you on your sagacity in putting me on after the bells have rung. You know that I will be brief.

Mr. ROGERS. We will come back to hear you anytime.

Mr. VAN DEERLIN. Rather than take that chance I think I will unload on you right now.

Mr. ROGERS. The committee welcomes that.

Mr. VAN DEERLIN. The districts that Mr. Sisk and Mr. Krebs represent are at least 300 miles from the border. My district is on the international border. It is the busiest border crossing in the world for legal immigration, and surely also for illegal immigration. In my district alone, in the calendar year 1976, there were apprehended by the Border Patrol 270,010 illegal aliens. It is estimated that for every one they pick up, at least three or four get through.

I assure you that on your next visit to San Diego, I could take you into Baja California under the dark of night, and you and I could come across the border without any difficulty at locations other than the border gates.

Mr. SCHEUER. I had that experience a couple of months ago on that Immigration and Naturalization point and watched the illegal immigrants stream across the border, watched them through the night scopes which our Defense Department has developed. It reminds me more than anything else of an old district I had, my first district, watching the crowd leaving Yankee Stadium after the ball game and go home by subway. That is what it looked like.

Mr. VAN DEERLIN. A nice allusion.

The fact of the matter is that this is such an important topic in our county that the chairman of the county board of supervisors himself would have been here for this afternoon's panel if they were not in budgetary hearings this week, and he is going to be represented by the principal assistant to the county administrative officer, Mr. Frank Panarisi. He will take up where I leave off.

Mr. ROGERS. Fine; we'll be glad to hear from him.

Mr. VAN DEERLIN. We don't have to go back very far to find examples. Ten days ago when I was out in my district for the brief district work period that accompanied Memorial Day, there was a light van carrying 17 illegal aliens through the northern part of the county. To make sure they didn't encounter Border Patrol checkpoints, the van was being driven over an old dirt mountain grade, it toppled over the edge, plunging 200 feet into a canyon. Ten of the 17 aliens were severely injured, taken to Fallbrook Hospital. This is small district hospital supported by a population of about 20,000 people. Some of the patients were later transferred, but just for the time that three of them were being treated in this small, publicly

supported hospital the cost got up to \$10,000 or \$12,000, that represented an assessment on every man, woman, and child in the hospital district of 40 cents. Now, this isn't borne by the general taxpayers of the county. It is borne by those 20,000 people. I don't represent them. Clair Burgener does. But this is a terribly unfair arrangement.

Down in my district there is a church-supported hospital, Paradise Valley, which just in the five first months of this calendar year has laid out \$95,000 for taking care of illegals who are accident victims or women about to deliver babies. No hospital is going to turn down someone who needs emergency care, or who is about to deliver a child. The cost to the county taxpayers of San Diego, for University Hospital care, which is county-supported, has reached \$800,000—almost triple what it was five years ago.

All this pales into insignificance compared with Los Angeles County, to the north. There are very substantial Hispanic communities in and around Los Angeles. The illegal alien population is not less than 600,000, possibly three-quarters of a million there, and the cost of hospital care for illegals last year was \$21 million.

I am not going to reiterate the logic points presented so forcibly by Mr. Sisk. I know this doesn't constitute a responsibility within this subcommittee alone. But this subcommittee has been so innovative in the past in helping to spread the cost of hospital care by establishing a system for maintaining properly distributed regional care, your record tells us that you are going to be very helpful in solving this matter for us. We surely implore you to do so.

Mr. ROGERS. Thank you very much.

We will make every effort to come up with some solution, and we would welcome any suggestions as we go along that the gentleman may have.

Mr. VAN DEERLIN. You will find some very practical suggestions in the four and a half pages of testimony which you have been kind enough to accept for the record.

[Mr. Van Deerlin's prepared statement follows:]

STATEMENT OF HON. LIONEL VAN DEERLIN, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF CALIFORNIA

Mr. Chairman, members of the subcommittee:

I appear before you today to express by strong support for H.R. 3697, a bill which our colleague B. F. Sisk has offered to lift some of the burden off local hospitals and communities in providing emergency medical care to indigent illegal aliens.

This is a problem with which we are all too familiar in my home territory of San Diego. My district lies across the border from Mexico. Last year, 270,010 illegal aliens were apprehended in the San Diego area—nearly 1,000 a night. And for every one caught, the best estimates are that three or four get through.

Since these people normally travel after dark, often on remote back roads in decrepit vehicles, they are involved in more than their share of traffic accidents.

In one particularly appalling case just 10 days ago, 17 illegal aliens were injured when the overloaded van in which they were riding careened off a truck trail, near Fallbrook in northern San Diego County, and plunged down a 200-foot embankment.

Ten of the victims were taken to Fallbrook Hospital, all that this 50-bed facility could accommodate. Although only three were hurt badly enough to be admitted, I am told that costs to the local taxpayers for just this one accident will come to between \$8,000 and \$10,000. Since the little hospital serves a rural district with only about 20,000 inhabitants, the cost per resident will be about 40 cents, a shocking amount considering the local people receive no direct benefit from this care.

In and around Fallbrook, these tragic and expensive incidents are not uncommon. Besides being in the middle of an "underground railway" complex of back roads heading north, Fallbrook also is in the heart of a major avocado growing region, where many illegals are employed.

But no part of San Diego County can escape this all-pervasive problem. Industrial National City is much closer to the border than Fallbrook, and is served by interstate freeways rather than country roads. National City is just a few minutes' drive from Mexico. Its local hospital, 210-bed Paradise Valley, is busy indeed.

Paradise Valley administrators estimate that since the beginning of the year they have spent \$95,000 on emergency care for illegal aliens. Many of these "emergencies" are contrived by women who wait until literally the last moment to present themselves on the Paradise Valley doorstep in order to deliver babies. Since no one can be turned away under these circumstances, obstetricians take over knowing nothing of the medical history of their surprise patients.

Paradise Valley is a private hospital, while Fallbrook Hospital is publicly owned—but each place is hit—unfairly in my view—by the soaring costs of providing emergency care to non-resident aliens—most of them illegal—who usually are in no position to pay their bills.

Neither Paradise Valley nor Fallbrook has received any reimbursement for these unmet costs, from Federal or other sources.

Nor has the County of San Diego, which last year spent \$800,000 to subsidize emergency bills of non-resident aliens, incurred mainly at the county-operated University Hospital. Five years earlier the equivalent bill was much less, \$321,000, an indication of how this disturbing "trade" is increasing.

And burdened as San Diego is, its problems almost pale by significance in comparison with those of Los Angeles to the north. Many illegal entrants see San Diego only as a way station en route to Los Angeles and its huge and well established Hispanic communities. That county, where the illegal alien population is estimated at 750,000, contends that public spending on hospital care for the illegals reached \$21 million last year.

The inequities of this situation are obvious. Trying to maintain the integrity of the border is a Federal responsibility. Logically, the Federal Government should also be responsible for paying the emergency medical expenses of foreigners who violate our borders. Why should local citizens be stuck with the tab when the national Government fails to meet its larger obligation to keep illegals out?

I know that the local governments are prepared to assist this subcommittee in any way possible. San Diego has compiled much useful data on the scope and nature of this problem. One technical difficulty may lie in determining which of the "non-resident aliens" treated by the hospitals are illegally in the country and which are "green card" holders eligible to visit or work in this country although they don't live here.

H.R. 3697 would go far toward putting responsibility for treating these unfortunate people on a more rational basis. I thank the subcommittee for holding this hearing, and I urge it to act promptly and favorably on this much needed legislation.

Mr. ROGERS. Thank you. We will review it most carefully. Thank you.

The committee will stand in recess for ten minutes while members cast votes.

Thank you for being here.

Mr. VAN DEERLIN. Thank you, Mr. Chairman.

[Brief recess.]

Mr. ROGERS. The subcommittee will come to order, please.

We next have our distinguished Member from California, the Honorable Bob Wilson, and we welcome you to the committee.

Your statement will be made a part of the record in full, and you may proceed as you desire.

STATEMENT OF HON. BOB WILSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WILSON. Thank you, Mr. Chairman.

I do appreciate your letting me run a little ahead of schedule.

I just briefly want to say I am in full accord with the Sisk bill. I co-sponsored it.

We have a problem in our community of San Diego that Mr. Van Deerlin has spoken of. I think the main point to emphasize is our care that is accorded the illegal aliens is emergency care only. We have no long range care of any kind. This is only where an illegal alien has been involved in an accident, or maternity problem or something of that sort, and it amounts to upwards, it's almost a million dollars a year, and of course, it comes directly out of our taxpayers' budget.

I think it is a Federal responsibility in view of the fact that the illegal aliens are not controlled as they should be by the Federal Government, and therefore, I believe that the Federal Government has to feel some responsibility in this regard, and I appreciate your giving me the chance to testify.

[Mr. Wilson's prepared statement and attachment follow:]

STATEMENT OF HON. BOB WILSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, one of the major problems confronting our country at the present time is the influx of aliens who cross our borders illegally, take up residence and seek employment.

The problem in my district of San Diego is especially acute. Being but a few miles above our international border with Mexico, San Diego has become a major way station in this underground railroad of illegal aliens. The no-man's land between the two countries has become a combat zone where the incidence of beatings, muggings, rapes—even murders—has risen dramatically during past months.

This increase in crime and the sharp increase in the number of illegals who try to gain entrance to the United States has prompted the Immigration and Naturalization Service to augment the existing force of border patrol agents by over 100 badly needed men and women who were transferred last week to the San Ysidro Border Station from other posts across the country.

The increase in the number of illegal aliens is also impacting San Diego's local economy, just as it is the economies of other American cities. I am speaking now of the taxes our citizens pay—specifically the amount of the tax dollar that goes to pay the cost of administering emergency health care to those who enter our country illegally.

To the local taxpayer, the money he or she pays is already high. But to pay an additional sum to support such aliens through community health care facilities is to add an onerous burden to our citizens, especially those in our border cities.

To place these costs more in perspective, it is estimated that San Diego's citizens will contribute between \$800,000 to \$1 million to non-resident alien emergency health care during 1977. This health care is administered in San Diego by University Hospital, through a contract with the County.

As I've said before, the health care problem isn't confined to San Diego alone. Emergency medical services for non-resident aliens cost Los Angeles County upwards of \$12 million annually, and an estimate of the cost of such services nationwide will reach \$150 million this year.

Mr. Chairman, the illegal alien problem is a national one, and I think it unfair to ask but a few of our fellow Americans to bear this excessive financial burden. It is the responsibility of the Federal Government to maintain the integrity of our borders and, if it cannot do so, then it should be the job of the Government to provide some measure of relief to our local governments who are having to foot the bill for medical care for these aliens.

Additionally, many private hospitals and physicians also provide emergency medical care for illegal aliens, and most absorb these costs in their already strained budgets. As an appendix to my testimony, I would like to submit a letter from Dr. R. L. Stennes, Associated Emergency Physicians Medical Group, Inc. relative to the impact of this emergency care on private medical facilities.

H.R. 3697 will go far toward helping out those who are in the front lines dealing with the problem and I urge the subcommittee's favorable action.

ASSOCIATED EMERGENCY PHYSICIANS MEDICAL GROUP, INC.,
San Diego, Calif., June 8, 1977.

HON. BOB WILSON
*House of Representatives,
 41st District*

DEAR CONGRESSMAN WILSON: We enthusiastically support the thrust of H.R. 3697. Our Emergency Group staffs two hospitals close to the border; one being Paradise Valley Hospital in National City and the other being Community Hospital of San Diego, both of which service a significant number of illegal aliens. The actual cost of this care is difficult to establish from the physician's point of view because there is so many private physicians who provide care to these people both in the emergency setting as well as for in-patient care. Although the numbers probably approximate only 10 per month per private hospital, the impact is great because very often these people have major medical and surgical problems that can result in \$40,000 hospitalization bills in addition to physician charges.

There are numerous private hospitals in San Diego County that provide care to illegal aliens. One of the most common problems relates to those people who wait in the parking lot until delivery is eminent and then come into the Emergency Department for delivery.

In analyzing the full impact of alien care, we must certainly include the cost of the private sector where most of the illegal alien's health care is delivered in addition to the county estimates of their costs in the University Hospital setting.

I would be very happy to discuss this matter in greater detail with your office if it will be helpful.

I have consulted with several other hospital staffs on this matter and have been advised that most have responded to Mr. Van Deerlin with estimates of their hospital costs. Thank you very much for your support.

Sincerely,

R.L. STENNES, M.D.

Mr. ROGERS. Thank you, Mr. Wilson.

May I ask this: What would you think if the committee decided to put an obligation on a person who hires illegally, that they would have the responsibility for any emergency medical care that has to be delivered?

Mr. WILSON. I think you would have difficulty, Mr. Chairman, in trying to locate the person who hired the illegal alien. In many instances these are automobile accidents and that sort of thing; they are illegal aliens looking for jobs, coming into the country and so forth. I have no real objection.

Mr. ROGERS. In other words, put some obligation on the person who hires an alien to make sure the alien is in a legal status?

Mr. WILSON. I think that should well be considered, Mr. Chairman.

Mr. ROGERS. Thank you so much.

Mr. Scheuer, do you have any questions?

Mr. SCHEUER. No, Mr. Chairman.

Mr. ROGERS. Thank you so much. We appreciate your being here.

Mr. WILSON. Thank you.

Mr. ROGERS. Our next witness is another distinguished colleague from California, the Honorable John Krebs, who has been patient with the committee. We welcome you, and your full statement will be made a part of the record.

You may proceed as you desire.

STATEMENT OF HON. JOHN KREBS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. KREBS. Thank you, Mr. Chairman, and members of the committee.

I certainly appreciate the opportunity of being able to testify this morning, and I want to commend you, Mr. Chairman, on making these hearings possible, and also would like to commend my colleague, Congressman Sisk, in absentia, for the leadership he has shown in this important issue.

The reason I say the issue is important, and I will depart from the statement since it is going to be a part of the record, the reason this issue is important is really demonstrated I think by the district that I represent, which is adjacent to the one represented by my colleague, Congressman Sisk.

Our respective districts are in the San Joaquin Valley of California, also known as the Central Valley, and to give you an idea, I just happened to go over the statement by my good colleague, Congressman Van Deerlin of San Diego, which, of course, is a county adjacent to the Mexican border, where most of the illegal aliens, at least the ones we get in our part of the State, originate, and I noticed that they spent a total of \$800,000 for emergency care of illegal aliens which certainly is no small sum by any standards.

San Diego County happens to have a population of approximately four times that of Fresno County, which is the largest county Congressman Sisk and I jointly represent. I also represent Kings and Tulare Counties, and I will have a few words to say about those in a moment.

Fresno County, with a population of only 400,000 last year, spent approximately \$1.2 million on the health care of illegal aliens.

Now there is some reference made to emergency health care, and I used that term in my statement, but I also point out in my statement, Mr. Chairman and members of the committee, that you have a health problem that simply cannot be ignored. These people coming from a very low economic segment of our society very often carry with them certain communicable diseases, and their youngsters of course are going to school. These aliens obviously circulate in the community in one fashion or another. So when they have a communicable disease it certainly is in the interest of the county to see to it that these people are taken care of.

Now, I mentioned Tulare and Kings Counties, and these are substantially smaller counties, but even Tulare County spent \$532,000 last year for the same purpose, and Kings County, with a population of only 70,000, spent approximately \$125,000 last year.

We are definitely dealing with substantial amounts of money. In terms of the tax rate in Fresno County, the \$1.2 million represents 12¢ on the 1976 tax rate of \$3.18. Now, the 12¢ in itself seems like a relatively small amount, and I will certainly concur in that, but if you keep in mind that the State of California is one of those States that has a tax limitation imposed on local government, those 12¢ become very crucial, and most of these counties operate very close to the maximum permissible tax rate.

Let me address myself very briefly to what I perceive to be the responsibility of the Federal Government in this area.

I think it goes without saying that the situation in which the counties around this country find themselves in is a situation that has not been created by them. The situation results directly or is

reflective of the proximity of a given county to the border of the country from which most of these illegal aliens originate.

Furthermore it is, a situation over which they have no control. It's a situation that is under the control of the Federal Government.

Thus in rendering the medical care, the county is certainly not in the position of a volunteer, but instead is really assuming a responsibility that, in fairness, and on basic rules of equity, the Federal Government should be responsible for.

I therefore strongly urge this committee to give serious consideration to the legislation introduced by Congressman Sisk. Having served in local government before I came here, I am somewhat familiar with the situation at hand, and if the committee has any questions I will be glad to try and answer them.

[Mr. Krebs' prepared statement follows:]

STATEMENT OF HON. JOHN KREBS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman and members of the subcommittee, I deeply appreciate the opportunity to testify this morning before this distinguished subcommittee in support of H.R. 2400, introduced by my colleague, Congressman B. F. Sisk. I cosponsored this legislation in the 94th Congress and again this year.

H.R. 2400 seeks to redress a long-standing inequity. Under the terms of this legislation, counties would be reimbursed for the cost of emergency medical care provided to illegal aliens. The cost of such emergency care has been increasing in direct proportion to the influx of illegal aliens into this country. Congressman Sisk and I jointly represent Fresno County located in the center of the San Joaquin Valley of California. My district, furthermore, covers all of Kings County and most of Tulare County. Fresno County is the largest of these three counties with its population of approximately 440,000. These counties, because of their agriculturally based economy, have over the years attracted an ever larger number of illegal aliens, with most of them originating from Mexico. The amounts spent by the three counties on the emergency care of illegal aliens clearly illustrates the scope and seriousness of the problem. Thus, in the fiscal year ending June 30, 1976, Fresno County spent \$1,226,180 on medical care for illegal aliens, and it is estimated that the county will spend approximately \$1,400,000 for the same purpose in fiscal year 1977. Tulare County, for fiscal year 1977, will have incurred \$532,000 in costs for such care. Kings County, with a population of only 70,300, does not have its own county-operated hospital but contracts with the Sacred Heart Hospital in Hanford, for the care of its indigent patients, and was billed by that hospital the sum of \$125,000 for calendar 1976 for emergency medical services provided illegal aliens.

It goes without saying that the illegal alien clientele does not have the financial resources to pay for medical services rendered. Thus, the recovery by the counties which furnish such services ranges from 5 percent in Fresno County, to 8 percent in Tulare County. The migratory nature of the illegal alien further complicates any attempts at financial recovery. While these aliens have been found eligible for Medi-Cal, the California equivalent of Medicaid, it is next to impossible to get them to sign the necessary documents for fear that they would be apprehended by the Immigration and Naturalization Service to whom this information is routinely passed on.

Apart from the humanitarian consideration that any person in true need of medical treatment should receive it, there are also general public health considerations to support the treatment of illegal aliens since they are often the active carriers of various communicable diseases. In view of the fact that these people live and work in the community, and their children attend schools, the risk of failure to provide them with the necessary medical treatment is obvious and substantial. Thus, for practical purposes, the delivery of the services in question is not a matter of choice for the providing county, and it can therefore hardly be claimed that the county is acting as a volunteer.

It goes without saying that the individual county has absolutely no control over the number of illegal aliens within its jurisdiction. The number of such illegal aliens in any county is reflective of Federal immigration policies, or more accurately, the inability of the Federal Government to enforce such policies, as well as the proximity of the county to the country of origin. Thus, one must conclude that the counties are

innocent bystanders in a situation which they have neither created nor are in a position to control. Putting it in somewhat different terms, in providing emergency medical care to illegal aliens, the counties have in fact shouldered a responsibility which historically and legally is that of the Federal Government.

As one who served for 5 years on the Fresno County Board of Supervisors prior to my election to the House of Representatives, I am painfully aware of the fiscal constraints in which local governmental entities find themselves. This is particularly true in California where local government is subject to a tax rate limitation imposed by the State. As previously mentioned, Fresno County spent over \$1.2 million on medical care for illegal aliens for fiscal year 1976. This represents more than 12 cents on the county tax rate which in that same year was \$3.18. Since the tax rate in most counties in California has been running very close to the limit permitted under the just mentioned State imposed limitation, 12 cents on the tax rate represents a substantial figure indeed.

In light of the above, it seems clear that the Federal Government has an obligation based on well recognized principles of equity to reimburse local government for the cost of furnishing medical care to illegal aliens to the extent that such local entities are not reimbursed for those expenses by other parties.

Mr. ROGERS. Thank you so much.

Mr. Scheuer?

Mr. SCHEUER. No questions, Mr. Chairman.

I appreciate the gentleman's testimony. It was very incisive and very informative.

Mr. KREBS. Thank you, Mr. Chairman.

If I may address myself to just one question you asked of my two colleagues who preceded me, that is the question of including a provision in the bill which would, in effect, impose a financial burden on anybody who knowingly hired an illegal alien. Basically the problem, I should say, we are going to be facing, is the same we face in the Rodino bill, and I frankly am not overly optimistic, and I hope I will be proven wrong that the administration is going to be able to get through the House and Senate a bill that is really going to be meaningful in terms of curbing the influx of illegal aliens. So I think this is a problem we are going to be living with for a long time. It is for this reason why I certainly have no objection to the insertion of such a provision.

Nevertheless, it's going to meet the same objection of many employers, and civil liberties and civil rights groups and for that matter labor. In other words the same groups that have opposed such a provision in the Rodino bill. We therefore shouldn't have any illusions that this is going to be a very easy provision to get passed.

Mr. ROGERS No. I understand, but I would think where it concerns health care that it's somewhat different than just levying a fine. This is, in effect, a benefit for the illegal alien who has been hired contrary to the law.

Mr. KREBS. I have no objection to it, Mr. Chairman.

Mr. ROGERS Good. I think in a health bill it might pass.

Mr. KREBS. Could be.

Mr. ROGERS. We will try.

Mr. KREBS. Thank you very much. I appreciate it.

Mr. ROGERS. Thank you for being here.

Without objection, the Chair wishes to place in the record, as though read, statements submitted by Congressmen E. (Kika) de la Garza of Texas, George E. Danielson of California, and Clair W. Burgener of California.

STATEMENT OF HON. E. (KIKI) de la GARZA, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

Mr. DE LA GARZA. Mr. Chairman, many thanks for giving me the opportunity to appear with you in support of H.R. 3697, to amend the Public Health Service Act to provide financial assistance to medical facilities for treatment of certain aliens, introduced by our valued colleague, B. F. Sisk, and with whom I have co-sponsored this legislation.

Primarily I am here to advise that my interest corresponds completely. I represent an area that stretches along the U.S.-Mexico border for 200 miles—all of it vulnerable to illegal aliens crossing. They come by boat. They swim. They come in on border crossing cards which permit them to come for a day, and then they try never to leave.

Time limitations prevented my securing accurate figures from interested hospitals. There would possibly be a minimum of seven hospitals in this area, and three replied. The Valley Baptist Medical Center in Harlingen; the McAllen General Hospital in McAllen; and the Brownsville Medical Center in Brownsville.

Their combined totals of admission for illegal alien cases in the last year were 2,651.

But this figure they tell me reflects only half of what comes into the emergency room seeking treatment. Further, I was advised that they encompass a total of 4,029 patient days with the average cost of admission and recording being \$306,000. For the most part this comes out of the hospital's own coffers because nobody's paying them back.

One of the reasons Valley figures are unattainable is that when an alien provides an out of the Valley address there is a requirement to contact immigration people and deportation proceedings start. When I say deportation I do not mean the long formal deportation proceedings that require hearings—because then the services of a lawyer are required. Aliens are given voluntary departure and required to leave.

Meantime, the State Department of Public Welfare has a sympathetic and humanistic view of the entire situation—but they would have no interest unless there is a 100 percent Federal funding which is allowed in the bill.

The Department of Public Welfare has obvious reasons for not being interested in anything other than 100 percent funding because the State of Texas does not have medically needy programs from which funds are available for financing nor does it have any medical funds to divert to such a program.

Actually, there is no telling the number of illegal aliens who would be involved nor the probable rate of utilization so there is no way within the time frame that the Department of Public Welfare could assess the impact of the program on the State as a whole.

We have a problem. The problem is not going to go away—we have to look at it, and address some means of handling it.

It is conceivable that this is an area that should be brought to the attention of the President's Task Force and his interest in providing a way to bring illegal aliens into the Nation's mainstream. While I

regret not having more comprehensive information I can assure you that from the small hospitals in my area—hospitals that receive no outside assistance through the imposition of taxes or private donations—they are all having a problem.

Many thanks for giving me the opportunity to join with you in this discussion.

STATEMENT OF HON. GEORGE E. DANIELSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. DANIELSON. Mr. Chairman, I thank you and the members of this distinguished committee for the opportunity to appear before you today.

I welcome the opportunity to comment upon an issue which has grown from a fiscal annoyance in my district and in my county to something close to fiscal catastrophe.

I am referring, of course, to the virtual flood of illegal aliens which have poured into southern California in recent years.

In theory, immigration problems are Federal problems. The integrity of our national boundaries and immigration policy is unquestionably a Federal matter.

That is why the Federal Government must recognize its obligation to assist those local units of government which bear the principal burden of illegal immigration in the United States.

Los Angeles County, where my district is located, has been especially hard-hit. Somewhere in the neighborhood of three-quarters of a million illegal aliens are believed to be residing in Los Angeles County today. The strain these people have put upon local resources and services—not only in health care, but schools, employment, law enforcement, welfare and other services—is fast approaching the breaking point.

Let me give you just a few examples:

Welfare costs related to illegal aliens total \$1.4 million of which \$228,000 is paid by the county treasury. Welfare payments to 8,500 children of illegal aliens living in the county last year cost the taxpayers \$9.9 million.

In education, the Chief Deputy Superintendent of Schools for Los Angeles County estimated in 1972 that the cost of educating about 600,000 illegal alien students was \$100 million a year. The county school system and three El Monte school districts located in my congressional district found, after screening the names of its students with the Immigration Service, that about three-fourths of the 13,000 names checked were identified as illegal aliens.

In the law enforcement area the presence of so many illegal alien residents is having a very adverse effect, both in terms of crime and police resources. This year the El Monte Police Department and the El Monte City Council requested \$206,000 in reimbursements from the Immigration Service for expenses related to the handling of illegal aliens. This figure is about 10 percent of the El Monte Police Department's total budget.

The City Council of Rosemead, the Monterey Park Chamber of Commerce, and many other civic organizations have gone on record urging the Congress to provide relief to this serious problem.

I do not wish to leave the impression that illegal aliens do not pay taxes. Of course many do. According to Los Angeles County Supervisor Pete Schabarum, the property tax contribution of illegal aliens is \$11.8 million. But this figure doesn't come close to matching the estimated \$60 million in county outlays for health care services alone.

Just this week, Mr. Chairman, the Los Angeles County Department of Health Services released the results of a study which found that between \$17 million and \$27 million is being spent by the county to provide emergency medical services to undocumented aliens. Only about 10 percent of that money is returned to the hospitals and clinics through repayment.

A substantial portion of these services goes to provide obstetric care. In one facility, the Women's Hospital at the Los Angeles County/University of Southern California Medical Center, nearly 51 percent of the 1,200 births each month are to women who did not enter this country legally. That comes to about 6,000 children born to illegal aliens a year at Women's Hospital alone.

The hospital now estimates that about 45 percent of the total cost of operation is to provide medical services to illegal aliens.

Mr. Chairman, I am pleased to be a co-sponsor of H.R. 3697 because I believe it is an important first step toward reimbursing local governments for the failure of the Federal Government to do its job.

I think it is time the Congress recognized its obligation to local governments in Los Angeles and elsewhere to provide the revenues for emergency hospital care which a flawed immigration policy has taken away.

I urge my colleagues to support H.R. 3697 and I thank you, Mr. Chairman, and the members of this subcommittee for your indulgence.

STATEMENT OF HON. CLAIR W. BURGNER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BURGNER. Mr. Chairman, members of the subcommittee, I appreciate the opportunity to testify here today on what has become a burgeoning problem for local governments and health care institutions, the question of who pays the health care costs for services rendered for illegal aliens.

You have heard many expert witnesses today on this problem, and I won't belabor you with bushels of statistics—emergency or otherwise—of illegal aliens. One way or another, it is local taxpayers or health services consumers who pay the costs for a responsibility which undoubtedly rests with the Federal Government.

Approximately 40 percent of the Nation's suspected illegal aliens come into this country in the San Diego/Imperial County area, much of which I have the privilege to represent, Mr. Chairman.

Already the San Diego County government is expending upward of \$1 million per year from the County general fund to pay for the emergency medical treatment of illegal aliens. Although there are no exact figures, I suspect that many thousands of additional dollars are being absorbed by private health care facilities—and eventually, their patients—for illegal alien care costs.

The Federal Government, Mr. Chairman, has the unquestioned responsibility for regulating alien traffic, and as we all know, it has been failing miserably in regulating that flow. It is time that we recognized our responsibility to meet the costs being borne by others as a result of that failure, and I strongly urge the subcommittee to adopt the legislation before you providing reimbursement to institutions rendering care to indigent illegals.

Mr. ROGERS. Next we have the Commissioner of the Immigration and Naturalization Service, the Honorable Leonel Castillo, Department of Justice.

Mr. Commissioner, we welcome you to the committee, and you may proceed as you desire, and you might like to introduce your associates.

STATEMENT OF HON. LEONEL CASTILLO, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE, ACCOMPANIED BY DAVID CROSLAND, GENERAL COUNSEL; WILLIAM P. O'BRIEN, ASSISTANT COMMISSIONER FOR DETENTION AND DEPORTATION; AND PAUL W. SCHMIDT, OFFICE OF GENERAL COUNSEL

Mr. CASTILLO. Yes, sir.

Mr. ROGERS I am sure you can tell us how to handle this problem without any difficulties.

Mr. CASTILLO. Mr. Chairman, members of the committee, I am pleased to appear before you today to present the views of the Department of Justice on H.R. 2400. I am accompanied today by David Crosland, General Counsel and Bill O'Brien, Assistant Commissioner for Detention and Deportation, and Mr. Schmidt also of the legal department.

H.R. 2400 provides for reimbursement of medical facilities for expenses incurred in rendering emergency medical treatment to aliens unlawfully in the United States. This legislation would be administered by the Secretary of Health, Education, and Welfare. The responsibility of the Attorney General would be to determine whether an alien with respect to whom an application for reimbursement is submitted is unlawfully in the United States.

Under section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)), the determination that an alien is in the country unlawfully may be made in two ways. The first is through a formal deportation proceeding conducted before an immigration judge. The second method which is used in the vast majority of cases is when an alien admits that he is in the United States without authorization and is permitted by the Immigration and Naturalization Service to depart voluntarily from the United States without the institution of a formal deportation proceeding.

At present the INS is responsible for the medical care only of those aliens who are ordered detained under the Immigration and Nationality Act. Section 242(a), I&N Act (8 U.S.C. 1252(a)). Slightly less than one quarter of the 875,915 undocumented aliens apprehended by the INS during fiscal year 1976 were detained.

Under existing law, 42 U.S.C. 249(c), the INS may request that an alien detained in accordance with the immigration laws be treated

by the Public Health Service. The INS then reimburses the Public Health Service. However, because PHS facilities are not always readily available, the INS also contract with private physicians and local hospitals for medical care of detained aliens. In addition, the INS employs a number of nurses in detention facilities. During fiscal year 1976, the INS paid \$169,399 to private physicians and facilities and \$19,615 to the PHS for medical treatment of detained aliens.

The Department believes that proposed section 330(d) of the bill is too vague and can be interpreted as allowing the Secretary of Health, Education, and Welfare to require the Immigration and Naturalization Service to detain an alien in order to make him eligible for treatment and care as authorized by 42 U.S.C. 249(c). An alien may be detained under the Immigration and Nationality Act only upon a finding that he is a security risk or a poor bail risk. *Matter of Patel*, Interim Decision 2491 (BIA 1976). A detained alien has a right to contest his detention administratively and to appeal an unfavorable determination to the Board of Immigration Appeals; 8 CFR 242.2(b).

The authority to order an alien's detention under the Immigration and Nationality Act should be exercised only by the Attorney General and his delegates and only if the alien presents a security or bail risk. Therefore, the Department is opposed to enactment of section 330(d).

With the exception of the preceding comment, the Department defers to the Secretary of HEW for comment on whether or not the bill should be enacted, since the Secretary has the responsibility for reimbursing medical facilities under the bill. The effect of enactment on the budget of the INS would be minimal.

I would be pleased to answer your questions.

Mr. ROGERS. What is your solution to the problem? Do you just wash your hands of illegal aliens?

Mr. CASTILLO. No, sir. The medical treatment of persons in the United States is an issue on which HEW has a lot more competence than Immigration Service.

Mr. ROGERS. What is the difference between a sick alien and a healthy alien, as far as you are concerned? Is there a difference?

Mr. CASTILLO. If the alien is within our custody——

Mr. ROGERS. I am not talking about that now. You find an alien; what do you do, do you have any responsibility under the law to do anything with the illegal alien? Do you pick him up or not? Do you have jurisdiction or what happens? Could you tell the committee?

Mr. CASTILLO. Sure. We deport him. We apprehend approximately 800,000 people.

Mr. ROGERS. No; here is what I want to know: You find an illegal alien; what do you do? You are notified. Do you have any responsibility?

Mr. CASTILLO. Sure. If we find an alien, then we, if it's near the border——

Mr. ROGERS. Or anywhere.

Mr. CASTILLO. We find an alien in the city. We then take him into custody, determine whether he is here lawfully. If he is here unlawfully, we begin to process, the process of deportation.

Mr. ROGERS. You take them into custody. You only take them into custody if they are security risks, is that it, or do you take them into custody as soon as you find they are in an illegal status?

Mr. CASTILLO. Then we begin the process to remove them from the country.

Mr. ROGERS Which is what?

Mr. CASTILLO. The process to remove them from the country?

Mr. ROGERS. Yes.

Mr. CASTILLO. I think you would better explain the process.

Mr. O'BRIEN. To begin with, when a case is reported to the Service we must determine two things: One is that he is an alien, in fact, and second that he is deportable under the immigration law.

Mr. ROGERS What makes him deportable, if he is an illegal alien?

Mr. O'BRIEN. That would be synonymous, if he is here illegally he is deportable. Once that is determined, then we must establish what we are going to do with him, whether we are going to actually take him into custody or not take him into custody. If we take him into custody it's for one of two reasons:

One is a security risk, which is rather unusual. Normally the situation is he is one we feel is likely to abscond if we do not take him into custody or place some restraints on him.

If a decision is made that we must take him into custody, then we determine what the release provisions are, whether we should hold him without bond, whether we should set bond, or whether we should just maybe release him on his own recognizance.

Assuming that he is not released, we keep him in custody. Then we go through the deportation process. Now that might vary as to whether he is eligible for and requests voluntary departure without the institution of formal proceedings, and if he is able and willing to depart, usually at his own expense, we would permit that, unless it is a bad case.

The deportation proceedings themselves, the formal deportation proceedings, would consist of an issuance of an order to show cause alleging the fact that he is deportable, and then also, if we are holding him in custody, the issuance of a warrant of arrest. A deportation hearing is scheduled before an immigration judge who is outside of the jurisdiction of Immigration Service, but under the Attorney General's jurisdiction, and he is given a formal deportation hearing where he is able to present evidence and be represented.

Then he has the appeals, of course, administrative and judicial all the way to the Supreme Court. Eventually, if we do get an order of deportation against the man, then it is incumbent upon us to see that he is expelled from the United States.

That, briefly, is the deportation process.

Mr. ROGERS. Of the 800,000-some-odd that you apprehended, how many contested?

Mr. O'BRIEN. We actually deported, sent out under a formal order of deportation, approximately 27,000 out of about almost 800,000 expelled.

Mr. ROGERS. You had 27,000 deportation proceedings and orders.

Mr. O'BRIEN. A final order of deportation. There were, the actual hearings ran between 40,000 and 50,000, as I recall, in 1976.

Mr. ROGERS. The average time of a hearing——

Mr. CASTILLO. We have the actual numbers.

The actual number of aliens we processed through formal deportation proceedings is 55,979, fiscal year 1976.

Mr. ROGERS. All of the others decided to go voluntarily, I presume?

Mr. CASTILLO. Yes, sir. You see a great majority of them we apprehended at or near the border, and it's just a matter of, in effect, turning them back.

Mr. ROGERS. What happens if you are notified that there is an illegal alien in a hospital? What do you do?

Mr. O'BRIEN. The normal procedure would be for one of our investigators in the field to look into the situation, depending on the circumstances, of course. If you have someone in intensive care or getting emergency treatment, certainly we are not going to walk in and take any statement from the individual. We would at some point establish whether the person is an alien and is, in fact, illegally in the United States.

Mr. ROGERS. If they ask you to take custody, what do you do?

Mr. O'BRIEN. We do not take custody of an alien undergoing medical treatment.

Mr. ROGERS. Who made that distinction; is that distinction made in the law? I don't recall it being made in the law, a healthy or an ill, illegal alien.

Mr. O'BRIEN. Again, when you say take custody of an individual, let's go back to the reasons why we would want to take custody.

Mr. ROGERS. He is illegal.

Mr. O'BRIEN. We don't take custody of an alien simply because the alien is illegal. In fact, most of the illegal aliens are not taken into custody.

Mr. ROGERS. Then what do you do with an illegal alien when you don't take custody?

Mr. O'BRIEN. We would see that they departed from the United States, but many of them depart without having been taken into custody.

Mr. ROGERS I understand, but some you have to take into custody, do you not?

Mr. O'BRIEN. In our facilities——

Mr. ROGERS. Can't you take constructive custody; must you always put them in your facility?

Mr. O'BRIEN. We had about 200,000 out of about 800,000——

Mr. ROGERS. Suppose you have one and he gets sick. Right after you have taken him to your jurisdiction, he gets sick?

Mr. O'BRIEN. We see that he gets proper medical treatment.

Mr. ROGERS. Do you keep him in custody there? Is there a hospital?

Mr. O'BRIEN. He could well end up in a hospital.

Mr. CASTILLO. We use both Public Health Service and private care. What I am saying is you can have custody in a hospital or a public health hospital, just as well, it just depends on when you decide you take custody of him.

Mr. ROGERS. What in the law allows you to make that distinction? Maybe the General Counsel could tell us that.

Mr. CROSLAND. Under the law, if the facts are such that the officer thinks the alien would be a poor security risk or would depart, say he gets out of the hospital and he would take off, then the person would be put into custody.

If, on the other hand, the person may have some roots, he may have some family with him and it would be unlikely that he would take off, he would not be taken into custody. Those are the broad outlines.

Mr. ROGERS. What would you do with the former?

Mr. CROSLAND. I think Mr. O'Brien could respond more specifically.

Mr. ROGERS. What in the law gives you the ability to act differently towards one who is healthy and one who is unhealthy?

Mr. CROSLAND. It is not determined on the basis of health. Health has nothing to do with it.

Mr. ROGERS. They tell me you don't take—

Mr. CROSLAND. The factor is whether the person is likely to abscond, and therefore should be incarcerated or held in detention, or is a poor security risk, very much like in a criminal proceeding where a person may be allowed out on bond or required to stay in jail.

Mr. ROGERS. Do you require a bond on him as soon as he is determined to be illegal, even if you don't take him into custody?

Mr. CROSLAND. On some persons bonds are required.

Mr. ROGERS. At least you take jurisdiction over him.

Mr. CROSLAND. Not jurisdiction in terms of—

Mr. ROGERS. Of what?

Mr. CROSLAND. I think Mr. O'Brien could probably respond.

Mr. ROGERS. No: I want you to, I want to know legally, that is what we are getting at, the law, and whether the law is being followed.

In other words, it appears to me you are making a distinction here of saying if an illegal alien is not healthy then we take no jurisdiction.

Mr. CROSLAND. I gather that is what the chairman is saying. The distinction is not made on the basis of health.

Mr. ROGERS. You said you would not take him in custody, in effect, if he is in a hospital or he is getting medical care.

Mr. CASTILLO. I think the decision was probably made on a practical or administrative basis that if we have an emergency ward or an emergency setting we don't have a border patrol or immigration officer going through the hospital, examining people for their citizenship.

Mr. ROGERS. I am not saying you have to go through. Suppose you are notified.

Mr. CASTILLO. A notification?

Mr. ROGERS. You don't assume any responsibility, evidently, if you have been notified by the hospital.

Mr. CASTILLO. A notification doesn't establish the illegality of a person.

Mr. ROGERS. I can't think of a better way; otherwise, how are you going to find it out when you don't send anybody through the

hospitals and then you don't take the word of the hospital that they have evidence that the person is illegal?

Mr. CASTILLO. If the hospital notifies us, that is different.

Mr. ROGERS. You said you still would not act in that case. You wouldn't assume jurisdiction. You are going to let HEW do it until he is well, and then maybe you might, if you find him again. In other words, I want to know what in the law permits you to make the distinction.

Mr. CROSLAND. My understanding is that a person is taken into custody only if he appears to be a poor security risk; that is whether he is in the hospital or out of the hospital.

Mr. ROGERS. That is not what I understood. Let's get that settled.

Mr. O'BRIEN. What is the question?

Mr. CROSLAND. I will try to restate the question if I may.

Mr. ROGERS. Sure.

Mr. CROSLAND. The question is: Is there any distinction in the law as it applies to placing undocumented workers in custody whether they are in the hospital or out of the hospital? If you run into a hypothetical situation, if a person is walking down the street who is undocumented and he is picked up or he is checked out and he is found to be here illegally, whether you make any distinction between that person and a person who might not be on an intensive care ward situation, but just in the hospital with a broken leg. Do you apply the same standard as to whether that person is a poor security risk?

Mr. O'BRIEN. I think—

Mr. CROSLAND. Is that a fair restatement of the question?

Mr. O'BRIEN. The way I understand it is that the question, in my mind at least, as to whether we are taking the man into actual physical custody or whether we have constructive custody or jurisdiction over the individual. With respect to the payment for medical expenses, we restrict our payment to only those aliens who are in actual physical custody of the Immigration Service when an injury occurs or while they are ill.

Mr. ROGERS. I understand you refuse to accept jurisdiction if he is in an emergency situation.

Mr. O'BRIEN. We do not take custody of them unless and until they are able to travel.

Mr. ROGERS. What in the law permits that and why do you do that?

Mr. O'BRIEN. There is nothing in the law that prohibits us from instituting deportation proceedings against a deportable alien without taking him into custody. We do that in the majority of our cases. We do not take the aliens into custody; we are not making any distinction there.

The distinction is as to whether we are going to accept the medical liability in a case when the alien is not in our custody.

Mr. ROGERS. No. It's the fact that you refuse to take him into your custody when you normally would have done so if he were healthy. Because he is sick, you say no. What in the law permits you not to take custody of the illegal alien who is sick, vis-a-vis one who is well?

Mr. O'BRIEN. Custody, actual physical custody, you couldn't take an individual—

Mr. ROGERS You can do that constructively, you said that, if they get sick after you already have them. What I want to know, General Counsel, is the difference between the two?

Mr. CROSLAND. If a person is in the hospital and he is in such a situation that it's unlikely that he is going to abscond, then there is no reason to take him into physical custody.

Mr. ROGERS. You can have constructive custody; I don't care whether you call it physical or constructive, he is under your jurisdiction because he is an illegal alien. You do have the authority to take illegal aliens in your jurisdiction, do you not?

Mr. CROSLAND. Yes.

Mr. ROGERS. Do you make a distinction about them? Are all illegal aliens subject to deportation?

Mr. CROSLAND. Yes, sir.

Mr. ROGERS. All right; now, why do you make the distinction between the healthy and the unhealthy, that is what I want to know.

Mr. CROSLAND. There is a distinction made only on who is put into actual physical custody and who is not.

Mr. ROGERS. That is not so, because you have one that you may have and he gets ill, after you have asserted the jurisdiction, but he may not be in physical custody, he may be on the bond or his own recognizance, but you then pay his bill if he is under your jurisdiction, if he started with you the first day healthy. Now what in the law allows you to make a distinction?

Mr. CROSLAND. If the Chairman would permit, I think it probably would be more appropriate to submit for the record a response to that particular question.

Mr. ROGERS Certainly; all right. I would like to see that, and we will allow that.

[The following information was received for the record.]

LEGAL RESPONSIBILITIES OF THE
IMMIGRATION AND NATURALIZATION SERVICE
FOR MEDICAL CARE OF ALIENS
IN THE UNITED STATES IN
VIOLATION OF LAW

SUPPLEMENT TO THE TESTIMONY
OF COMMISSIONER CASTILLO BEFORE
THE HOUSE SUBCOMMITTEE ON
HEALTH & ENVIRONMENT
CONCERNING H.R. 2400

Prepared by
Office of General Counsel
Immigration and
Naturalization Service
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During the Commissioner's testimony before the House Subcommittee on Health and Environment on June 9, 1977, the Service was asked to provide more detailed information regarding its procedures for reimbursing hospitals for medical care rendered to aliens in the United States in violation of law. Specifically, the Subcommittee wished to know:

(1) What is the legal basis for the Service's present practice of paying for medical care of aliens within the physical custody of the Service?

(2) Can aliens, the location of whom the Service has knowledge of, and who the Service has reason to believe are in the United States in violation of law, be considered within the "constructive custody" of the Service? If so, is constructive custody sufficient to make the Service liable for such alien's medical expenses?

(3) What is the legal justification for the Service's practice of not accepting physical custody of aliens who are hospitalized and who are believed to be in the United States in violation of law?

I.

The only express statutory authorization for payment of INS funds for medical care of aliens in the United States is 42 U.S.C. 249(c), which provides in pertinent part:

... at the request of the Immigration and Naturalization Service, any person detained by that Service, may be treated and cared for by the Public Health Service.

The INS reimburses the Public Health Service for medical care given to aliens under this section.

Clearly, 42 U.S.C. 249(c) does not apply to all aliens in the United States in violation of law, but only to those who are actually detained by the INS under the Immigration and Nationality Act. The Service's authority to detain aliens derives from section 242(a) of the Immigration and Nationality Act, 8 U.S.C. 1252(a), authorizing the arrest and detention of an alien believed to be deportable pending a final determination of deportability, and from section 287(a)(2) of the Act, 8 U.S.C. 1357(a)(2), which authorizes the Service to arrest without warrant aliens believed to be in the country in violation of law. 1/

1/ Section 287(a)(4), 8 U.S.C. 1357(a)(4), also gives Service officers authority to arrest without warrant for felonies cognizable under the immigration laws. However, persons arrested for criminal immigration violations are immediately taken before a U.S. magistrate and, if ordered detained by the magistrate, would be placed in the custody of the U.S. marshal rather than the Service.

Since the Service has custody of the body of an alien detainee, and therefore control of the detainee's access to medical treatment, the Service has a legal duty to provide the detainee with needed medical attention. This duty is the same as the duty of prison authorities to provide prisoners with adequate medical care. See 72 C.J.S. Prisons §11.

The duty to provide adequate medical care to prisoners convicted of crimes arises from the Eighth Amendment's prohibition upon the imposition of "cruel and unusual punishment." Estelle v. Gamble, 429 U.S. 97 (1976); Ramsey v. Ciccone, 310 F.Supp. 600, 605 (W.D. Mo. 1970). The same duty arises under the due process clause of the Fifth Amendment with respect to detainees who have not been convicted of crimes. See Hampton v. Holmesburg Prison Officials, 546 F.2d 1077 (3rd Cir. 1976); United States ex rel. Tyrrell v. Speaker, 535 F.2d 823 (3rd Cir. 1976); Rhem v. Malcolm, 507 F.2d 333 (2nd Cir. 1974).

Medical care at Public Health Service facilities is not always readily available for aliens detained by the Service. In situations where a detained alien needs medical attention and Public Health Service facilities are not available, the INS utilizes the services of local physicians and hospitals and reimburses them. Authorization to make these payments is implicit in the statutory authorization of the Service to establish and operate facilities for the detention of aliens. Section 242(c) of the Immigration and Nationality Act, 8 U.S.C. 1252(c), directs the Attorney General "to arrange for appropriate places of detention" and gives the Service authority "to expend, from the appropriation provided for the administration and enforcement of the immigration laws, such amounts as may be necessary for the . . . maintenance [and] operation . . . of buildings . . . and adjunct facilities, necessary for the detention of aliens." Each year, the Service requests and receives an appropriation from Congress for the express purpose of providing medical care to alien detainees.

Since the legal obligation to provide medical care arises from the Service's physical control over the body of the alien, there is no such obligation on the part of the Service with respect to aliens not within its physical control. 2/ Therefore, no authorization to make payments for such aliens can be read into the Immigration and Nationality Act or the appropriation of money for the administration and enforcement of that Act. The Service does not pay for the medical care of aliens who have been ordered detained under the Immigration and Nationality Act but who have been released on bond or parole pursuant to section 242(a) of the Act. In an analogous situation, the Service has been informed that the Bureau of Prisons does not pay for the medical care of federal prisoners who have been released on parole.

2/ In addition to medical care, the Service provides alien detainees with other basic needs such as food and clothing. Any assumption by the Service of liability for medical care of aliens unlawfully in the country who are not detained would by analogy require the Service to assume all of the costs for the basic maintenance of such aliens.

II.

The term custody "is very elastic and may mean actual imprisonment or physical detention or mere power, legal or physical, of imprisoning or of taking manual possession." Black's Law Dictionary (1968). For instance, for habeas corpus purposes, a person may be "in custody" even though he is not within the actual physical control of the governmental authorities. Hensley v. Municipal Court, 411 U.S. 345 (1973).

Courts have found sufficient custody for habeas corpus purposes where an alien is free from actual physical restraint but is under a final order of deportation. Flores v. INS, 524 F.2d 627 (9th Cir. 1975); Varga v. Rosenberg, 237 F.Supp. 282 (S.D. Cal. 1964). Custody for habeas corpus purposes was also found in a case where alien orphans were paroled into the United States under section 212(d)(5) of the Act, 8 U.S.C. 1182(d)(5). Nguyen Da Yen v. Kissinger, 528 F.2d 1194, 1203 n. 16 (9th Cir. 1975). These cases provide some authority for the proposition that the Service may for habeas corpus purposes be considered to have "constructive" custody over aliens who are not within the actual physical custody of the Service. However, there is no authority for the proposition that the Service has custody, constructive or otherwise, of all aliens who are believed to be in the United States illegally. The fact that the Service has jurisdiction to enforce the Immigration and Nationality Act against aliens in the country in violation of law does not make the Service the legal custodian of all such aliens.

The responsibilities of the Service under the Immigration and Nationality Act relate to the rights of aliens to enter and stay in the United States in accordance with the Immigration and Nationality Act, and the rights of aliens to apply for immigration and citizenship status conferred by that Act. The provision of medical care to detained aliens is not a primary function of the Service, but is merely incidental to the performance by the Service of its functions under the Immigration and Nationality Act.

As pointed out earlier, the responsibility for providing medical care arises only with respect to aliens who are within the actual physical control of the Service under the Immigration and Nationality Act. The fact that the Service has the authority to obtain actual physical custody of aliens believed to be deportable under the Immigration and Nationality Act does not compel the Service to exercise this authority. See Manguerra v. INS, 390 F.2d 358 (9th Cir. 1968); In re Muniz, 151 F.Supp. 173 (W.D. Pa. 1956).

Since the Service has authority to pay medical costs only for those aliens within its actual physical custody, the question of "constructive" custody is simply not germane. Under no circumstances would the Service

pay for medical care rendered to aliens who were in its "constructive" custody but not within its actual physical custody. See 8 C.F.R. 242.3(b), which states that: "When an alien is an inmate of a public or private institution at the time of the commencement of the deportation proceedings, expense for the maintenance of the alien shall not be incurred by the Government until he is taken into physical custody by the Service." (Emphasis supplied.)

III.

Section 242(a) of the Immigration and Nationality Act, 8 U.S.C. 1252(a), provides in part:

Pending a determination of deportability in the case of any alien as provided in subsection (b) of this section, such alien may, upon warrant of the Attorney General, be arrested and taken into custody. Any alien taken into custody may, in the discretion of the Attorney General and pending such final determination of deportability,

- (1) be continued in custody; or
- (2) be released under bond in the amount of not less than \$500 with security approved by the Attorney General, containing such conditions as the Attorney General may prescribe; or
- (3) be released on conditional parole.

As indicated previously, the statutory language is permissive and does not require the Attorney General to arrest and take into custody every alien believed to be deportable. Service Operations Instructions, O.I. 246.2(c), provide that an alien will be detained only when available information indicates that the alien's freedom would clearly be a present danger to public safety or security, or when there is reason to believe that the alien is likely to abscond. The Board of Immigration Appeals has stated that an alien should not be detained or required to post bond unless he is a threat to the national security or a poor bail risk. Matter of Patel, Interim Decision 2491 (BIA 1976). Few aliens are detained as security risks. The only widely used ground for detention, therefore, is that the alien is likely to abscond.

An alien who has been ordered detained by a district director of the Service may apply to an immigration judge for release from custody or for amelioration of the conditions for release. 8 C.F.R. 242.2(b). The immigration judge's determination may be appealed to the Board of Immigration Appeals. *Id.*

The vast majority of aliens who are apprehended for being in the United States in violation of law are allowed to depart voluntarily as authorized by section 242(b) of the Act without the institution of formal deportation proceedings. Such aliens may be taken into custody, but are often just asked to appear at a Service office to arrange for their voluntary return to their home country. Overall, less than one quarter of the aliens apprehended by the Service during fiscal year 1976 were detained.

No distinction for the purposes of detention is made between sick aliens and healthy aliens. Nevertheless, the only valid reasons for taking an alien into custody are that he is a significant present security or bail risk. It is highly unlikely that a hospitalized alien will be either a present security or a present bail risk until he is released from the hospital. Therefore, as a practical matter, it is difficult, if not impossible, to imagine a situation where an alien in a hospital properly could be taken into actual physical custody under the Immigration and Nationality Act. 3/

If the Service were to order detention of aliens for no other reason than to relieve hospitals of financial burdens, the Service clearly would be violating its own criteria and those set forth by the Board of Immigration Appeals for detaining aliens. The detention would also be for a purpose entirely unrelated to the Service's responsibilities under the Immigration and Nationality Act, and therefore may be constitutionally suspect as an arbitrary exercise of power in violation of the due process clause of the Fifth Amendment. Cf. *Carlson v. Landon*, 342 U.S. 524, 537-42 (1952). In addition, there would be practical and legal problems as to how the Service could take actual physical custody of a hospitalized alien and how such hospitalized alien could be given a meaningful opportunity to exercise his right to challenge the Service's decision to take custody.

IV.

In summary, the Service position is that (1) the Service's legal obligation to pay medical costs arises by reason of the Service's actual physical custody over certain aliens and applies only to such aliens; (2) the Service cannot take an alien into actual physical custody unless he is a present security risk or a present bail risk; and (3) aliens who are hospitalized normally do not represent security or bail risks while they are in the hospital. Therefore, in accordance with the foregoing legal principles, the Service ordinarily does not take physical custody of an alien while he is in the hospital and consequently does not assume liability for his medical expenses.

3/ The Service is prohibited from taking physical custody over an alien confined by law to an institution or hospital until the Service is ready to deport such alien. 8 C.F.R. 242.3(b); *Matter of Lehdar*, Interim Decision 2357 (RIA 1975). See also section 242(h), Immigration and Nationality Act, 8 U.S.C. 1252(h).

Mr. CROSLAND. I and Mr. Castillo have only been here a reasonably short period of time. I think the Chairman does raise a very good question.

Mr. ROGERS. I would like this documented for the record, along with a brief prepared statement.

Mr. CASTILLO. I am not familiar with that law, but I think there is some very serious administrative implications that may have been serious concerns here.

Mr. ROGERS. I think the serious concern is you have to pay for it out of your budget if you do it.

Mr. CASTILLO. That is what I mean.

Mr. ROGERS. You don't otherwise.

Mr. CASTILLO. That is what I mean.

Mr. ROGERS. I am in agreement, Mr. Commissioner, and I don't think that is permitted under the law, and I realize all of you have just come aboard. I understand that.

Mr. CASTILLO. If the cost of the medical care, this type of medical care were to be reflected in the INS budget—

Mr. ROGERS. You would just have to ask for more money for this purpose. I would expect the Congress would respond, if it's documented properly.

In other words, I do not see how you can legitimately carry out your functions, and I don't think you are carrying them out if you make a distinction between an ill illegal alien and a healthy illegal alien. I think there is no distinction as far as his status of illegality.

Mr. CASTILLO. I have a concern, though, that the determination of illegality is not very clear here.

Mr. ROGERS. It never is until you get all of the facts. I understand that.

Mr. CASTILLO. Who is making the determination in the hospital, that someone is illegal?

Mr. ROGERS. Who makes it on the street, who makes it in a business? Somebody finds out he is illegal, he says have you got your card or identification, and he says, well, I came into the country, I didn't get any papers, when they are admitted to the hospital and you know how the hospital checks everybody, don't you, before they let someone in?

Mr. CASTILLO. But the hospital, even through the check, isn't qualified to make a determination decision.

Mr. ROGERS. You are and you ought to take jurisdiction as soon as they tell you this man is an illegal alien, but you won't until he is out of the hospital. That is the point. I think the Service has not been carrying out the law. I think you as a new Commissioner and you as General Counsel ought to check that and have it changed.

Now, if there is any concern with the law as to letting you make that distinction, I think the Congress should be advised of that.

What do you do when a hospital calls and says we have an illegal alien here? What do you do?

Mr. O'BRIEN. We have one of our field officers either, depends on just who it might be close by, check into the situation and again, I must say we don't go in and take a statement from the man in the hospital.

Mr. ROGERS. I understand that.

Mr. O'BRIEN. Probably in most cases what would happen is that one of our officers would determine just what the condition of the individual is, is he going to be released today, is he just in for examination or is he going to be in for a while, and make some arrangements for taking the matter up with the individual when he is physically capable of doing so.

In some cases where an alien who is here illegally would be hospitalized as a result of an accident, as the Congressman pointed out, why we would keep track of that case until such time as the alien is to be released, and we would ask we be notified of his release and we would be there if it were necessary to take the alien into custody. We would take him into custody then.

If he has family ties here we would routinely carry the case on through, and if it means expulsion, we would see he departed from the United States, and if not, whatever the case might be, we would bring it to completion. He could very well legalize his status here. Some of them may have administrative relief available to them. We must consider those cases also.

Mr. ROGERS. We will, but you then put the responsibility on the hospital to advise you of the prospective release.

Mr. O'BRIEN. That would be true, yes.

Mr. ROGERS. Is there ever any difficulty with doing that?

Mr. O'BRIEN. Not to my knowledge, no.

Mr. ROGERS. In other words, you pick them all up once they are in the hospital.

Mr. O'BRIEN. We pick up the case, not necessarily the alien. Again, we do not always take the aliens into custody. Aliens under deportation proceedings which sometimes become rather lengthy due to the appeals involved particularly——

Mr. ROGERS. You have 55,000 of those?

Mr. O'BRIEN. Many of them become hospitalized, but they are not in our custody. We feel that the law that we are operating with allows us, or demands us, to take care of the aliens in our custody. We do so. If they are not in our actual physical custody we do not feel we have the authority to pay for their hospitalization out of our funds.

Mr. ROGERS. What about during a deportation proceeding?

Mr. O'BRIEN. Only if they are in custody, sir.

Mr. ROGERS. Even though they are illegal and have no funds?

Mr. O'BRIEN. That is correct.

Mr. ROGERS. If you have started a deportation proceeding, a person becomes ill, they have no funds, do you assume any responsibility there?

Mr. O'BRIEN. No, sir.

Mr. ROGERS. You assume none, even though you have started the deportation proceedings?

Mr. O'BRIEN. That is correct. We do not have the authority to expend any of our funds for that purpose.

Mr. ROGERS. Is there a distinction in the law between actual custody and constructive custody?

Mr. O'BRIEN. I wouldn't say so. I mean, it doesn't make that distinction right in the law, but the law does provide funds for the maintenance of detention facilities for aliens who are required to be

in custody, and from that directive in the law we draw our authority to take care of them medically.

Mr. ROGERS. Do you have regulations that make a distinction?

Mr. CASTILLO. That is the question we are to research, as I understand it, how the distinction was made and how the determination was made.

Mr. ROGERS. I think we need all of your regulations that bear on this case.

Mr. CASTILLO. Yes. I think so.

Mr. ROGERS. Mr. Scheuer?

Mr. SCHEUER. Mr. Commissioner, it's a pleasure to have you here today. I had the opportunity of visiting some of your border stations in the California, Texas, Arizona area a few months ago with the Select Committee on Narcotics, and you are undoubtedly aware your agents down there are in a state of great frustration at their total inability to cope with the tide of illegal immigration. They feel they simply cannot perform their mission and this has a devastating effect on their morale.

What do you think our Government's perception should be of the tide of illegal immigration that is taking place, in effect, from the developing world to the developed world across the Mexican border, not only Mexicans but other people from all over Latin America who are coming here in droves for the same reason I suppose that most of us came here for a better way of life, a better education, better job opportunities, for the benefits of a free society, a democratic society. These are to a large extent blameless people who have the same upward mobility that motivated most of our ancestors to come here.

Yet the tide of immigration is producing tremendous strains, tremendous stresses, tremendous financial burdens for our country. Over half of our increase in population annually now is composed of illegal migrants, and I would like to hear from you what your perception is of the current flow of people from the developing world to the developed world, across that 1,950 mile border, and what our reaction should be and what our national posture and policy and program should be?

Mr. CASTILLO. Certainly. I will be happy to try to respond briefly.

As you well know, the number of persons that we apprehended has gone up ten-fold in slightly more than ten years from roughly 80,000 to 870,000. The resources available to us have gone up about 25 percent in that time.

There is one argument made by the border patrol and other people within the Department that the reason the number is apparently stabilized now, this year's total number of apprehensions is not much higher than last year, is that we have simply reached the saturation point, and there are only so many people a person can process and apprehend.

It is very clear, without even getting into the doubtful estimates of total numbers in the country, if you stay only with fairly firm figures of total deportations and apprehensions, that we have a very serious problem.

The President has been developing a package, and while I don't know what he will decide, I do know that the elements within the

package will undoubtedly have to address a certain number of issues. Those issues would be the questions of sanctions on employers, the question of amnesty or raising of a registry date for people already here, and who may have some equity in this country, the issue of targeting of economic development to the sending countries, the very difficult question of rewriting the entire immigration law.

There is also less opposition, less controversy about the necessity for increasing the resources of the Immigration and Naturalization Service, and for better enforcement of existing laws related to employer-employee relationships, things such as minimum wage and so on.

Mr. SCHEUER. Mr. Commissioner, you were quoted in the New York Times—and made all of us green with envy, because you hit the quote of the day on the split page of the second section—to the effect that there was no way that we were ever going to stop the flow of migrants from the developing world to our country, and we shouldn't try. If I am misinterpreting, please correct me, because I don't mean to put words in your mouth. I believe you said the answer lies not in trying to inhibit the flow of people across the border but the answer lies in helping them to develop themselves and increasing their ability to provide a decent life for their own people.

The article gave the impression that you thought that we ought to forget about border controls and concentrate on foreign aid programs of various kinds.

Mr. CASTILLO. What I said was that the United States can't simply build a wall around itself and shut out the rest of the world. I said the only long range answer is a balanced economic development to the world.

Mr. SCHEUER. What do you think in the short run?

Mr. CASTILLO. In the short run I have asked for \$100 million for border prevention. In the short run we will have to do these things to control our own borders and to have regulated and dignified entry and exit from this country.

In the short run we must do many of these things. But in the long run I think we must take a broader prospective now. As Commissioner of Immigration, I am not deciding where foreign aid goes, and things of that sort, but I deal with a lot of the practical daily questions of where do you assign the limited personnel we have and limited resources.

Mr. SCHEUER. Yes. Do you think we ought to try and secure our border at the present time while we are working on the long range program?

Mr. CASTILLO. No. I think the first step of a package, of this overall package, has to be better control of our own borders, because if not, then a discussion of amnesty is nothing more than a compounding of the problem. I think if we don't look at it that way we are simply adding to the problem rather than solving it.

Mr. SCHEUER. Do you have any suggestions or any programmatic ideas on whether we should try and engage the cooperation of the Mexican Government in stopping some of the illegal immigration on their side of the border?

Mr. CASTILLO. I think it's absolutely essential that we work cooperatively with the Mexican Government for a number of reasons. One is that we can't deal with anti-smuggling efforts unless we deal with the ring that goes both into Mexico and through the United States, and into other countries; and two is that our deporting of people to the Mexican border towns has greater impact on their economy and they are quite concerned about this.

We sometimes place as many as 30,000 or 40,000 individuals, unemployed, without money in Tia Juana. What choices do they have?

Mr. SCHEUER. In how long a period of time?

Mr. CASTILLO. That could be in a month we could do that, at the current almost stable population. Then they have the choice, do they then try to ship them back to the interior of Mexico? If they do nothing, the options available to those individuals will be to try to get back into the United States or then Tia Juana would have a very serious unemployment problem.

I think it must be dealt with on an international basis from that prospective.

Mr. SCHEUER. Thank you, Mr. Chairman.

Mr. CASTILLO. I would like to make one final comment.

I don't have actual figures on it but I did read that the European countries and specifically Germany had developed a program for providing health care for aliens. Theirs was under a regulated system where the employer of the alien paid a certain amount and the employee paid a certain amount into a trust fund. That trust fund then was used for housing, social services, medical care and I believe even bilingual education. Of course, that is a more regulated work force, those are legal aliens, but that is a way to generate money.

It is impossible for a local government, speaking now as a former comptroller of the City of Houston, it's impossible for local governments to assume all of these costs.

Mr. ROGERS Yes.

Mr. SCHEUER. Thank you very much.

Mr. ROGERS. Thank you.

Let me just ask this quickly:

How many illegal aliens do we estimate now in the country?

Mr. CASTILLO. I would prefer to stay with the total number of persons apprehended and deported, because our figures range so widely that whatever I say is usually not much more than an educated guess.

Mr. ROGERS What is your educated guess?

Mr. CASTILLO. My best guess is I should stay with actual apprehensions, because there is no hard number.

Mr. ROGERS. That really doesn't help us very much to try to determine what our costs may be under a bill of this nature if we only go on the apprehended. There is no estimate of how many aliens?

Mr. CASTILLO. There are estimates that range from 2 million to 12 million—

Mr. ROGERS. You apprehended how many?

Mr. CASTILLO. They were 800,000.

Mr. SCHEUER. I heard a rough estimate that for every illegal immigrant you picked up, probably 3,000 or 4,000 got through. That would give you an approximate number of illegal migrants coming into the country annually of 2-1/2 to 3 million or between 2-1/2 and 3-1/2 million across the 1,950 mile border.

Is that sort of a ballpark figure do you think?

Mr. CASTILLO. One of the difficulties with this is that sometimes we apprehend the same person more than once, and so there is flow in both directions. Some studies indicate that the average stay in this country is only six months, so we don't know how many are going back when we get into this whole area of how many, but we do know that just on apprehensions, if you related it for example to local crime rates, if you had a ten-fold increase in any one area, you have got a serious problem.

Mr. ROGERS. What about emergency treatment? Do we know the numbers and average number of how many get emergency treatment?

Mr. CASTILLO. No, sir.

Mr. ROGERS. All right.

What about your manpower? How many people?

Mr. CASTILLO. Our manpower is 9,400.

Mr. ROGERS. How many are actually in the field?

Mr. CASTILLO. I would say all but about 1,000. That includes my regional offices as well as the central office.

Mr. ROGERS. So about 8,400 out actually working?

Mr. CASTILLO. All over the country.

Mr. ROGERS. What are the main geographical areas where you find the illegal aliens?

Mr. CASTILLO. The majority of the illegal entries are in the San Diego area, Southern California, the El Paso area, and then other parts, a few other locations on the Mexican border, and that would account for probably 75 percent of our apprehensions.

Mr. ROGERS. What about in the larger cities, the migration from those areas? Are you having many apprehensions say in Chicago, Washington, New York?

Mr. CASTILLO. We have as many apprehensions as we have people to work the leads. It's not uncommon though to have ten officers and 20,000 leads, so there is no way they could ever even investigate all of the leads.

Mr. ROGERS. Would you let us know for the record the pattern of apprehensions geographically so we might know where this may apply?

Mr. CASTILLO. Certainly.

[The following information was received for the record:]

DEPORTABLE ALIENS LOCATED - FISCAL YEAR 1976

	Aliens located exc. by Border Patrol	BP Sectors	Aliens located by Border Patrol
U.S. Total	170,394		696,039
Eastern Region	48,176	Eastern Region	4,260
Baltimore, Md.	1399	Buffalo	835
Boston, Mass.	2201	Houlton	750
Buffalo, N.Y.	1011	Opdensburg	736
Hartford, Conn.	1023	Swanton	1939
Newark, N. J.	6767		
New York, N.Y.	23306	Southern Region	241,382
Philadelphia, Pa.	2638	Del Rio	32988
Portland, Me.	137	El Paso	114,886
St. Albans, Vt.	21	Laredo	24,665
San Juan, P.R.	6199	Marfa	19,846
Washington, D.C.	3444	McAllen	38839
		Miami	4441
Southern Region	37,650	New Orleans	5717
Atlanta, Ga.	742		
El Paso, Tex.	7600	Northern Region	12,077
Houston, Tex.	17,596	Blaine	2413
Miami, Fla.	2537	Detroit	2504
New Orleans, La.	838	Grand Forks	1367
San Antonio, Tex.	8321	Havre	2751
		Spokane	3042
Northern Region	27,498		
Anchorage, Alaska	232	Western Region	438,320
Chicago, Ill.	7502	Chula Vista	266,709
Cleveland, Ohio	1378	El Centro	32,322
Denver, Colo.	7837	Livermore	62045
Detroit, Mich.	2666	Tucson	34,641
Helena, Mont.	1625	Yuma	42,598
Kansas City, Mo.	1613	29 day crewmen	9482
Omaha, Neb.	1070		
Portland, Ore.	1147	Total Apprehensions	87,515
St. Paul, Minn.	311		
Seattle, Wash.	2067		
Western Region	57,070		
Honolulu, Hawaii	1190		
Los Angeles, Cal.	41,275		
Phoenix, Ariz.	3047		
San Francisco, Cal.	11,558		

Mr. ROGERS. For this type of legislation, and specific numbers, if you have them.

What do you estimate would be required as far as manpower is concerned for you to actually clean up the illegal alien problem in the country?

Mr. CASTILLO. I think we could reduce the total number of illegal entries to about 15 percent of the current number of entries with approximately 2,000.

Mr. ROGERS. Additional?

Mr. CASTILLO. Additional.

Mr. ROGERS. Has this been requested?

Mr. CASTILLO. I have asked for it, yes.

Mr. ROGERS. Has the Department of Justice transmitted the request yet?

Mr. CASTILLO. No, sir.

Mr. ROGERS. All right.

The deportations now have numbered what?

Mr. CASTILLO. They have numbered 800,000.

Mr. ROGERS. Do you include the voluntary returns within that figure?

Mr. O'BRIEN. Nearly 800,000—793,000 last year, and of that number only 27,000 were under warrants of deportation.

Mr. ROGERS. Yes. That is what I wanted to know. All right.

Commissioner, thank you so much. I think if you would let us know and check into this. I see no distinction in the law between the healthy and the unhealthy, and I think that should be addressed.

Mr. CASTILLO. We will look into that, yes, sir.

Mr. ROGERS. Thank you.

The next witness will be the Deputy Assistant Secretary for Legislation, Mr. Kenneth S. Levine, accompanied by Mr. Robert C. Martens, Deputy Director, Migrant Health Program, the Health Services Administration.

We welcome you gentlemen to the committee.

Your statement will be made a part of the record in full, without objection, and you may proceed as you desire.

STATEMENT OF KENNETH S. LEVINE, DEPUTY ASSISTANT SECRETARY FOR LEGISLATION (DESIGNATE), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY ROBERT C. MARTENS, DEPUTY DIRECTOR, OFFICE OF MIGRANT HEALTH, HEALTH SERVICES ADMINISTRATION; AND PAUL M. SPIEGEL, LEGISLATIVE DIVISION, OFFICE OF THE GENERAL COUNSEL

Mr. LEVINE. Thank you, Mr. Chairman.

I am also accompanied by Paul Spiegel on my right of the General Counsel's office.

Mr. ROGERS. We welcome you again, Mr. Spiegel.

Mr. LEVINE. Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before the subcommittee to testify regarding H.R. 2400 and H.R. 3697, identical bills to amend the Public Health Service Act to provide Federal financial assistance to medical facilities for the treatment of illegal aliens. I would like to start with a brief overview of the illegal alien problem as it relates to health care and then discuss the legislation before us today.

Estimates vary, but everyone agrees that large numbers of individuals are living in the country as illegal aliens. Current estimates are that there are between six and eight million such aliens in the country. In 1976, as the Commissioner has just stated, 875,915 were apprehended, about twice the number permitted to enter by law. In 1961, only 88,823 were apprehended.

It is generally assumed that the growing rate of apprehension mirrors larger numbers of undetected illegal immigrants entering the United States. The focal point of the problem is our 2,000 mile border with Mexico. The Immigration and Naturalization Service, INS, returns to Mexico each year more illegal aliens than the total number of people who emigrate legally to the United States from all the nations of the world. Thus, the border States of Texas, New Mexico, Arizona, and California bear the brunt of this clandestine migration.

The extent to which these aliens use social services is not clear. Most Federal benefit programs explicitly prohibit benefits to them, although this requirement is not perfectly enforced. Texas, for example, shows an error rate in the Aid to Families with Dependent Children (AFDC) program in citizenship and alienage requirements greater than any other State in the country.

MEDICAID

The Medicaid program is authorized by title XIX of the Social Security Act. Federal funds supplement State funds to provide medical services to the categorically poor. HEW regulations specify that reimbursement cannot be made for services to illegal aliens. However, since AFDC eligibility is often used to qualify for Medicaid and errors are sometimes made in determining such eligibility, some of these aliens do find their way to Medicaid rolls. Medicaid officials have long recognized the potential for abuse in this area.

MEDICARE

Medicare, title XVIII of the Social Security Act, offers hospital and other health insurance benefits. An alien, or indeed any person, not entitled to Part A Medicare benefits because he has not worked long enough to earn sufficient social security credits may nevertheless voluntarily enroll in both Part A and Part B if he is willing to pay an appropriate premium. However, the alien cannot so enroll unless he is a legal permanent resident, which illegal aliens cannot be, who has been in this country for at least five years.

Mr. ROGERS. So there really is no way for an illegal alien to get on the Medicare rolls legally.

Mr. LEVINE. Not legally, that is right.

Mr. ROGERS. But you say some do.

Mr. LEVINE. Some do, that is right.

SUPPLEMENTARY SECURITY INCOME (SSI)

Title XVI of the Social Security Act established the Supplementary Security Income program. The SSI is to provide supplemental security income to individuals who have attained age 65 or are blind or disabled. The legislation prohibits payments to illegal aliens.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)

Title IV of the Social Security Act authorizes Federal payments to the States for programs "to furnish financial assistance and rehabilitation and other services...to needy children and the parents or relatives with whom they are living to help maintain and strengthen family life." This is the AFDC program. Regulations bar assistance to illegal aliens.

MIGRANT HEALTH CENTERS

The mission of the Migrant Health program, section 319 of the PHS Act, is to provide health services, mostly outpatient services,

and to protect the health of migratory agricultural workers and seasonal farmworkers. There is no reference in either the law or regulation to the provision of these services to illegal aliens. The same is true of Community Health Centers.

UTILIZATION

There is a scarcity of data on the utilization of health services by illegal aliens in federally assisted facilities. An illegal alien obviously has a great incentive to conceal his whereabouts. An undertermined amount of medical services may be provided through several federally assisted health programs, such as the Migrant Health, Community Mental Health Center, and Community Health Center programs.

The Department is presently engaged in a large research effort to determine specifically the numbers, characteristics, costs, and impact associated with the provision of hospital services, particularly emergency care to illegal aliens. This study will include the cities of San Diego, Los Angeles, Chicago, San Antonio, El Paso, New York City, Miami, Phoenix, and Douglas, Arizona. It is intended, with the cooperation of county hospital administrators in these cities, to determine approximately how many individuals receiving charity care are illegal aliens, and estimate the unpaid costs incurred by each hospital.

The study will also indicate if Hispanics are facing discrimination in the receipt of health care by virtue of possible illegal alien status. We expect the results of this study to be available within this calendar year. The data we collect will be invaluable to the Department for the development of proposals which in turn can be integrated into the larger and more important issue of national health insurance and the administration's overall initiative on the subject of illegal aliens.

H.R. 2400 AND H.R. 3697 (IDENTICAL BILLS)

Mr. Chairman, I will now turn to the bills, H.R. 2400 and H.R. 3697, under discussion today. They would provide reimbursement to medical facilities which furnish emergency medical treatment to any alien unlawfully in the United States who is unable to pay the cost of that treatment. The facilities may apply to the Department of Health, Education, and Welfare for reimbursement for that portion of the costs which are not paid. The facilities would receive reimbursement under the following conditions:

1. The Attorney General has determined that the alien in respect to whom the application is submitted is unlawfully in the United States;
2. The Secretary of Health, Education and Welfare finds that the treatment for which reimbursement is requested was for a medical emergency; and
3. The medical facility which provided the treatment is unable to recover its cost from the alien or any public assistance program.

Requiring the Federal Government to pay health costs of certain illegal aliens before we develop a comprehensive immigration policy would be a mistake.

Support for such a comprehensive immigration policy is growing. The Cabinet-level Domestic Council Committee on Illegal Aliens report, released in December 1976, contained major recommendations for change. The Carter administration is preparing far-reaching proposals on the subject which will be released soon, probably within the next several weeks. You can expect proposals that deal with the two interrelated problems: How to stem the flow of illegal aliens and to deal humanely with aliens already in the country, many of whom have developed close ties to the communities in which they live.

Additionally, the problem of reimbursement for health care for illegal aliens is part of a broader health care problem. Reimbursement for services to the poor and access to health care are problems which will be addressed in the President's National Health Insurance proposal which the President has promised will be ready early next year.

Passing the bill at this time would cause significant anomalies:

An illegal alien who is unlawfully in the country would be covered while certain legal aliens, such as tourists, would not.

United States citizens would be asked to provide for free health care benefits for illegal aliens despite the competing demands for scarce Federal health dollars.

There are additional problems with the bill.

For example, what exactly, within this proposal, constitutes emergency medical treatment? It is unrealistic to expect the Department to ascertain, well after the fact, that the treatment for which reimbursement is sought was given for a "medical emergency," even if a large, new, separate bureaucratic unit were established for that purpose. The cost of this program is another unknown. These costs have been variously estimated from \$150 million to \$460 million per year.

I would like to point out that the Public Health Service, under section 322(c) of the PHS Act, already provides hospital and outpatient treatment in PHS facilities to any alien whose care has been authorized by the Immigration and Naturalization Service. The Immigration and Naturalization Service reimburses the PHS for such care, as required by existing law. In addition, aliens who are eligible as American seamen beneficiaries of the Public Health Service are provided treatment by the PHS without charge, as authorized by the PHS Act.

Finally, as you are aware, facilities which received construction grant assistance under those provisions of the Public Health Service Act which are historically referred to as the Hill-Burton program, are required to provide a "reasonable" volume of uncompensated services to persons unable to pay. Hill-Burton aided facilities, which include most public and private nonprofit hospitals in this country, have shared in the \$4.4 billion in Federal grants for construction and modernization over the past three decades.

We find it unwise and a bad precedent to exempt one category of those "unable to pay," namely illegal aliens, from a requirement

that hospitals receiving Hill-Burton assistance agreed to as a condition of that Federal assistance.

In closing, let me say that the United States has historically attracted individuals from countries with fewer resources and less opportunities than our own. Our immigration policy must strike that sensitive balance between not overburdening the Nation's resources, on the one hand, while not denying humane assistance on the other.

This concludes my prepared statement, Mr. Chairman. We will be happy to try to answer any questions which you or other members of the subcommittee may have.

Mr. ROGERS. Thank you very much.

As I understand it, the burden is mainly placed on a few hospitals in particular areas, that it is not spread evenly over the country.

Mr. LEVINE. That is correct.

Mr. ROGERS. So I think the reason the bill was introduced was, recognizing that situation, to give relief where there is an undue burden on those hospitals that may have received some Hill-Burton funds or maybe not. I think that is the concern.

Now, as far as migrant health service and the community health centers, are illegal aliens given treatment under those programs?

Mr. LEVINE. They are.

Mr. ROGERS. They are given treatment.

Mr. LEVINE. Yes.

Mr. ROGERS. Emergency treatment.

Mr. LEVINE. Emergency treatment, mostly out-patient treatment.

Mr. ROGERS. What about in Public Health hospitals?

Mr. LEVINE. They are given treatment in Public Health hospitals if the INS requests it.

Mr. ROGERS. But do you have authority to give such treatment in the Public Health hospitals without such requests?

Mr. MARTENS. No. It has to be part of one of our programs. There have to be certain specified groups.

Mr. ROGERS. What about section 322(d) under the Public Health Service Act?

"Persons not entitled to treatment and care in institutions, hospitals, and stations of the Service may, in accordance with regulations of the Surgeon General, be admitted for temporary treatment and care in case of emergency."

I wondered if that would apply. You might look at that and let us know for the record.

Mr. LEVINE. That is section 322(d) of the Public Health Service Act.

Mr. ROGERS. Yes.

[The following statement was received for the record:]

Section 322(d) of the Public Health Service Act authorizes facilities of the Public Health Service to treat, on an emergency basis, persons who are not entitled to benefits at those facilities. Under implementing regulations in 42 C.F.R. 32.111, Public Health Service hospitals do accept patients in emergency situations without inquiring as to the status of those patients. Such patients are billed for any services performed and reimbursement is collected, if possible.

Mr. ROGERS. What about Medicaid? Is there any legal reason why these people could not be covered by Medicaid? Is there anything in the law that prohibits it?

Mr. LEVINE. The regulations prohibit it.

Mr. ROGERS. But not the law.

Mr. LEVINE. Not the law. There are several programs where illegal aliens are treated. Migrant Health Program, Family Health Centers, Maternal and Child Health Centers—

Mr. ROGERS. Maternal and child health. What happens when a person comes in who is an illegal alien, say in the migrant health, community health programs?

Mr. MARTENS. Chances are the project staff is unaware that they are illegal aliens. Therefore, they are treated such as any other person requesting service would be.

Mr. ROGERS. Is the INS notified as soon as they come in to the hospital in that instance?

Mr. MARTENS. No. The Migrant Health Project, the Community Health Center programs, have no legislative or regulatory commitment to determine citizenship for the patient who asks for care, so this is not done.

As I say, there is no attempt made to determine if a prospective patient is an illegal alien or not.

Mr. ROGERS. Should it be done?

Mr. MARTENS. There is some evidence to suggest that it probably should not be done.

Mr. ROGERS. Should not be done?

Mr. MARTENS. Should not be done. For one thing, these centers provide primary care on an ambulatory basis. Quite likely it would prove to be more costly to impose some kind of citizenship determination mechanism. It would probably cost more to locate a few illegal aliens and turn them away than it costs to go ahead and provide them the service.

Mr. ROGERS. I wasn't thinking necessarily of not providing health care, but notifying the INS of their illegal status. Should all the Government agencies cooperate to carry out the basic thrust of the law, or should we just blink our eyes and ignore it?

Mr. MARTENS. We have some anecdotal evidence that suggests—again one of the projects in California several years ago had a physician who took it upon himself to submit the names of any Spanish surname individual who was treated in the project to the local INS office. As a result patient population declined so severely in that project that it was eventually terminated, so this in itself suggests that imposing the kinds of questions that would be necessary to determine whether an individual is an illegal alien or not would frighten away many of the people whom we hope to serve.

Mr. ROGERS. I presume it would frighten away illegal aliens. I wouldn't think it would the legal, would it?

Mr. MARTENS. Yes, I am afraid it does.

Mr. ROGERS. Legal.

Mr. MARTENS. I think it would.

Mr. ROGERS. If they have a card that is all they would have to show, isn't it?

Mr. MARTENS. Well, the migrant workers, seasonal farm workers, that the migrant program is specifically designed to deal with, utilization of health care is a problem the program has to deal specifically with. These people are poorly educated. They have been

denied access to health care for years on end, if you will, and they are a bit apprehensive about getting involved with this organization to begin with. Anything you do that would tend to frighten them away inhibits access to care. Any time you ask additional questions of anyone it becomes a burden.

Mr. ROGERS. Don't they have a card that they have legal status?

Mr. MARTENS. A legal alien as I understand would have a card.

Mr. ROGERS. So there wouldn't be any problem. Just say present your card.

Mr. MARTENS. Well, that is true. What I am suggesting, sir, is that particularly the Mexican-American culture is suspicious of our health care services to begin with, unless he is extremely ill, and with that additional question, I think I would resent someone asking me if I am a citizen in my private physician's office.

Mr. ROGERS. If the Government were paying for your care would you resent it?

Mr. MARTENS. Probably.

Mr. ROGERS. Well, we often have to show social security cards or give our numbers.

Mr. MARTENS. Yes.

Mr. ROGERS. I am not sure it is much of an impediment.

Mr. MARTENS. What I am suggesting is it tends to frighten away the eligible as well as the ineligible and, as has been testified earlier here, the issues that we are really concerned about are the costly emergency situations, and that we might very well by trying to determine citizenship of everybody who comes through the door frighten away more people from ambulatory health care services which are less costly to provide than to identify—

Mr. ROGERS. I wonder if they really would be frightened? What makes you believe that?

Mr. MARTENS. I think the declining population of the project that I used as an example.

Mr. ROGERS. They may have been illegal.

Mr. MARTENS. I agree.

Mr. ROGERS. That may not have anything to do with their legal status.

Mr. MARTENS. On the other hand, it is unlikely that the total migrant population in the community that was utilizing the health care facility were illegal aliens.

Mr. ROGERS. Well, I don't know.

Mr. MARTENS. The assumption has been that we frighten away both eligibles and non-eligibles.

Mr. LEVINE. Mr. Chairman, there is another question that I think we ought to consider with respect to asking legal aliens or illegal aliens to present a card to show that they are not illegal aliens, and that is that if we do ask them to show a card, and if the evidence in California is substantiated elsewhere, then, there is tremendous incentive for these illegal aliens not to come into contact with any Government agency, if they think there is any kind of requirement to show that they are a citizen or a legal alien, they won't go to the center. The question then has to be confronted is whether they will leave the country or whether they will stay in the country, and if they have certain kinds of health problems those health problems if they stay in the country will remain and perhaps get worse.

Mr. ROGERS. Yes, I can understand that, but you don't seem to offer any solution. You just say wait until national health insurance comes. Yet you don't want to look at the illegal problem. What should we do?

Mr. LEVINE. I think the President and the Cabinet Interagency Task Force within the next several weeks are going to announce a policy on illegal aliens, so we are a little——

Mr. ROGERS. To take care of their health needs as well?

Mr. LEVINE. The whole question of social service needs for illegal aliens will be considered and will probably be a part of that proposal.

Mr. ROGERS. Well, will it or not?

Mr. LEVINE. I don't know.

Mr. ROGERS. I mean has HEW suggested a policy for health care of illegal aliens?

Mr. LEVINE. We have discussed the problem in the Interagency Task Force.

Mr. ROGERS. I understand, but I wondered if the Department had made any specific recommendations to take care of the health needs of the illegal aliens?

Mr. LEVINE. I am not aware of what the specific recommendations were.

Mr. ROGERS. Maybe we won't get any.

Mr. LEVINE. That is possible.

Mr. ROGERS. Then what should we do, or shall we just wait and hope? In other words, shall we just hold up action on this legislation where hospitals are being burdened, local hospitals, where they are having to bear the burden, even though these people are in our country illegally, and where we have a Federal responsibility really not to admit such persons unless they come in legally.

Mr. LEVINE. I agree with you we do have a Federal responsibility and the burden on certain individual localities is great, but there are some other things too that I think we should consider. First of all, there are some preliminary reports from ongoing studies that are funded by the Department which indicate that the majority of the illegal immigrants, the great majority, only stay in this country six months; and, that the people who come into the country probably, and this is fragmentary, preliminary evidence, probably pay more in Federal taxes, State income taxes, social security taxes, than they take out in terms of social services. That is very preliminary, but the Department would at least like to get the final results of those studies before answering the question of what do we do right now.

Mr. ROGERS. Of course, the problem still exists no matter when we may get those reports. You are saying then that if it is shown that they pay enough in—what kind of taxes?

Mr. LEVINE. All kinds of taxes.

Mr. ROGERS. Then they should be given free care?

Mr. LEVINE. Then the government, but we have not decided which government, whether it should be the local government or the Federal Government, should provide the care.

Mr. ROGERS. One of the governments should pay.

Mr. LEVINE. Yes.

Mr. ROGERS. What would the normal citizen say who also pays those same taxes but doesn't receive free care?

Mr. LEVINE. I think, as I said before, that should be considered within the context of national health insurance.

Mr. ROGERS. I know, but the President hasn't submitted his plan there either yet, and I understand why. However, what should we do to handle the problem of the hospitals that are presently taking care? Should it be a responsibility of the Public Health Service to reimburse these hospitals?

Mr. LEVINE. I think for the time being that the local hospitals should take care of that problem.

Mr. ROGERS. Where it may cost a hospital a million dollars a year?

Mr. LEVINE. Well, there are lots of different competing demands for health dollars, and I think this is a particular problem that could be considered better within the context of the President's position on illegal aliens and our proposal for national health insurance, and the President's position will be announced in the next couple of weeks on the question of illegal aliens. Health care is only a part of the whole question of illegal aliens. I think we really have to address ourselves to the status of illegal aliens and what we are going to do about that problem before we talk about the problem of health care costs in certain localities.

Mr. ROGERS. But we are being pressed by people who have to deal with the problem constantly, and we are not even sure that the health message or the message on aliens will even address this particular problem.

Mr. LEVINE. The health costs in the localities are great, but it may be that there is more money that goes into the localities from the taxes that the illegal aliens pay than they take out in health costs. We don't know the answer to that question.

Mr. ROGERS. We probably will never know because we don't even know how many illegal aliens there are.

Mr. LEVINE. We have an ongoing study now—the study includes the cities of San Diego, Los Angeles, Chicago, San Antonio, El Paso, New York City, Miami, Phoenix, and Douglas, Arizona—to try to determine some of those questions, and there is also Professor Wayne Cornelius of Massachusetts Institute of Technology who is doing an in-depth study of Mexican migration in the United States, and the sort of preliminary evidence that I was talking about before he has come up with.

Mr. ROGERS. Would you let me know where you get your figures for the 6 million to 8 million the Department feels are illegal when Immigration says they don't know, and it could be from 2 million to 12 million?

Mr. LEVINE. They are right, there are estimates from 2 to 12, but in the past INS has made estimates of between 6 to 8. They didn't do it today, but in the past they have.

Mr. ROGERS. Then you are basing your figures on past estimates of INS?

Mr. LEVINE. That is right.

Mr. ROGERS. Although they say today that is not very valid.

Mr. LEVINE. Well, I defer to INS in terms of the estimates.

Mr. ROGERS. Yes. In other words, your estimate came from their prior estimate.

Mr. LEVINE. That is right.

Mr. ROGERS. It is my understanding then that you will check into the law to see if the Public Health Service law permits delivery of care?

Mr. LEVINE. We will.

[The following statement was received for the record:]

As we indicated earlier, HEW provides care only for specific categories of beneficiaries, except in emergency situation.

Mr. ROGERS. You are presently delivering care in migrant health centers, and under maternal and child health programs. Do you know how many have been given aid in these categories?

Mr. LEVINE. How many illegal aliens?

Mr. ROGERS. Yes.

Mr. SPIEGEL. We don't know because the programs don't ask that question.

Mr. ROGERS. How do you keep them out of Medicare and Medicaid?

Mr. SPIEGEL. Those programs do not ask that question.

Mr. ROGERS. What about Public Health Service hospitals? Is that question asked there?

Mr. SPIEGEL. Public Service hospitals that are not in these other programs deal only with specific categories of beneficiaries such as merchant seamen, persons who are members of the uniformed services, so because they only deal with very specific groups someone else cannot walk in and ask for service. You have to belong to one of those.

Mr. ROGERS. No; it also permits temporary treatment in caring for cases of emergency, and I think you will find some of those hospitals too deliver that care.

Mr. SPIEGEL. I think that is on a reimbursable basis, but I will have to look into that.

Mr. ROGERS. I think it is separate and not on a reimbursable basis, I believe, but you might check that.

Mr. SPIEGEL. We will check that.

[The following statement was received for the record:]

Such emergency patients are billed for any services performed and reimbursement is collected, if possible.

Mr. ROGERS. You say in some of the programs then we do ask the question whether an individual is an illegal alien?

Mr. SPIEGEL. Yes.

Mr. ROGERS. But you don't think we should in the others?

Mr. MARTENS. Correct.

Mr. SPIEGEL. If you are asking is there a distinction between programs in a very general sense in programs that provide specific services of a more or less preventive nature where the people are ambulatory we do not, but in programs which tend to spend a large amount of funding and are more insurance type programs in which we deal with more extensive benefits we do ask those questions.

Mr. ROGERS. So if they really need medical help we ask a question. If it is kind of a preventive thing we don't, is that it? If it

is really going to cost something, we ask the question. If it doesn't cost much we don't. Is that our policy?

Mr. SPIEGEL. The services provided by a number of our service programs are services which are needed and which are important, in fact in the long run may often prevent the development of large health care costs later; for example, a person in a maternal and child health clinic who needs help with her child so later on she isn't disabled, or a woman wants a method of contraception, so we don't have to deal with the cost of unwanted children. All of these situations are very important and vital programs which deal with major health problems.

Mr. ROGERS. I am not downplaying the health care. I am just making the distinction that is evidently made by the Department. Should we have a consistent policy, Mr. Levine?

Mr. LEVINE. I think the kinds of programs that don't ask that question are dealing with mostly outpatient services.

Mr. ROGERS. We have provisions in the migrant health program to reimburse hospitals. Are we doing that?

Mr. MARTENS. Within the funds available, yes.

Mr. ROGERS. How much do we have now? It is not very much.

Mr. MARTENS. \$3 million.

Mr. ROGERS. Are any of those funds given for illegal alien hospital care?

Mr. MARTENS. Not that we know of.

Mr. ROGERS. But no question is ever asked?

Mr. MARTENS. Not specifically, no.

Mr. ROGERS. Do we know?

Mr. MARTENS. No, we don't. By virtue of not asking if you are an illegal alien when they come in for services, therefore we do not know how many. We do not believe or assume that very many illegal aliens are prone to avail themselves of the services available in the migrant health and community health center programs.

Mr. ROGERS. But no one has ever studied the problem?

Mr. MARTENS. That is correct, it has not been studied.

Mr. ROGERS. What is the estimated abuse with the AFDC eligibility being used to qualify for Medicaid. I notice you say in your statement:

"Medicaid officials have long recognized the potential for abuse in this area."

Mr. LEVINE. We don't have any numbers on that.

Mr. ROGERS. You don't know.

Mr. LEVINE. But we can check and submit it for the record.

Mr. ROGERS. Are there any regulations that pertain to that?

Mr. SPIEGEL. Yes, there are requirements for determining appropriate status. It is just as with any system there is always a finite error rate no matter how perfectly you attempt to administer it. Of course, many of these programs are State-administered, anyway.

Mr. ROGERS. But we don't really know then the level of abuse in Medicaid?

Mr. SPIEGEL. We can check what information we have and give it to you.

Mr. ROGERS. If you would, let us have that for the record.

Mr. SPIEGEL. Yes.

[The following statement was received for the record:]

The statistics are unfortunately not very good and our methodology is questionable, but given those constraints we estimate that .04% of all AFDC and .2% of Medicaid funds are used to provide services for illegal aliens.

Mr. ROGERS. How many people are we treating in the migrant health programs?

Mr. MARTENS. Total people?

Mr. ROGERS. Total.

Mr. MARTENS. For 1976 it was 400,000. We expect 499,000 for 1977.

Mr. ROGERS. In the community health centers?

Mr. MARTENS. 3 million approximately.

Mr. ROGERS. 3 million. And in the Aid to families with Dependent Children program? Does anyone know?

Mr. MARTENS. I don't have that information.

Mr. ROGERS. Could you list for the record the amounts of money in each of these programs that are being spent? I realize you may not have those figures with you.

[The following information was received for the record:]

The latest available figures are for FY 1977 and are as follows:

Migrant Health Program	\$30,000,000
Community Health Centers	\$213,300,000
AFDC	\$6,242,000,000

Mr. ROGERS. It does appear we are rather inconsistent in many areas, doesn't it? I would hope the Department will look at that and let us have some comment for the record.

Mr. LEVINE. We will.

[The following statement was received for the record:]

The various programs are somewhat inconsistent. They are that way because the programs were set up to deal with different concerns and different constituencies and they were enacted at different times. I hope that the Congress and the administration will be able to take a good hard look at these inconsistencies in the context of welfare reform and national health insurance.

Mr. ROGERS. Thank you very much for your presence. You have been most helpful to the committee.

The committee will stand in recess until two o'clock this afternoon when we will continue with the hearings.

[Whereupon, at 1:45 p.m., the subcommittee recessed, to reconvene at 2 p.m., the same day]

AFTER RECESS

[The subcommittee reconvened at 2 p.m., Hon. Paul G. Rogers, presiding.]

Mr. ROGERS. The subcommittee will come to order, please.

We now have a panel of distinguished local government representatives, composed of Mr. Frank Panarisi, Health Care Administrator, San Diego County; Burdette Wright, Washington Office Staff, County of Los Angeles; Gayle McNutt, Washington Representative of Harris County, Houston, Texas, and Michael Gemmell, Legislative Representative, National Association of Counties.

If you would like to take your places at the table, we will at least get started.

We welcome you. Your statements will be made a part of the record in full and you may proceed as you see fit.

STATEMENTS OF MICHAEL K. GEMMELL, LEGISLATIVE REPRESENTATIVE, NATIONAL ASSOCIATION OF COUNTIES (NACo); FRANK PANARISI, HEALTH CARE ADMINISTRATOR, SAN DIEGO COUNTY; D. GAYLE McNUTT, WASHINGTON REPRESENTATIVE, HARRIS COUNTY, HOUSTON, TEXAS; AND BURDETTE WRIGHT, LEGISLATIVE REPRESENTATIVE, COUNTY OF LOS ANGELES

Mr. GEMMELL. In the interest of time we would like to summarize our statements.

Mr. ROGERS. That would be helpful.

Mr. GEMMELL. I am Michael K. Gemmell, legislative representative of the National Association of Counties (NACo) on whose behalf I am appearing today. With me are representatives from three of this country's largest urban counties who will briefly outline the problems they are facing concerning emergency medical care to illegal aliens.

The representatives are Frank Panarisi, Health Care Administrator, San Diego County, California, giving testimony for Supervisor Jim Bates, Chairman of the county's elected governing board; D. Gayle McNutt, representing the County Commissioner's Court of Harris County, Texas, and Burdette Wright, speaking on behalf of Los Angeles County Supervisor Pete F. Schabarum and the other four elected governing board members.

Mr. ROGERS. We welcome all of you gentlemen to the committee. We appreciate your being here.

Mr. GEMMELL. Thank you.

The purpose of my statement is to make Congress and this subcommittee aware of the key problems facing counties in terms of providing emergency medical care to illegal aliens. We wish to commend the chairman and members of the subcommittee for conducting these hearings.

I am attaching a resolution supporting H. R. 2400, a bill to amend the Public Health Service Act to provide financial assistance to medical facilities for emergency medical services to illegal aliens. This resolution was adopted by the NACo Health and Education Policy Steering Committee last month.

In the interest of time, I would like to summarize the NACo statement. With your permission, I request that the complete statement be included in the hearing record [see p. 66].

The costs of emergency medical services to illegal aliens are increasing the already heavy burden borne by county taxpayers. Counties are the most frequent payers of these costs.

Most illegal aliens are low-income workers who lack cash reserves or medical insurance to pay for medical treatment. They are ineligible for Medicaid or Medicare because of their illegal status. Illegal aliens frequently return to their native countries after treatment, leaving their medical bills behind. Debts are very difficult to collect across international borders.

County governments acknowledge their legal and moral obligation to provide emergency medical services to all the needy within

their county, regardless of their legal status. Counties do not wish to evade this responsibility, but they are not able to continue to bear all the costs alone.

The problem of illegal aliens is not geographically limited as HEW has contended. It is national in scope. Earlier statements today have acknowledged this fact.

Large numbers of illegal aliens seek emergency medical services for which counties must pay. A recent survey by NACo revealed the extent of this problem.

Counties have difficulty in supplying exact figures on the numbers of illegal aliens treated at county expense. Illegals are understandably reluctant to reveal their status. Many illegal aliens are identified by their refusal to apply for Medicaid or by the rejection of their applications on the basis of citizenship.

The following examples of expenditures by counties for health care to nonresident and illegal aliens are rough estimates of actual cost.

The California counties which experience the heaviest costs have the most complete data. Los Angeles County estimates it spends in excess of \$20 million a year for emergency medical services to illegal aliens. San Diego County spends approximately \$800,000. Even the sparsely populated, rural county of Merced has expenditures of about \$250,000.

Imperial County, California, bears considerable costs from the use of its hospital's obstetrical service by Mexican women. These women cross the border when they go into labor to receive medical services and U.S. citizenship for their children.

Cook County General Hospital also reports the use of its obstetrical service by many illegal aliens. Cook County has the second largest Mexican-American community in the Nation.

In Bear County, Texas, San Antonio, the Robert B. Green Memorial County Hospital estimates the annual cost for the provision of health services to illegal aliens to be \$500,000. Harris County, Texas, Houston, spends approximately \$250,000 yearly in emergency care to illegal aliens. County officials have said that this is a conservative estimate.

Denver County, Colorado, estimates that approximately two and a half to three percent of the patients treated in Denver General Hospital are illegal aliens. Their treatment results in an annual cost to the county of approximately \$75,000.

The Maricopa County, Phoenix, Department of Health Services spends approximately \$500,000 per year on services to patients residing illegally in the county.

Most illegals shun preventive care services because they fear detection. However, they do seek emergency medical services when their illnesses become acute. The cost of their treatment is covered by a deficit appropriation by the counties. In the private hospitals, Mr. Chairman, it is picked up as a bad debt.

No further examples are needed to demonstrate that illegal aliens are receiving medical services at the expense of many counties throughout the Nation.

The time has come for the Federal Government to acknowledge its responsibility for the costs of emergency health care services to

illegal aliens. At present, the only acknowledgement of this Federal responsibility is a Public Health Service Act provision that persons detained by INS may be treated and cared for by the Public Health Service. The INS has interpreted this responsibility very narrowly. It refuses to take custody of any illegal alien who is not well enough to be moved and deported to his own country. Since the vast majority of illegals are never apprehended, this provision of the Public Health Service Act does very little anyway to defray local costs of medical care to illegal aliens.

The evident need is for reimbursement of counties for the provision of care to indigent illegal aliens. H.R. 2400 would provide such reimbursement. This bill would place financial responsibility for the emergency medical services needed by illegal aliens on the level of government which has the authority and responsibility to control that cost through the regulation of immigration. Counties would be freed from a cost over which they have no control.

The U.S. Department of Health, Education, and Welfare has estimated the annual cost of this bill to be \$462 million. This estimate is grossly exaggerated.

Mr. ROGERS. May I interrupt at that point?

I do have a vote. I am sorry. Will you bear with the committee? We will recess for 10 minutes.

[Brief recess.]

Mr. ROGERS. The subcommittee will come to order, please.

You may proceed. I hope we do not have another vote.

Mr. GEMMELL. Thank you.

We were talking about costs. The HEW estimate is predicated on the false assumption that illegal aliens utilize medical services at the same rate as the general population. In fact, illegal aliens probably use emergency medical services far less frequently than the general public, and remain in the hospital a shorter time.

Persons residing in the United States illegally are reluctant to seek medical attention. They fear exposure and deportation. Doctors treating large numbers of illegals report that most are acutely ill by the time they come to the hospital.

County taxpayers have been paying the bill for Federal immigration policy. Federal reimbursement for emergency medical services to illegal aliens is essential.

We would like to thank the chairman for giving us the opportunity to present testimony on the financial burden faced by counties in providing emergency health care to individuals residing in this country illegally. County officials acknowledge their legal and moral obligation to provide emergency care to all medically needy people regardless of their legal status.

The provision of health care to unsponsored patients, or to those without insurance or support for their medical care, has traditionally been a local government responsibility. However, we feel that the cost incurred by counties in providing care to one category of unsponsored patients or illegal aliens should not be borne totally by local taxpayers.

We urge this subcommittee to favorably report out H.R. 2400 or similar legislation which would provide reimbursement to medical facilities for emergency medical care provided to illegal aliens.

We would also urge, Mr. Chairman, that the Government Accounting Office undertake an in-depth study into the costs associated with medical care to illegal aliens.

Furthermore, we urge that field hearings be held on this issue to bring out the real extent of this problem. Given the fact that our figures are not as accurate as we would like, the GAO study and the field hearings would enable us to better document the need for this care and the costs involved.

Thank you, Mr. Chairman.

[Mr. Gemmell's prepared statement and resolution follow:]

STATEMENT OF MICHAEL K. GEMMELL, LEGISLATIVE REPRESENTATIVE, NATIONAL ASSOCIATION OF COUNTIES

Mr. Chairman, members of the subcommittee, I am Mike Gemmell, Legislative Representative of the National Association of Counties (NACo)¹ on whose behalf I am appearing today.

The purpose of my statement is to make Congress and this subcommittee aware of the key problems facing counties in terms of providing emergency medical care to illegal aliens. We wish to commend the chairman and members of the subcommittee for conducting these hearings.

The National Association of Counties represents over 1,500 county governments which together comprise 90 percent of the Nation's population. The vast majority of the counties in this country provide public health and medical care services.²

Mr. Chairman, I am attaching a resolution supporting H.R. 2400, a bill to amend the Public Health Service Act to provide financial assistance to medical facilities for emergency medical services to illegal aliens. This resolution was adopted by the NACo Health and Education Policy Steering Committee last month.

The costs of emergency medical services to illegal aliens are increasing the already heavy burden borne by county taxpayers. Counties are the most frequent payors of these costs.

Most illegals are low income workers who lack cash reserves or medical insurance to pay for medical treatment. They are ineligible for Medicaid or Medicare because of their illegal status. Illegal aliens frequently return to their native countries after treatment, leaving their medical bills behind. Debts are very difficult to collect across international borders.

Los Angeles County (CA) reports that it recovers only about 10 percent of the cost of treatment for its illegal alien patients. A 1973 study by the County of San Diego (CA) estimated that a mere 3.2 percent of its costs for emergency medical services to illegal aliens is recoverable. Other counties recover comparably low portions of costs incurred in treating patients illegally present in the United States.

Aside from the humanitarian consideration that any person in need of medical treatment should receive it, public health considerations warrant the treatment of illegal aliens. For example, in July 1971, the Colorado State Director of Health reported a near epidemic of tuberculosis because of the high incidence of active carriers among illegal aliens. In addition, an illegal alien apprehended by the Immigration and Naturalization Service (INS) while employed in a local restaurant, was in an advanced stage of syphilis. Since illegal aliens live, work, and attend school in the community, counties must treat them to protect the health of other county residents.

¹ NACo is the only national organization representing county government in America. Its membership includes urban, suburban, and rural counties joined together for the common purpose of strengthening county government to meet the needs of all Americans. By virtue of a county's membership, all its elected and appointed officials become participants in an organization dedicated to the county government; acting as a liaison between the Nation's counties and other levels of government; and, achieving public understanding of the role of counties in the Federal system.

² Over 75% of the 3,000 counties are administratively responsible for providing community health services. Over 68% provide medical assistance, 60% provide mental health services, 30% operate hospitals (nearly half of public hospitals are county operated), 38% provide emergency medical services, and 26% operate long term care facilities. Counties also provide traditional public health services: immunization programs, sanitation, home health, school health, V.D. clinics, well-baby clinics, alcoholism and drug abuse prevention and treatment, family planning, etc. To a large extent, these services are financed by local funds. Census data shows that counties spent \$3 billion for hospitals and \$1 billion for community health services in 1975. In 1966, counties spent \$1.3 billion and \$311 million, respectively.

County governments acknowledge their legal and moral obligation to provide emergency medical services to all the needy within their county, regardless of their legal status. Counties do not wish to evade this responsibility, but they are not able to continue to bear all the costs alone.

The number of illegal aliens in the United States is at an all time high. Actual numbers are not easy to determine. While the INS estimates that there are 6 to 8 million people living in this country illegally, others calculate the figure as low as 2 million and as high as 12 million. One INS study said that non-resident aliens cost \$13 billion per year in medical and welfare costs, jobs taken from American citizens and money sent out of the country.

Originally, the problem of illegal aliens was confined to counties in States bordering Mexico. Although the counties of the southwest, especially California, still bear a disproportionate burden, the problem has become nationwide in scope. Middlemen smuggle Mexican workers into the country and illegally transport them to jobs in such diverse places as East Chicago, Gary and Hammond, Indiana; New Orleans, Louisiana; Dallas, Texas; and Milwaukee, Wisconsin.

Although Mexicans constitute a large proportion of illegal aliens, they are by no means the only nationality entering illegally. Other sources of large numbers of illegals are the Philippines, Korea, Columbia, several Central American Republics, the Dominican Republic, Haiti, Nigeria, Ethiopia, Iran and other middle eastern states, Italy, Greece, India and Thailand.

A 10 week investigation in 1974, by the The New York Times, documented what immigration authorities call a "silent invasion" of New York and New Jersey. Many aliens have entered from the Caribbean and Latin America on tourist visas and stayed illegally. The existence of a well organized pattern of smuggling aliens through Puerto Rico, the Bahamas and Canada was also documented. Officials estimate from one to one and a half million illegal aliens live in the New York Metropolitan Area.

Detroit, Michigan's INS District Office estimates that 30,000 to 40,000 illegals are employed in Michigan. Approximately 8,000 illegal aliens are thought to be in Ohio and about 2,000 in Kentucky. An estimated 50,000 illegals live in the Miami area. An additional 15,000 to 25,000 illegals live in the remainder of Florida.

The majority of foreigners currently residing in the San Francisco area are thought to be illegally present in the United States. The Los Angeles area has an estimated 250,000 illegal aliens. An additional 120,000 illegals are thought to be employed as agricultural workers in California's Central Valley. Chicago, Denver, Kansas City, and Washington, D.C. each have considerable numbers of illegal aliens.

As you can see, the problem of illegal aliens is not geographically limited. It is national in scope.

As stated at the outset, large numbers of illegal aliens seek emergency medical services for which counties must pay. A telephone survey by NACo revealed the extent of this problem.

Counties have difficulty in supplying exact figures on the numbers of illegal aliens treated at county expense. Illegals are understandably reluctant to reveal their status. Many illegal aliens are identified by their refusal to apply for Medicaid or by the rejection of their applications on the basis of citizenship. The following examples of expenditures by counties for health care to non-resident and illegal aliens are rough estimates of actual costs.

The California counties which experience the heaviest costs have the most complete data. Los Angeles County spends in excess of \$20 million a year for emergency medical services to illegal aliens. San Diego County spends approximately \$800,000. Even the sparsely populated, rural county of Merced has expenditures of about \$150,000.

Butte County, California, has paid about \$68,000 during the past year for the treatment of illegals in private hospitals in the county. The county board of supervisors voted to refuse to pay the medical costs of illegal aliens. How these costs—already amounting to \$20,000—will be paid remains unsettled.

Imperial County, California, bears considerable costs from the use of its hospital's obstetrical service by Mexican women. These women cross the border when they go into labor to receive free medical services and U.S. citizenship for their children.

Cook County General Hospital also reports the use of its obstetrical service by many illegal aliens. Cook County has the second largest Mexican-American community in the Nation.

In Bexar County, Texas, the Robert B. Green Memorial Hospital estimates the annual cost for the provision of health services to illegal aliens to be \$500,000. Harris County, Texas (Houston), spends approximately \$250,000 yearly in emergency care to illegal aliens. County officials have said that this is a conservative estimate.

Denver County, Colorado, estimates that approximately 2½ to 3 percent of the patients treated in Denver General Hospital are illegal aliens. Their treatment results in an annual cost to the county of approximately \$75,000.

The Maricopa County (Phoenix) Department of Health Services spends approximately \$500,000 per year on services to patients residing illegally in the county.

Most illegals shun preventive care services because they fear detection. However, they do seek emergency medical services when their illnesses become acute. The cost of their treatment is covered by a deficit appropriation by the counties.

No further examples are needed to demonstrate that illegal aliens are receiving medical services at the expense of many counties throughout the Nation.

The time has come for the Federal Government to acknowledge its responsibility for the costs of emergency health care services to illegal aliens. At present, the only acknowledgement of this Federal responsibility is a Public Health Service Act provision that persons detained by INS may be treated and cared for by the Public Health Service. The INS has interpreted this responsibility very narrowly. It refuses to take custody of any illegal alien who is not well enough to be moved and deported to his own country. Since the vast majority of illegals are never apprehended, this provision of the Public Health Act does very little anyway to defray local costs of medical care to illegals.

The evident need is for reimbursement of counties for the provision of care to indigent illegal aliens. H.R. 2400 would provide such reimbursement. This bill would place financial responsibility for the emergency medical services needed by illegal aliens on the level of government which has the authority and responsibility to control that cost through the regulation of immigration. Counties would be freed from a cost over which they have no control.

The U.S. Department of Health, Education, and Welfare has estimated the annual cost of this bill to be \$462 million. This estimate is grossly exaggerated.

The HEW estimate is predicated on the false assumption that illegal aliens utilize medical services at the same rate as the general population. In fact, illegal aliens probably use emergency medical services far less frequently than the general public and remain in the hospital a shorter time.

Persons residing in the United States illegally are reluctant to seek medical attention. They fear exposure and deportation. Doctors treating large numbers of illegals report that most are acutely ill by the time they come to the hospital.

County taxpayers have been paying the bill for Federal immigration policy. Federal reimbursement for emergency medical services to illegal aliens is essential.

We would like to thank the chairman for giving us the opportunity to present testimony on the financial burden faced by counties in providing emergency health care to individuals residing in this country illegally. County officials acknowledge their legal and moral obligation to provide emergency care to all medically needy people regardless of their legal status. The provision of health care to unsponsored patients, or to those without responsibility. However, we feel that the costs incurred by counties in providing care to one category of unsponsored patients or illegal aliens should not be borne totally by local taxpayers. We urge this subcommittee to favorably report our H.R. 2400 or similar legislation which would provide reimbursement to medical facilities for emergency medical care provided to illegal aliens.

Thank you, Mr. Chairman.

RESOLUTION CONCERNING NACO POLICY ON HEALTH CARE TO ILLEGAL ALIENS (H.R. 2400)

WHEREAS, the costs of medical services to non-resident aliens are increasing the heavy burden borne by county and local taxpayers; and,

WHEREAS, non-resident aliens are ineligible for Medicare or Medicaid because of their legal status; and,

WHEREAS, counties render health care to non-resident aliens, yet they are becoming more and more unable to continue to pay for the astronomical costs; and,

WHEREAS, the provision of health care to the indigent has traditionally been a local responsibility, yet the regulation of immigration is a Federal responsibility. NACO urges that:

Congress enact H.R. 2400 and similar legislation which would provide for reimbursement to medical facilities for emergency health care rendered to non-resident aliens.

Adopted by the Health and Education Policy Steering Committee May 20, 1977.

Mr. GEMMELL. With your permission, I would like to call first on Mr. Panarisi.

Mr. ROGERS. On the survey, I think we would like to have a copy of that survey for the committee.

Mr. GEMMELL. We would be more than glad to supply it.

Mr. ROGERS. Your statement about the services that are used by the aliens—that they are probably shorter hospital stays—would you let us have any substantiating facts on that? Has any study been done?

Mr. GEMMELL. We have relied on the study of the Immigration Service and some from HEW. Los Angeles and San Diego Counties have looked into this extensively, San Diego especially. We found out they rely on welfare and general care more than the general population.

Mr. ROGERS. We would like that information for the record.

Mr. GEMMELL. We would be glad to supply it.

[The information requested was not available to the subcommittee at the time of printing.]

Mr. ROGERS. Do any of the local governments or hospitals actually sue the Federal Government or the Immigration and Naturalization Service?

Mr. GEMMELL. I believe Los Angeles County has actually sent HEW a bill for some of the care provided.

Mr. ROGERS. What about the Immigration Service?

Mr. GEMMELL. I do not know. I could ask some members of the panel.

Mr. PANARISI. I know the claim went to HEW. I do not know about INS.

Mr. WRIGHT. We discussed doing something similar in the case of Immigration and Naturalization Service, but we have corresponded at length with General Chapman and we will continue with the present Commissioner before we go to that length.

Mr. ROGERS. Do illegal aliens pay sales tax on goods purchased in the counties or States?

Mr. GEMMELL. Yes, they do; yes, they do, mainly sales tax.

Mr. ROGERS. Which is a State tax?

Mr. GEMMELL. That is correct.

Mr. ROGERS. Do the counties get any part of that sales tax?

Mr. GEMMELL. In California? Mr. Chairman, they do.

Mr. PANARISI. Yes. There is a partial return to the local agencies, but that is the major tax that would be applicable.

Mr. ROGERS. The local area would be willing I presume to bear some of the burden of this?

Mr. PANARISI. Anything that would improve our present condition, Mr. Chairman, yes.

Mr. GEMMELL. With your permission I would like to call first on Mr. Panarisi, then on Mr. McNutt, and lastly Mr. Wright. That would conclude our prepared remarks and we would be pleased to answer any questions.

STATEMENT OF FRANK PANARISI

Mr. PANARISI. Thank you.

I am Frank Panarisi. I am representing supervisor and chairman of our board of supervisors Mr. Jim Bates. He apologizes for not

being here. He has been involved and interested in this problem for some time, but he has a conflict with a budget hearing in San Diego. You do have a copy of the testimony and the presentation from Mr. Bates.

I think in the interest of time I would like to summarize the statement and have it accepted for the record.

Mr. ROGERS. It will be made a part of the record [see p. 71].

Mr. PANARISI. Thank you.

I have given an amendment which I will read to you. It has been given to the recorder.

I would like to touch on four points that I think deserve some highlighting in the statement, then I would like to comment on a few points raised in this morning's hearing.

First I would like to say that the subject of these hearings is not new to us. San Diego has been involved for better than two years in trying to get some correction of this issue.

I am concerned that there has been no positive reception from the executive branch. I think regardless of what happens with the alternatives available, we are going to require some legislative action. There is no way the counties can continue with this burden.

Addressing this legislation, it zeroes in on emergency care for the undocumented alien. This is important to note. We are not saying let's take care of the global concerns and total care for all aliens.

This is a problem that we cannot back away from. Someone has been brought to our door, most of the time in ambulances, and we have to provide attention to that individual. There is no discretion, nothing we reach out for. We cannot turn them away. We have to provide the service.

I think this bill faces the current fiscal problems realistically and it would allow us some relief in areas where we have no choice.

Another point I would like to touch on was the INS's position about not accepting the jurisdiction or authority over the individual while he is in the hospital. We have called on them on numerous occasions trying to get their authority and jurisdiction over an individual so that they would take the responsibility. This has been denied, as mentioned this morning, and I think that is a good approach that we need to address. We think it is their responsibility.

Another point mentioned a couple of times by the Congressmen from our area, both Mr. Wilson and Mr. Van Deerlin, indicating that San Diego County is putting in about \$800,000 towards emergency care. This is only in one hospital, University Hospital, which we contract with for emergency care. That is \$800,000 in that one hospital.

In addition to that, there are other hospitals in the community where the private sector is picking up the bill. They are getting emergency cases coming to their door.

We have done a study in San Diego. That is one part I did want to modify. I would like to read a change for the last paragraph on page 2: "The bills for services rendered to aliens by 15 community hospitals for a four-month study period, February 1976 to June 1976, totaled \$1,043,950. Of that amount, 42 percent remains unpaid. Annualized, this would amount to approximately \$3,132,000 and \$1,315,000 uncollected."

"Because determination of one's legal status is not, nor should it be, a precondition of the receipt of emergency medical care, the actual percentage of costs that should be credited to the undocumented alien is not known. However, we estimate that it is less than half, or approximately \$600,000 per year for that study sample of 15 hospitals.

Mr. Chairman, going on, I would like to comment now on some of the remarks that were made this morning that I think are worth addressing.

First, I would like to highlight Mr. Castillo's comment when he indicated that he recognized it is impossible for local government to carry the cost. I think that is especially noteworthy since he has had experience in the fiscal management at the local level.

The second point I would like to make is that in the testimony by HEW this morning the representative indicated that they were concerned that the proposal would provide services to illegal aliens which were not being provided to legal aliens. I would like to clarify that. Again, we are talking only again about emergency services. These services are available to everyone. They are being provided first and then we go ahead and try to collect for the services. We have a greater possibility for collection from the legal aliens than we do from the nonlegal aliens, and we do not need to take exception to this being a different level of service.

Also I would like to comment on HEW's proposal to wait for the completion of their study or wait for the President's policy, or wait for national health insurance. I don't believe the condition we are talking about is really going to be affected by any of those actions. Some of them are way off. Even if they occur, there is no guaranty to the local agency that there will be relief in those proposals, or if so, what the relief might be.

We feel that, addressing only emergency services, even though it is piecemeal, we feel that is an important approach that we can readily document. It is an issue where we have no discretion on. These services have to be provided, and the point is that this is not something that has been created locally. This is a Federal responsibility and we think the Federal Government should pick up the fiscal responsibility.

Mr. Chairman, in summary then, from the San Diego County standpoint, our position in support of this bill is to urge two things. One, we would urge that the Federal Government recognize its responsibility and commitment. Secondly, we would urge that they provide financial relief to local agencies. It is especially important in San Diego County, as was mentioned this morning by I believe Congressman Wilson, when he said we have ceilings established by the State forcing us to live within a dollar limit, and the funds we put into this program come from property taxes.

Thank you very much, Mr. Chairman.

[Mr. Bates' prepared statement referred to follows:]

STATEMENT OF JIM BATES, CHAIRMAN, SAN DIEGO COUNTY BOARD OF SUPERVISORS

It is estimated that the pool of undocumented aliens grows from 500,000 to 1,000,000 persons per year.

Mexico, Jamaica, the Dominican Republic, Haiti, Korea, the Philippines, Thailand and Taiwan are the principal sources of illegal immigration to the United States— with Mexico being the major provider or source of undocumented aliens.

These nations have three similar characteristics: low income, low standard of living and close ties with the United States.

Illegal immigration from Mexico involves merely crossing the border without the appropriate immigration documents. The newer migration of undocumented aliens from the Caribbean, Central American, European, and Asian countries is sometimes less obvious since it involves persons coming through ports of entry documented as visitors and students, who subsequently violate the terms of their admission.

The undocumented alien phenomenon is expected to become more acute since Mexico has one of the world's highest birthrates. At its present rate of 3.5 percent a year, Mexico's population will double every 20 years. Its estimated population in 1976 was 61,203,000 according to UCLA's Latin American Center, and is expected to increase to 83,803,000 by 1985 and to 132,224,000 by the year 2000. Tijuana and other border cities have grown spectacularly in recent years as thousands have left Mexico's interior and collected in the borderlands, where unemployment is estimated to run as high as 40 percent. The United States is an almost irresistible magnet for impoverished Latin Americans looking for economic survival. Since undocumented aliens exist in a sub-culture, no one knows exactly how many of them are working and living in the United States. It is largely a hidden phenomenon, discernible only through apprehension statistics and estimates.

Health care services for this hidden population is a captive handmaiden of a complex set of social and economic forces governed by immigration policies and laws—factors over which city, county and state governments have little or no control.

San Diego county, because of its geographical location next to the International Border, is experiencing heavy losses (taxpayer and private health dollars) in rendering medical care to undocumented aliens. There is no quarrel with the humanitarian aspect of providing such service, it is the moral obligation of health service providers and local government to do so. However, we are concerned with the question of who has the ultimate responsibility of paying for those services.

The obligation belongs to the Federal Government, which is also responsible for controlling the flow of immigrants, legal or illegal into California. Furthermore, studies indicate that unauthorized immigrant workers pay taxes through wage deductions and those tax monies are funneled to Federal revenue bases. In this regard, the undocumented worker is contributing to a social service system from which he receives no benefits since they are normally deported prior to a service claim.

If the undocumented alien does not receive proper care, as is often the case in communicable diseases, there is a great risk involved for other U.S. citizens. Only when the situation demands it, do they then seek emergency medical care from health service providers. The cost of such medical care could be noticeably reduced if health problems were prevented or taken care of in the early stages. However, because of possible deportation, the aliens in question avoid treatment resources where their residency status will be brought to light. For these reasons many California communities have extended some health services—on almost a no-question's asked basis—because the individual's and community's health is more important than a sick person's legal residency status.

A seriously ill, undocumented alien, is not particularly welcomed any place. As long as he or she is in the hospital, the INS (Immigration and Naturalization Service) refuses to take custody. If it does, it then must pay the bill. Therefore, the Border Patrol waits until the alien is released, then assumes custody and deports the individual leaving the local provider with a cost burden.

The California Legislature has made it the mandatory duty of every county to relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease or accident, lawfully resident in the county, when such persons are not otherwise supported. The State Attorney General held that the expansion of the Medi-Cal program did not mean that the Legislature intended to take over all responsibility for medical indigents. In this regard, the County of San Diego meets its medical care commitments for emergency medical services to undocumented aliens via a contract hospital. Since the above humanitarian and medical care precepts apply equally to other hospitals in the community, they, too, provide a significant proportion of the emergency medical services to undocumented aliens.

The cost impact of the undocumented alien problems in this County crosses over all local agency and departmental lines. The county government's unreimbursed cost

for emergency medical services provided to non-resident aliens (\$321,617 in fiscal year 71-72) has increased almost 250% in 6 years (approximately \$800,000 fiscal year 76-77.

The billings for services rendered to aliens by 15 community hospitals for a 4 months period, February 1976 to June 1976, totaled \$1,043,950. Of that amount 43 percent remains unpaid. Annualized this would amount to approximately \$3,132,000 billed and \$1,315,000 uncollected. Because determination of one's legal status is not, nor should it be a precondition to the receipt of emergency medical care, the actual percentage of costs that should be credited to the undocumented alien is not known. We estimate it is less than half or approximately \$600,000 per year for the study sample.

Obviously, counties and community hospitals cannot refuse to provide such emergency medical treatment; however, they should have redress to the Federal Government for reimbursement of costs.

To paraphrase, a representative of our Congressional Delegation, "Inasmuch as control of the undocumented alien traffic is an exclusively Federal problem, how can Congress, in all fairness, permit local hospitals and governments to be assessed for the costs incidental to their medical care."

Additionally, the fact that research studies conducted by noted experts on the issue of undocumented immigrants have determined that undocumented workers contribute tax deductions from wages earned to the Federal tax base, it is proper that the Federal Government reimburse the health providers for costs incurred on a Federal responsibility.

Mr. ROGERS. Thank you, Mr. Panarisi.

Mr. GEMMELL. With your permission, Mr. Chairman, next is Mr. McNutt from Houston.

Mr. ROGERS. Mr. McNutt.

STATEMENT OF D. GAYLE McNUTT

Mr. McNUTT. Thank you, Mr. Chairman.

I do appreciate the opportunity to appear before you today. We appreciate your holding these hearings.

My name is Gayle McNutt, and I am the Washington representative for Harris County, Houston, Tex.

This bill is important to us because we are located within about 300 miles of Mexico, right up the coast. We have a healthy economy that provides the menial type jobs that most of these illegals seek. We have a mild climate. It is a favored gathering place.

We really don't know how many are there. Based on INS estimates to us the latest figure we got from them was about 40,000 in the immediate Houston area, and that was last year, so that is a guess.

Our Commissioners Court recently adopted a resolution in support of this or similar legislation which I will attach and submit with my statement. It was adopted by a four-to-one vote, and I would like to explain that the dissenting vote was not because the Commissioner didn't believe we shouldn't be reimbursed, but he felt that we shouldn't be providing this service anyway, that it was a Federal problem, and they should be sent to the VA hospital, or sent back to Mexico, but that we shouldn't even be taking them.

Of course, I think we have to be frank and tell the subcommittee that we don't really know how much we spend on care for illegal aliens. We do know that we treat a significant number and we have estimated the figure at \$250,000, I believe I can assure you that this is a conservative figure, but we believe it better to be on the conservative side rather than be excessive.

I do want to explain how we reach the figure, however. We have two public service hospitals in Harris County which the county operates. They provide services to mainly the indigent population. In the 1976-1977 fiscal year, which ended last April, we asked our fiscal director to estimate portions of the costs based on his discussions with the hospital staff and their records attributable to illegal aliens. He took the budgets for the hospitals and cranked the overall figures in and came up with an approximate cost.

For the Jefferson Davis Hospital the figure would be about half of one percent, and figuring the cost at \$10.6 million that came to about \$53,000. For Ben Taub General Hospital, he estimated that about one percent of the patients that came through were illegal aliens, and that out of \$20.1 million spent on those services at that hospital, the cost was \$210,000. So this is how we arrive at our figures, and these are for emergency services only, the ones that came in through the emergency rooms with serious injury or illness. We don't have any choice but to take them and treat them and ask questions about nationality later.

We are not supposed to treat anyone from outside our county because it is strictly a county hospital for county residents. We don't really try to make someone prove his citizenship when he comes in. We ask that they prove residency. A utility receipt, almost anything that shows they have a local residence, is accepted normally as that proof.

There is a good possibility that we unknowingly treat a lot more illegal aliens because they may have a local address and still be an illegal alien, but the ones that we can pinpoint are the ones we have used.

I think also when you consider that about a tenth of our county of more than 2 million residents is Spanish speaking, or Spanish surname, brown-skinned, we would have a terrific public relations problem if we tried to ask all of them when they came in there to prove that they are a citizen of the United States. We just cannot do that.

One thing we are doing, I will add, is trying to get some better statistics. They have recently started a program to keep better statistics and hopefully in the future we will have them more concrete. We also, I know, provide other services for illegal aliens in other county health facilities, but these are not really of an emergency nature, and I don't believe they are to be covered by this bill. But we do pick up other local costs for illegal aliens in addition to the medical services. We are sure of that. We don't know how much.

Our county spends about \$75 million a year on these two hospitals. I think that you can see with the 40,000 illegal aliens that a lot of them are getting treatment, emergency treatment, and if you crank that into the computer, it probably comes out well over the \$250,000. I would emphasize that that is an educated guess, and we really don't know.

I know that we aren't the only city in Texas or in the Nation with this problem. San Antonio, for example, has a much greater problem. The border cities along the Texas-Mexico border have an even greater problem, I am sure. We asked the State Health Department

for figures, but they have not kept these either. We have been asked the question: "Well, why haven't you kept them?" We have had no reason to. They are just indigent patients as far as we have been concerned. There is no way of collecting the money. They either paid or they didn't pay, and there hasn't been any reason for us to keep the statistics in the past.

We do think that the provisions of this bill or similar legislation would provide a just solution. We think it is a problem we really have no control over. We have no authority in the matter of handling illegal aliens, keeping them out or keeping them in.

This is recognized as a Federal problem, and a Federal responsibility. We would like to at least be treated fairly and—for a problem that rightfully isn't ours—to get at least reimbursement that we can for it.

We again thank the Chairman and the subcommittee.

[Mr. McNutt's prepared statement and resolution follow:]

STATEMENT OF D. GAYLE MCNUTT, WASHINGTON REPRESENTATIVE, HARRIS COUNTY, TEXAS

Mr. Chairman, my name is D. Gayle McNutt and I am employed by Harris County Commissioners Court, Houston, Texas, as the County's Washington Representative. My offices are at 1735 New York Avenue, N.W., Washington, D.C. 20006.

I am grateful for the opportunity to appear as part of this panel before the Health and Environment Subcommittee today on behalf of Harris County, which is one of the largest urban areas in the Nation.

Mr. Chairman, H.R. 2400 is important to my county principally because of our proximity to Mexico and a healthy economy that provides an abundance of the type of unskilled jobs sought by illegal aliens. As a result, Immigration and Naturalization Service officials estimate that there are more than 40,000 illegal aliens in Harris County.

Commissioners Court, our county's governing body, has adopted by a 4-1 vote a resolution in support of H.R. 2400, which I am submitting to the subcommittee with my statement. I might add that the vote against the resolution was cast by a Commissioner not because he did not think that the county should be reimbursed for the local tax dollars we spend on health services for illegal aliens, but because he feels strongly that we should not be providing the services to them in the first place. He believes that we would not have these costs if the Federal Government did a more effective job of preventing illegal entries and of deporting those who do enter.

I must be frank and state that Harris County does not know how much we actually spend on medical care for illegal aliens. In the past, we have had no reason to keep statistics on such costs.

We have estimated the figure at more than \$250,000. Actually, this amount is probably far on the conservative side. But without supporting statistics, we believe it better to be conservative than excessive.

We reached the \$250,000 figure by considering emergency medical services delivered through the two public hospitals operated by the Harris County Hospital District for the 1976-77 fiscal year. We asked our fiscal services director to estimate the portion of costs at the two hospitals that, through the billing process, are determined to be for the treatment of illegal aliens.

He estimates that at Jefferson Davis Hospital this figure would be 0.5 percent of the \$10.6 million expended, or \$53,000. For Ben Taub General Hospital, he estimates 1.0 percent of the \$20.1 million spent, or \$201,000, would be for services to illegal aliens.

These costs are for cases of serious injury or illness that come through the emergency rooms, where doctors and nurses provide treatment first and ask question about nationality or residency later.

Legally, our District is not supposed to treat charity cases who are not residents of Harris County; but, of course, you do not turn away the critically ill or injured.

There is also a good possibility that we unknowingly treat a great many more illegal aliens than we discover, since requiring proof of citizenship of all who are brown-skinned, or who speak English with a foreign accent, is totally impractical from both a medical and public relations point of view.

When you consider that upward of one-tenth of our more than 2 million county residents are Mexican-Americans, with many of them in the lower income stratas, I believe the problem is apparent. We cannot demand certified proof of citizenship of all those who walk through our doors. And we must treat all patients equally, regardless of race, color, language or other physical characteristics.

When possible, we do require patients to show proof of county residency before admission to our hospitals. A utility bill receipt or official document showing a local address is generally accepted as sufficient proof of residency. It does not, however, really give assurance of U.S. citizenship.

The same principle holds true for patients treated in the eight neighborhood clinics operated by the hospital district and for the thousands who receive a variety of health services through programs of our County Health Department.

In the past, we have had no reason to keep statistics on the number of patients who were determined to be illegal aliens. They were just part of the overall total.

I will add, Mr. Chairman, that we have now started to keep such records and, in the future, we will have the best statistics we can get, under the circumstances, for those determined to be illegal aliens.

Since the county spends about \$75 million a year on public health services and there are an estimated 40,000 illegal aliens in the county, we do know that it cannot be disputed that our local taxpayers are paying a considerable amount toward their health care.

We do not believe that providing such services is the responsibility of our local taxpayers.

The problem of illegal aliens is increasingly recognized as a national problem.

I know that Harris County is not the only area in the Nation with this problem. Ours is probably worse than most areas because of our geographic proximity to the Mexican border, our moderate climate and the availability of menial jobs.

We do believe that the provisions of H.R. 2400 provide a just solution to a problem that is not rightfully ours, but with which we must cope. Certainly, the costs to the Federal Government under this bill will depend largely on the job the Federal Government does in containing the entry of illegal aliens.

We ask only that we receive consideration with all fairness accorded to reimbursing costs over which we have no control. For that reason, we urge the subcommittee to favorably recommend H.R. 2400.

R E S O L U T I O N

WHEREAS, Harris County is the primary provider for medical services to the estimated 350,000 indigent among the more than two million persons within County Boundaries; and

WHEREAS, large numbers of illegal aliens are known and acknowledged by Federal immigration officials to reside within Harris County; and

WHEREAS, the major source of emergency medical services for large numbers of these illegal aliens is the hospitals, clinics and other treatment facilities operated by the Harris County Hospital District and the Harris County Health Department; and

WHEREAS, emergency medical treatment cannot be denied because of the lack of proof of citizenship or the lack of ability to pay for its costs, Harris County's taxpayers are forced to assume the financial burden of these services; and

WHEREAS, Harris County has no authority in immigration matters, which are recognized as a Federal regulatory responsibility and should therefore be a Federal financial responsibility; and

WHEREAS, Emergency Medical Services costs to the Harris County Hospital District are conservatively estimated at more than \$250,000 annually and may actually be much higher;

NOW, THEREFORE BE IT RESOLVED that Commissioners' Court of Harris County respectfully urges the Congress of the United States to make provisions for reimbursing local government authorities for the costs of providing emergency medical services to illegal aliens in the manner proposed by H. R. 2400 or more similar legislation.

IT IS HEREBY ORDERED that this Resolution be approved and spread upon the Minutes of this Court on this 10th day of March A. D., 1977.

Tom Bass

Commissioner, Precinct No. 1

John J. J. J.
County Judge

Tim J. J.
Commissioner, Precinct No. 2

Bob J. J.
Commissioner, Precinct No. 4

ATTEST:

R. E. Turrentine, Jr.
R. E. TURRENTINE, JR., County Clerk
and Ex-Officio Clerk of Commissioners'
Court of Harris County, Texas.

[SEAL]



Mr. ROGERS. Let me ask you this, Mr. McNutt. If they pay taxes there, what proportion should the State or local government assume of this burden?

Mr. McNUTT. I am not sure of that, Mr. Chairman. I really doubt that they pay very much taxes. I am sure they pay some.

Mr. ROGERS. The sales tax.

Mr. McNUTT. The sales tax, yes, sir, there is a four percent, I believe it is now, State sales tax, and the city collects one percent. The only portion the county gets back is what we get indirectly back from the State through their services.

Mr. ROGERS. What about tax on gas? Do you have that?

Mr. McNUTT. Well, certainly if they are buying gasoline there is a tax, which in Texas goes to the Road and Highway Fund, and I am sure that if they are buying gas they are also using the roads, and that is the purpose that we have dedicated that for.

Mr. ROGERS. And if they have housing, then I suppose the landlord is paying some taxes.

Mr. McNUTT. I am sure he is. I hope so.

Mr. ROGERS. Are there any local ordinances requiring illegal aliens be deported? I understand you thought that to ask individuals to prove their citizenship should not be done in the hospital.

Mr. McNUTT. Well, our hospital law requires that anyone we treat be a resident of the county, but as I say, when you bring someone in in an ambulance, he has been shot, or cut up, or has acute appendicitis, we treat them first and ask questions later.

Mr. ROGERS. Surely.

What about if you do find out they are illegal aliens?

Mr. McNUTT. We report them to the INS.

Mr. ROGERS. Is there any requirement that that be done?

Mr. McNUTT. I don't believe there is any kind of local requirement. It is just a policy.

Mr. ROGERS. How about California?

Mr. PANARISI. It is also a policy. It is not a requirement to my knowledge of San Diego County. We do, as mentioned, in Texas, provide the service first. We are talking about emergency services, and we do work with INS, as was discussed.

Mr. ROGERS. What does INS do after you report it?

Mr. PANARISI. Mr. Chairman, normally they say they may check into the case briefly, but they will not take jurisdiction. They realize that it is not a risk where the individual will run away. They feel that they have the individual under control and upon discharge they would take control of the case. I don't know specifically how they do it. I think it would depend on the severity of the illness and what they know of the individuals.

Mr. ROGERS. Do you report when the patient is ready to leave or when he leaves?

Mr. PANARISI. We notify them as soon as we know the eligibility if there is no information which proves that they are legal.

Mr. ROGERS. And I presume numbers would just simply leave without any contact with INS.

Mr. PANARISI. Yes, that could happen, Mr. Chairman, especially on short-term emergency services someone coming in. We get what information we can. If we feel there is a problem we pass it on to the INS, and he is released by that time.

Mr. ROGERS. Do people have to give their social security numbers when they come in to the hospital?

Mr. McNUTT. I am not certain of that, Mr. Chairman. I really cannot answer your question. I am not sure that a social security number would not necessarily be considered proof of citizenship.

Mr. ROGERS. No, I don't think it would. I just wondered if you go to the extent of asking for that number.

Mr. McNUTT. I would guess that they do. Normally that is on all the forms that the county has.

Mr. ROGERS. I just wondered if it would be much of a burden to add to those forms another little thing—are you an American citizen?

Mr. PANARISI. Speaking from San Diego, we do ask that as we try to determine a billing base, candidly, and that is one question. We are trying to determine legality.

Mr. ROGERS. But you don't feel in Houston you do that?

Mr. McNUTT. They may already do that. I don't know.

Mr. ROGERS. Would you check and let us know?

Mr. McNUTT. Yes, I will.

[The following letter was received for the record:]

Jon Lindsay
County Judge
Tom Boss
Commissioner
Precinct 1
Jim Fonteno
Commissioner
Precinct 2
Bob Eckels
Commissioner
Precinct 3
E. A. Lyons, Jr.
Commissioner
Precinct 4



Commissioners Court
Harris County, Texas

Family Law Center Houston, Texas 77002

D. Gayle McNutt
Washington Representative
1735 New York Ave., N.W.
Suite 400
Washington, D.C. 20006
(202) 296-1944

June 13, 1977

Honorable Paul Rogers
Chairman
Subcommittee on Health and the Environment
House Committee on Interstate and Foreign Commerce
2125 Rayburn House Office Building
Washington, D. C. 20515

Dear Mr. Chairman:

Let me again express my appreciation to you and your Subcommittee for the opportunity to testify on behalf of H.R. 2400, providing reimbursement to local governments for the costs of providing emergency medical services to illegal aliens.

In answer to your specific question as to whether we have a question on our entrance application requiring patients admitted to designate whether they are U. S. citizens, our answer is in the affirmative.

We not only ask them to check a box as to whether they are a U. S. citizen or noncitizen, but also require them to list their birthplace, Social Security number, length of time residing in Harris County, next of kin, address and their employer and his address.

I would further like to qualify what may have been an unintentional misstatement to the Subcommittee regarding our policy of reporting illegal aliens admitted to the Immigration and Naturalization Service. At one time, we did have the policy (as I believe I told the Subcommittee) of reporting illegal aliens to the INS. However, we no longer do this. Our present policy was initiated after our hospital officials met with local INS officials about a year and a half ago. Mr Richard Durbin, Harris County Hospital District Administrator, tells me that the local INS administrator said that since they had only six people in the field to deal with the mass of illegal

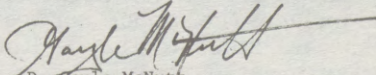
aliens in Houston, they simply could not assure any action on those reported and, thus, we could not expect any affirmative action by INS on illegal aliens in our hospitals. As a result, our hospital officials decided that the time and expense of making reports on the illegal aliens was simply not worthwhile and we no longer make routine reports to INS. Mr. Durbin further states, however, that if the potential exists for reimbursement for their treatment, we would be glad to make such reports.

I would again emphasize that we do not accept illegal aliens on a nonemergency basis knowingly and, instead, refer them to a private physician through the Harris County Medical Society. When an emergency case is brought in, however, we do provide treatment without regard to citizenship status. In those cases, it is virtually impossible to determine this information prior to treatment.

Also, in regard to your request for our views concerning making the employers of illegal aliens responsible for any medical expenses incurred, Mr. Durbin believes that this would be extremely difficult to put into practice. He believes that since a large majority of the employers of illegal aliens seem to be "marginal" in stability and often come and go, they would be difficult to locate and to collect from; probably with the result that costs of collections would often exceed the cost of treatment. Our Hospital District and local legal officials would not have the personnel to adequately enforce such a law. Of course, if the burden of such collections is placed at the federal level so that we could be reimbursed from federal funds and the obligation to collect from employers placed on federal officials, we would certainly have no objection to such a law. The major problem, as we see it, however, remains in establishing proof of employment, since those who hire illegal aliens at this time often disclaim them when they are apprehended.

Again, on behalf of Harris County, we are most appreciative of the Subcommittee's consideration of providing reimbursement for emergency health services to those who are not rightfully our responsibility.

Sincerely,


D. Gayle McNutt

DGM:lw

Mr. ROGERS. Mr. Wright.

STATEMENT OF BERDETTE WRIGHT

Mr. WRIGHT. Mr. Chairman, I am Burdette Wright. I am legislative representative for the County of Los Angeles. I am here today in place of Supervisor Pete Schabarum, who is not able to leave the county at this time. We support the statement you have heard from Mike Gemmell of the National Association of Counties. A good bit of the comments of Frank Panarisi applies in Los Angeles County as well as in San Diego County. In addition, we present to you a pair of charts representing over a year of study of the illegal alien presence in the county as it affects our health services and the costs of health services.

We will present to you the complete report on the health costs for illegals in the county at a later date.

In these charts, the cost figure of concern is for the category of "undocumented alien not falling into other categories," in the amount of between \$17 million and \$25 million, a year. Our assumption is that the majority if not the total of individuals in this category is illegal aliens.

We would welcome members of this subcommittee in the county to look into this situation first hand.

I would like to add a little bit of information on the methodology of this survey. We used all of the means we have at hand without establishing any special offices, task forces, or anything else like that to survey the illegal alien situation in our health services. The cost of services for illegal aliens was computed against the same measurement we use for the cost for anyone who is eligible for Medicaid. We have a factor in the costs which you will see in the charts in our testimony, to include depreciation of properties. The chart also includes the support services of other departments of the county that are billed to the health services. We feel that is a realistic way to go about it.

Thank you, sir. That completes my testimony.

[Mr. Wright's prepared statement and attachment follow:]

STATEMENT OF BERDETTE WRIGHT, LEGISLATIVE REPRESENTATIVE, COUNTY OF LOS ANGELES, CALIFORNIA

A. REGARDING COSTS

Cost of Care - The cost of a service determined by accounting methods which Medicare specifies shall be used to establish the costs upon which reimbursement shall be based. Cost-of-care includes:

Depreciation of physical plant and equipment (not in INS budget).

All direct costs of providing the services (most in INS budget).

Indirect support costs - including employment benefits, communications, accounting, maintenance, administration, etc. (Some of these in INS budget, some in other County budgets).

B. REGARDING RESIDENCY

1. Non-Resident - A person ineligible for general relief in Los Angeles County because he or she is not "lawfully resident within the county". (Section 17000, California Welfare and Institutions Code). Residents of other counties, and all aliens who have not been granted immigrant status by the Immigration and Naturalization Service (INS) are considered non-residents for purposes of this study.

2. Non-Resident Alien - A person who is not a citizen of the USA, and who does not have permission from INS to permanently reside in the county.

3. Undocumented Alien - A person who is not a citizen of the USA and who neither has evidence of, nor claims to have, permission from INS to be in the country in any status, an alien with a temporary visa or permit (tourist, student, etc.) which has expired is categorized as undocumented.

4. Resident - A born or naturalized USA citizen, or a person who is not a USA citizen, but has a resident visa, who resides or who intends to establish residence within Los Angeles County.

C. REGARDING TYPE OF CARE

1. Emergency Care - Those services which a physician determines are required to alleviate perceived psychological or physiological need for immediate medical care, based on an injury, or other acute physical or mental disorder which apparently threatens life or function.

2. Evaluation Services - Those services which a physician determines to be necessary to rule out existence of medical emergency or a threat to the public health.

3. Public Health Services - Those services intended to prevent, diagnose or treat acute communicable diseases which would otherwise threaten the health of the general public and those preventive and protective services provided in the interests of the public health (see attached list).

4. Contract Care

a. All covered services for non-resident beneficiaries of Medi-Cal, Medicare, CCS, and similar governmental programs.

b. All services financed by grants and contracts which do not provide for exclusion of non-resident from service.

c. All services for residents of other counties which are covered by reciprocal agreements between Los Angeles County and the patient's county of residency.

5. Elective Care - All care which does not fall into any of the four categories above.

Residency Status	Type of Care					Total
	Emergency Care*	Public Health/ Preventive Care*	Evaluation*	Contract Care*	Elective	
Alien here legally but temporarily with unexpired visa	(X)	(X)	\$79,000 to \$125,000	(X)	\$133,500 to \$1,369,600	\$171,000 to \$9,201,500
Resident of another County in the USA, regardless of citizenship	\$494,500 to \$2,922,000	\$416,500 to \$558,000	\$664,000 to \$3,179,000	\$45,500 to \$692,000	\$4,661,500 to \$9,631,000	\$9,116,500 to \$20,120,600
Undocumented alien not falling into other categories	117,180,000 to 425,757,000	\$909,500 to \$9,800,000	\$5,540,500 to \$12,046,000	9 to \$439,000	\$11,745,500 to \$19,491,000	\$40,425,000 to \$67,037,000
TOTAL NON-RESIDENTS	\$10,787,000 to \$27,930,000	\$1,238,000 to \$10,210,500	\$5,491,500 to \$13,783,000	\$407,000 to \$3,318,600	\$18,015,000 to \$28,900,800	\$53,224,000 to \$79,752,500
County Resident, U.S. citizen						\$368,780,500 to \$395,441,500
Alien resident with proof of residency.						\$15,097,000 to \$35,378,000
Alien seems to have legitimate claim. No proof when interviewed						\$13,629,500 to \$27,301,500
TOTAL RESIDENTS						\$409,160,500 to \$436,070,000
TOTAL RESIDENTS AND NON-RESIDENTS						\$489,127,000

(X) = too few patients in this category to be statistically meaningful

* Mandated Care Category

ATTACHMENT "B" - 21

Residency Status	Type of Care					Total
	Emergency Care*	Public Health/Preventive Care*	Evaluation*	Contract Care*	Elective	
Non-Residents						
Alien here legally but temporarily with unexpired visa	(X)	(X)	.021% to .026%	(X)	.03% to .28%	.03% to 1.
Resident of another County in the USA, regardless of citizenship	.1% to .6%	.09% to .11%	.1% to .7%	.01% to .12%	.1% to 1.9%	1.9% to 4.
Undocumented alien not falling into other categories	3.5% to 5.3%	.2% to 2.0%	1.1% to 2.5%	0 to .1%	2.4% to 4.0%	0.3% to 13.
TOTAL NON-RESIDENTS	3.0% to 5.7%	.3% to 2.1%	1.3% to 2.8%	.1% to .7%	3.7% to 5.9%	10.9% to 16
Residents						
County resident, U.S. citizen						75.0% to 81
Alien resident with proof of residency						3.1% to 6.
Alien seems to have legitimate claim. No proof when interviewed						2.6% to 5.
TOTAL RESIDENTS						83.7% to 89
TOTAL RESIDENTS AND NON-RESIDENTS						100%
* Too few patients in this category to be statistically meaningful					* Mandated Care Category	ATTACHMENT "B" - P

Costs of care do not include
COMMUNITY MENTAL HEALTH FACILITIES

Mr. ROGERS. Thank you very much. I presume you include depreciation on all your bills. That is part of it?

Mr. WRIGHT. Yes, sir.

Mr. ROGERS. What would you think of requiring people who hire illegal aliens to be responsible for their emergency health costs?

Mr. PANARISI. Mr. Chairman, I did hear your question this morning and it was something that I really haven't given much thought to, but since you mentioned it this morning I did give it some consideration since then. I think it may be difficult in some areas to probably prove employment linkage. It may encourage more under-the-table kind of payment which does go on today. But in some cases I think your proposal would accomplish some of the long-range goals that many in this country would like to have achieved by discouraging illegal employment. I think it would increase the coverage of the general public if an approach like this was made to all employers to provide possibly a jointly shared cost-sharing health coverage between the employer and the employee.

I think there could be some benefits there. I think it is worth considering further. I would like to do more study on it, and if we come up with other ideas we will pass them on.

Mr. ROGERS. Would you let us know for the record, if all of you would let us have your comment.

[See letter dated June 13, 1977, from Mr. McNutt, p. 80, this hearing.]

Mr. ROGERS. I realize there would be many instances where it would be difficult to prove a linkage, but there would be many cases where it could, where a person knowingly has hired all of these people. Then, the Government would have a cause of action as well as the hospital delivering emergency care.

Mr. PANARISI. There probably also would be a concern. I mentioned it sort of briefly, but I think it should be recognized that many employers are paying minimum wages to some of these employees, legal and illegal, and it may discourage some of that employment or may cripple an industry. I don't have enough facts on that, but I can see that as a possible problem.

Mr. ROGERS. If they are illegal they are not supposed to be hiring them anyhow.

Mr. PANARISI. No, but I am thinking of the crossover where, depending on how the regulations or the law is passed, it might require employers to guaranty insurance to all employees. I can see there is a problem or a possible problem. I really don't have the background in that area though.

Mr. ROGERS. I am not sure that we would say insurance; just have a legal obligation if he hires an illegal. I am not even sure it has to be knowingly in this instance, because it would then make it his responsibility to find out and ask enough questions and make them though show proof of legality. I would think as long as they know there would be this burden if an illegal alien needs emergency help that they would have that responsibility. If you would give some thought to that let's have your comment.

Thank you very much for your presence today. We are grateful.

Mr. PANARISI. Thank you, Mr. Chairman.

Mr. ROGERS. We now have a panel for the hospitals of the Nation, Dr. Leo J. Gehrig, who is the senior vice president, American Hospital Association; Glen Peterson, Jackson Memorial Hospital in Miami; Daniel W. Capps, who is administrator, University Hospital, Arizona Medical Center in Tucson; Mr. Ira Clark, who is executive director of the Kings County Hospital in Brooklyn, New York; and Dr. James Haughton, who is executive director, Health and Hospitals Governing Commission of Cook County.

We welcome all of you gentleman, and will be pleased to receive your statements which will be made a part of the record in full.

You may proceed as you see fit.

STATEMENT OF LEO J. GEHRIG, M.D., SENIOR VICE PRESIDENT, AMERICAN HOSPITAL ASSOCIATION; DANIEL W. CAPPS, ADMINISTRATOR, UNIVERSITY HOSPITAL, ARIZONA MEDICAL CENTER, TUCSON, ARIZONA; JAMES G. HAUGHTON, M.D., EXECUTIVE DIRECTOR, HEALTH AND HOSPITALS GOVERNING COMMISSION, COOK COUNTY, ILLINOIS; GLENN F. PETERSON, ASSOCIATE DIRECTOR, JACKSON MEMORIAL HOSPITAL, MIAMI, FLORIDA; AND IRA CLARK, EXECUTIVE DIRECTOR, KINGS COUNTY HOSPITAL, BROOKLYN, NEW YORK

Dr. GEHRIG. Thank you, Mr. Chairman.

I am Dr. Leo Gehrig, senior vice president of the American Hospital Association, and I would like to introduce the remainder of the panel which you have identified.

First and next to me on my left is Mr. Daniel Capps, the administrator of the University Hospital, Arizona Medical Center, Tucson; next to him Dr. James Haughton, the executive director of the Health and Hospitals Governing Commission of Cook County; next to him Mr. Glenn F. Peterson, associate director of the Jackson Memorial Hospital in Miami, Florida; and, finally, last but not least, Mr. Ira Clark, the executive director of Kings County Hospital in Brooklyn, New York.

Mr. Chairman, on the part of AHA which represents most of the hospitals in the country we do have a complete statement. We appreciate the fact that you will include it in the record [see p. 88], and in the interest of time I will summarize only a couple of points.

Mr. ROGERS. Certainly.

Dr. GEHRIG. I think, Mr. Chairman, it is fortunate today that this panel, the panel that preceded it, and others have given I think a rather graphic picture of a serious problem which is not evenly distributed across the country, but in fact is important in a number of areas, not limited to any one area of the country.

We in AHA would like to make two key points. One, certainly the problem of the illegal alien and payment for his emergency services is only a portion of our very big problem, but it is the issue for which you and your committee have so kindly called this hearing on H.R. 2400, and we believe that in your discussions this morning and in our own analysis of it that this is a Federal responsibility.

The illegal alien is a problem in terms of legal enforcement of the Federal Government, not of local government or private individuals. The involvement of hospitals in this program is a very impor-

tant one for public hospitals but, as has been indicated before, is one that goes across the hospital field and does involve private facilities.

In providing this sort of emergency care, as also has been pointed out, it means that this care must be paid for, and it is being paid for through private taxes at the local level, as well as by other paying patients in private hospitals who share in these types of bad debts. We feel it is a Federal responsibility, and it truly needs attention.

I think that none of us is here today attempting to suggest to you that we have the total answer in terms of basic data, but I think that from an anecdotal discussion of this matter, some data like that in Los Angeles going into considerable depth, you do get a picture of a problem that we don't think can just lay by the side of the road and wait for some future date for solution, that it needs to be approached, and we thank you for calling this hearing.

With that and our strong support for the intent and direction of H.R. 2400, I would like to turn to Mr. Capps.

[Dr. Gehrig's prepared statement follows:]

STATEMENT OF LEO J. GEHRIG, M.D. SENIOR VICE PRESIDENT AMERICAN HOSPITAL ASSOCIATION

Mr. Chairman, I am Leo J. Gehrig, M.D., senior vice president of the American Hospital Association. With me is Daniel W. Capps, administrator of the University Hospital, Arizona Medical Center, Tucson. Our Association represents some 6,500 member institutions, including most of the Nation's hospitals, as well as extended and long-term care institutions, mental health facilities, hospitals schools of nursing, and over 24,000 personal members. We appreciate this opportunity to present the views of the Association on H.R. 2400, which would amend the Public Health Service Act to provide financial assistance to medical facilities for emergency treatment of certain aliens.

The bill would accomplish its objective by amending Title III of the Public Health Service Act with a new section entitled "Medical Treatment of Aliens." The bill provides that the Secretary of Health, Education, and Welfare may reimburse a medical facility which provides emergency health care for illegal aliens for the portion of the cost of the care rendered that is not reimbursable under other public assistance or other payment programs.

The American Hospital Association endorses the basic principle included in H.R. 2400: that emergency health care for illegal aliens should be a Federal, not a State or local, responsibility. This seems appropriate to us since the immigration law and its enforcement is a matter of Federal authority not subject to control or jurisdiction exercised by local or State authorities. Thus, we believe that the Federal Government should be responsible at a minimum for the emergency health care services rendered by private and public hospitals to aliens residing within the United States who do not have legal status for residency.

Mr. Chairman, hospitals throughout the United States, both in the border areas of the country, as well as in major metropolitan areas, have been extremely concerned about the rising cost of emergency health services provided to illegal aliens. As you are doubtless aware, the cost of rendering this care ultimately must be borne by the patients and communities which these health care institutions serve through increases in the cost of hospital services.

Two major difficulties in providing needed emergency care for illegal aliens have been: (1) measuring the dimensions of the problem and, (2) determining with accuracy the cost of such services. We understand that the Department of Health, Education, and Welfare recently has contracted for a study to estimate the unpaid medical costs attributable to illegal aliens in a six State area. Although it is our understanding that this contract survey may not be completed for some months, we would like to commend the Department for its initiative in recognizing the problem and for its efforts to define the problem's parameters and financial impact.

We would call attention to the one-page document issued by HEW last year entitled, "Estimated Cost of Providing Emergency Medical Treatment to Illegal Aliens." The paper concluded that the total cost of providing such treatment, on an

outpatient as well as inpatient basis, was \$462 million dollars per year. This estimate is based on a number of very questionable assumptions, including the frequency with which illegal aliens require and obtain emergency care. We believe the estimate is an overstatement and that further study, such as is underway, is needed to assess the true dimensions of this problem accurately.

Although, it is difficult at this point Mr. Chairman, to provide an accurate estimate of the dollar cost of providing emergency health care for illegal aliens, a recent telephone survey conducted by the American Hospital Association indicates that the problem is significant and creates a burden on hospitals, private patients and local taxpayers in many parts of the Nation. Officials in New York City and Chicago stated it was a serious financial problem for them, but precise data was not currently available to document its full extent. An estimate from the Jackson Memorial Hospital in Miami, Florida, indicates a 1976 expenditure of approximately \$35,000 for emergency health care for illegal aliens at that hospital. Likewise, it is roughly estimated that the Harris County Hospital District in Houston, Texas, provides emergency medical services for illegl aliens at a cost of \$250,000 annually.

Farther West, the Arizona Hospital Association has conducted a preliminary survey to determine the severity of the problem in that state, estimating that approximately 4,200 alien patients received emergency care during 1976. These services resulted in an uncollectable cost of \$1,750,000 statewide, a significant portion of that figure being attributable to illegal aliens. Current annual cost estimates in San Diego County for emergency health care rendered to illegal aliens is about \$800,000. The Los Angeles County figure recently has been estimated at about \$21 million per year.

In view of the difficulty experienced in determining the dimensions of this problem, the American Hospital Association recommends that this subcommittee conduct further hearings in the field in an effort to obtain more accurate information and statistics with which to judge the problem's true parameters and to serve as the basis for an appropriate legislative solution. As a corollary to this recommendation Mr. Chairman, we would also suggest that, although the current HEW contract survey of six States is a step in the right direction in obtaining essential information on this subject, it would be of great value if the committee were to request a thorough study by the Government Accounting Office of the ramifications of this problem nationwide. As an arm of the Congress, the GAO would be in a position to do an indepth, accurate and unbiased study and could submit its conclusions and recommendations for your review.

In subsection (b) on page 2 of H.R. 2400 there is a prohibition against approval by the Secretary of HEW of an application from a medical facility for reimbursement under this legislation "unless the Attorney General has determined that the alien with respect to which the application is submitted is unlawfully in the United States."

The American Hospital Association recognizes the need for establishing the eligibility of an individual for services under this program. However, we are sensitive to the fact that the reporting of such individuals, while initiated for reimbursement, could likely result in deportation action by the Immigration and Naturalization Service. Such a requirement, which results in legal action, may deter hospital reporting and may discourage illegal aliens from seeking needed emergency care. In connection with the GAO study suggested earlier, we recommend serious consideration of this dilemma.

In conclusion, I would like again to express the appreciation of the American Hospital Association for this opportunity to present our views on H.R. 2400. We strongly support the objectives of this legislation. We believe that the rendering of emergency health care services to illegal aliens is a Federal responsibility. In view of the dearth of accurate information on this problem, we strongly recommend that additional hearings and additional studies by both HEW and GAO be conducted. With regard to the question of deportation, we have serious concerns with the procedure outlined in this bill.

We thank you, Mr. Chairman, for this opportunity to be heard.

Mr. ROGERS. Certainly.

STATEMENT OF DANIEL W. CAPPS

Mr. CAPPS. Mr. Chairman, I am Daniel Capps, and I am the Administrator of University Hospital at the University of Arizona

in Tucson, a hospital which the chairman will recall we were honored to have him dedicate.

Mr. ROGERS. I remember it well, and I hope things are going well. I am sure they are.

Mr. CAPPS. You will hear a little bit this afternoon on how they are not going completely well.

Mr. ROGERS. Too many aliens?

Mr. CAPPS. In Arizona we have estimated that we lose about \$1,750,000 written off as uncollectable accounts for services rendered to Mexican citizens last year. In Tucson alone, which is only 60 miles from the border, we have calculated our losses for that period to be about \$750,000. In the University Hospital where I work, our losses this year will amount to about \$350,000.

To look at these numbers another way, in our hospital we expect to admit about 480 Mexican aliens this year, of which somewhat over 300 will be patients who will be unable to pay their bill.

Not all of these patients are in the country illegally. In fact, I would guess that a relatively small percentage in our case are illegal. I can only make a guess and I won't dare hazard a guess on the number of illegal aliens because we customarily, as you have heard from other places, make no effort to identify illegal aliens when they enter our hospital. We simply have no reason to.

Our biggest problem is obtaining a reliable address to which we can send the bill and seek to collect the account. Mexican aliens frequently come to Tucson to stay with a relative while they seek medical care, and then disappear across the border when it comes time to pay the bill. Oftentimes they appear for care and give us false Mexican address, so this is a very difficult problem, and I am sure it would be more so with the illegal alien who would be so reluctant to blow his cover, you might say, by giving us factual identification.

Once the patient has returned to Mexico, then we really for all practical purposes lose contact with him, and though we do try further collection of that account it usually ends in failure.

Incidentally, Mr. Chairman, I have personally written to Mexican officials to seek payment from the Mexican Government for these patients. To date I have received acknowledgements of my letters indicating that they have been forwarded to other offices for attention.

Obviously we cannot refuse care to these patients. We have a case involving a hospital in southern Arizona in which the State Supreme Court found the hospital negligent when they did refuse emergency care to a Mexican alien. This decision now compels all of us to render emergency care to these patients even if we were disposed for some reason not to.

In addition, we simply cannot bring ourselves to turn away patients when we see their extensive medical problems that for some reason occur in certain parts of northern Mexico. So we have these losses that ultimately must be passed on to the patient who can pay the bill, and in the case of University Hospital, since we are partially supported by the State of Arizona, to our taxpayers and it is difficult to defend the expenditure of Arizona tax dollars for Mexican aliens who cross the border, a border that is controlled by

immigration laws administered by the Federal Government. It seems to me this is a problem for the Federal Government to address and resolve as a national problem.

While H.R. 2400 will not solve all of our financial problems with the Mexican aliens, it will at least provide reimbursement for some of those patients who may not be many in number but for whom now we are getting no reimbursement whatsoever.

I also do support a study by the GAO of the national ramifications of this problem.

Mr. Chairman, I appreciate the opportunity to appear before this committee. I hope my comments will be helpful in the deliberations and I, as other members of the American Hospital Association, stand ready to assist in any way in addressing this problem.

Thank you very much.

[Mr. Capps' prepared statement follows:]

STATEMENT OF DANIEL W. CAPPS, ADMINISTRATOR, UNIVERSITY HOSPITAL, TUCSON, ARIZONA

Mr. Chairman, my name is Daniel Capps, and I am the administrator of University Hospital of the University of Arizona in Tucson, Arizona. I am here to speak in support of H.R. 2400 and comment upon some of the problems the bill addresses as we know them in Arizona and in the other Southwestern States that border Mexico. We see these problems by the large numbers of indigent Mexican aliens who cross the border and receive care in our hospitals.

In Arizona we have estimated that \$1,750,000 were written off as uncollectible accounts for services rendered to Mexican citizens last year. In Tucson alone, we have calculated our losses of approximately \$750,000 last year. In University Hospital where I work, our losses will amount to about \$350,000 this year. To look at these numbers another way, we expect to admit about 480 Mexican aliens this year. Of these, over 300 will be indigents for whom no collections will be possible.

I hasten to add that not all of these patients are in this country illegally. In fact, I would guess that a small percentage of them, not more than 15 percent at most, are illegal aliens. Nevertheless, the problems of losses associated with the Mexican aliens in general are substantial and although losses for caring for illegal aliens are less substantial to us who must scrape for all our dollars, reimbursement for these patients is far better than what we are getting now, which is nothing.

I can only make a wild guess at the numbers of illegal aliens because we customarily make no effort to identify them as such when they enter our hospital. We have no reason to. Our biggest problem is obtaining a reliable address to which to send the bill if the patient cannot pay at the time of admission or discharge. Mexican aliens frequently come to Tucson to stay with a relative while they seek medical care and then disappear across the border when it comes time to pay the bill. Oftentimes they appear for care and give us a false Mexican address. In case of emergency care, the problem is worse because of the condition of the patient and it is even more difficult with the illegal alien because he is so reluctant to "blow his cover" by giving us factual identification.

Once the patient has returned to Mexico, then, we often lose contact with them. We sometimes send a collection agent in search of him, but this usually fails, and the agent returns to advise us to forget about it. Beyond that there is little we can do to collect the bill. I have personally written to Mexican officials to seek payment from the Mexican Government, but to date have received no reply other than to tell me my letter has been forwarded.

So why don't we refuse to accept these patients who cannot prove ability to pay beforehand? There are two answers to that question. First, in a recent case involving a hospital in Arizona, the court found the hospital negligent for refusing emergency care to a Mexican alien. This decision now compels all of our hospitals to render emergency care to these patients even if we were disposed not to. Second, most of us simply cannot bring ourselves to turn away patients when we see their extensive medical problems. Children with tumors, leukemia, neuromuscular and infectious diseases, congenital deformities and other problems that seem common in some of the Mexican population, cannot be turned away for humanitarian reasons. At least, most of us feel that way and I am sure the members of this committee would react

the same way and would provide care to these people. Obviously, we cannot meet all the medical needs of the State of Sonora, and it is a severe problem when we have to draw the line between those we accept and those we cannot accept. To refuse *all* care to *all* indigent Mexican aliens is not an acceptable solution to the problem.

So we have these losses that ultimately are passed on to the patients who can pay and, in the case of University Hospital, since we are partially supported by the State of Arizona, to out taxpayers. It is difficult to defend the expenditure of Arizona tax dollars for Mexican aliens who cross the border that is controlled by Immigration laws administered by the Federal Government. It seems to me this is a problem for the Federal Government to address and resolve as a national problem.

H.R. 2400 will not solve all of our financial problems with indigent aliens but I believe it is a move in the right direction and I urge favorable action on the bill by this committee. I also hope you will support a study by the General Accounting Office of the national ramifications of this problem.

Mr. Chairman, I greatly appreciate the opportunity to appear before this committee and hope my comments will be helpful in your deliberations. I, like all members of the AHA, stand ready to assist in any way in addressing the problems on which H.R. 2400 focuses. Thank you.

Mr. ROGERS. Thank you so much.

Dr. Haughton.

STATEMENT OF JAMES G. HAUGHTON, M.D.

Dr. HAUGHTON. Thank you.

I am Dr. James G. Haughton, executive director, Health and Hospitals Governing Commission of Cook County in Illinois.

The Governing Commission manages the three public hospitals in the County of Cook. These are Cermak Memorial Hospital, which is the County's prison health system hospital, Cook County Hospital, which is our acute general hospital, has 1500 beds, and the State's only chronic disease hospital, Oak Forest Hospital, which has 2,000 beds.

For us the problem is a multi-faceted one. The population of the County of Cook is about 6.5 million people, including the 3 million in the City of Chicago. The 1970 census enumerated some 250,000 Latin residents of the City of Chicago, and it is estimated that there are another 300,000 to 400,000 illegal Spanish speaking residents of the City of Chicago, so they represent about ten percent of the population of the county.

I recognize the intent of the legislation, but let me describe a scenario for you which would make it seem to me that it would be ineffective in our setting.

A patient comes into a hospital. He has a knife stuck in his chest or bullet in his neck or some other injury of that kind. We take care of him. We apply for Medicaid coverage for all admissions to the hospital. The form we use is a State form. It does not ask about immigration status. Those forms are sent on to the State. The State is supposed to process the case within 45 days. Usually it is two, three, or four months. Later we receive a rejection—"unable to locate." If they cannot locate the individual they cannot complete the case. The case is not certified and we are not paid.

The reason they cannot locate is that illegal aliens do not give you their proper address. So we don't really know how many of these people they are unable to locate are illegal aliens. We assume that a substantial number are.

We delivered 7,000 babies in the Cook County Hospital last year. Twenty percent of them were delivered by Mexican nationals. Since

our patient origin studies show that we draw our patients equally from all over the county we have no reason to assume that perhaps half of those babies delivered by the Mexican population are not children of illegal aliens. That means we deliver about 1,400 babies a year for the Mexican community, and I think it is reasonable to assume that half of them may be illegal aliens. The reason I assume that is that old ladies do not scramble across international lines to come into the United States. I think that most of the women in that population are of child-bearing age. So we are talking conservatively of about three-quarters of a million dollars a year just for the delivery of babies to these families.

Because most illegal aliens do not seek health care early, most of these women have had no prenatal care. That makes them by definition high risk pregnancies. Many of those babies end up in our postnatal center where they remain anywhere from three months to six months in the most expensive part of the hospital. So there is an additional loss.

There is another problem that we have at our chronic disease hospital. We have another group of aliens of all ethnic backgrounds who are past 70 years of age. Medicare does not provide for illegal aliens, only for permanent resident aliens. These people cannot establish their immigration status. Many of them were brought here by their family when they were infants. They have no immigration papers and because they cannot establish their citizenship or their immigrant status, the State refuses to certify them for Medicaid. We are not paid. These are high cost cases. These people stay in our chronic disease hospital for years sometimes at a cost to the county taxpayer.

So that these are the two different groups of aliens where this problem exists.

I do not know how the law intends to define emergency care. Since a woman in labor must have her baby delivered, I as a physician, an obstetrician, would define that as emergency care. There is no way to stop a delivery when it is ready to come. So that they would be this large group.

Unfortunately, there is a sad side to this too for the alien. The alien is ripped off two ways. Usually he is paid even below the Federal minimum wage. He is exploited. If you would go into the hotels and restaurants of Chicago and Cook County you will find that most of the bus boys, the housekeeping people in hotels, are Mexican aliens. I don't know how many of them are illegal aliens. I would suspect that many of them are.

Because they are in these low income positions they cannot afford to pay their health care, but social security is withheld from their salaries. They pay taxes, and yet they will never benefit from the social security system either as Medicare recipients or as social security recipients even though that is withdrawn from their pay every week. So that they are underpaid to begin with, even in violation of the law. They pay taxes from which they cannot benefit through the social security system, and yet when they receive their care the hospitals that provide the care are also penalized because they are not paid.

We are a county organization. We have a tax base, and the local taxpayer takes the burden. But the fact is that these people who are paying taxes, one could argue that they are entitled to something, but from what level of government are they entitled—the county, the city, the State, or the Federal Government?

Most of the tax they pay is to the Federal Government through income taxes, but no Federal agency will take the responsibility. When Mike called me to ask if I would come down here today I said yes, I will come, because right now I have a 29 year old Mexican at my chronic disease hospital who owes us \$80,000. We have been able to contact his family in Mexico City. We are putting him on a plane next week because it is cheaper to send him home than to keep him in the hospital. The family has assured us they will be able to get him into the university hospital in Mexico City, so we are sending him back to Mexico, hoping they will continue his care, but he already owes us \$80,000. That is the problem we face.

Mr. ROGERS. That is a severe case, I know.

Mr. Peterson.

STATEMENT OF GLENN F. PETERSON

Mr. PETERSON. Thank you, Mr. Chairman.

I am Glenn Peterson, associate director and director of finance of Jackson Memorial Hospital, Miami, Florida.

I prepared a statement.

Mr. ROGERS. Certainly. It will be part of the record [see p. 97].

Mr. PETERSON. I am not going to read the statement. I am going to read parts of it if you don't mind.

Mr. ROGERS. Certainly.

Mr. PETERSON. As has been indicated, the problem of identification of illegal aliens is universal within the industry. Over the past several years I have been interested in particular cases in my position in the hospital so we have documented the services for the years 1974 through 1977 with a total amount of service provided to documented illegal aliens in excess of \$143,000.

In May 1975 I made several attempts to have the INS, or the State Department, or someone assume the responsibility of one particular case, and I would like to discuss this case with you later. This was without success. This patient continues to be a responsibility of Metropolitan Dade County and Jackson Memorial Hospital today.

I also indicate in my statement that this is not a peculiar problem just to the Miami area. Our numbers are larger of course than other areas of Florida because of our metropolitan nature, but, as you know, Mr. Rogers, we provide tertiary care for all of south Florida, and in our relationship with these county welfare departments they have indicated it to be a problem also, and as I indicate in my statement, Palm Beach County has had one claim this year, Polk County has had two claims, Monroe County has had several claims, and in particular in the Naples Community Hospital, which is, as you know, a small community hospital, not supported by county government, and is over in the agricultural area, the administrator there considers it a serious problem.

Unfortunately, we have kind of given up on pursuing any collection of these bills, and so, therefore, we do not have great statistics. The reasons for this are many foreign nationals present themselves to the emergency room as soon as they enter the United States. In other words, they come here for the specific reason of seeking medical care. We have reason to believe that sometimes their transportation is sponsored to bring them. There is no resource for payment. Therefore, why institute the cost of documenting all of these cases? More importantly, a foreign national will attempt to hide his status because, as was pointed out, he doesn't want to blow his cover.

We appreciate any assistance that this committee may give to provide relief to the local hospitals and community governments in this area, and understand it is a very difficult problem.

I do not suggest any answers. We are participating with the HEW study. I am a little bit concerned. I thought this was a new study and I understand the study has been under way for almost a year, and we were contacted two weeks ago to provide data. If they are serious about the study, why didn't they contact us a year ago to collect data this year.

Mr. ROGERS. That is the way we often get data here in Washington unfortunately.

Mr. PETERSON. I would like to just discuss the Mr. Telusmon case. I got involved with this because Mr. Telusmon presented himself to our emergency room, comatose, was taken to our medical intensive care unit. He was in our medical intensive care unit approximately 25 days. Then he went into the acute part of the hospital. He was suffering from end-stage renal disease.

We have a dialysis unit, but at the time our dialysis unit was full, so I wrote to the district director of Immigration and pointed this out to him, and indicated to him that I felt that the Federal Government should either place Mr. Telusmon, who needs dialysis treatment, or he would be in our emergency room again in a comatose condition and go through the whole system again, either place him in the VA hospital across the street, which had vacant positions for dialysis and we were completely full, or sponsor him in one of the local dialysis units, or deport Mr. Telusmon, one way or the other, assume responsibility of this individual. He was being discharged from the hospital.

We received an answer from them. They told me what his status was. They told me when he came into the United States. They corrected the spelling of his name for me, incidentally. And they indicated, "However, in view of his medical condition we propose to take no action at this time in deportation procedures," would not assume responsibility for his medical care, and would not assume responsibility for moving Mr. Telusmon from the community.

I also wrote to the State Department and received what I consider a no answer, suggesting that I contact someone in Miami. Again I contacted the INS district office and indicated to them that Mr. Telusmon's treatment could not be provided in our dialysis unit unless we moved one of our indigent Dade County residents out of the dialysis unit and paid for him in a local unit.

The answer came back, "contact Haitian Consul." They also indicated that anyone could contact the Haitian Consul, including us.

I don't know exactly what the situation is, but we contacted the Haitian Consul, and the answer was obvious—"We have no jurisdiction over this man. He entered the United States illegally."

It was kind of a Catch-22 situation for a hospital. We did not move one of our county patients out of our unit. Instead we elected to place Mr. Telusmon in one of the outside dialysis units. We have been paying \$135 for his treatment three times a week. Since May of 1975 Mr. Telusmon continues to be treated at our expense at an outside dialysis unit.

On my last page, enclosure 9, I indicate some other cases that we have. As you can see, they are not exclusively Haitian. We have no Mexicans in our group. They come from everywhere.

Mr. Khan from Pakistan is an interesting case. Mr. Khan had a malignant tumor. He had a friend who was a legal resident of Dade County who informed him that we had an excellent hospital in Miami. He emigrated to Canada. He entered the United States illegally from Canada, and showed up in our emergency room, and obviously must have left Pakistan with the intent of showing up in our emergency room.

Miss Metallis, an illegal Haitian with diabetes, is an example of when the Immigration Service had many opportunities to deal with this person when she was not in an acute phase of her disease. Miss Metallis refused to take her insulin. She would appear in our emergency room comatose. We would go through the entire intensive care with her, discharge her from the hospital, within a week or ten days she would appear in our emergency room by ambulance, comatose, and we go through the whole procedure over and over again. Eventually Miss Metallis returned to Haiti, and I understand she has expired.

I will conclude my remarks with that, and I thank you for allowing me to appear before the subcommittee.

[Mr. Peterson's prepared statement, in the form of a letter with attachments, follows:]



JACKSON MEMORIAL HOSPITAL

1611 N.W. 12TH AVENUE

MIAMI, FLORIDA 33136

June 8, 1977

The Honorable Paul Rogers
Chairman
Subcommittee on Health and Environment
House Interstate and Foreign Commerce Committee
Congress of the United States
Washington, D.C.

Dear Mr. Rogers:

In your Subcommittee's consideration of H.R. 2400, I have been asked to comment on the economic impact on Jackson Memorial Hospital, Miami, Florida of providing medical care to illegal immigrants. As the attached background material and this narrative indicates, the problem of illegal immigrants that present themselves for medical treatment is not localized in any area or areas, but occurs in several locales in Florida. The economic impact can only be estimated, as many patients who give residence addresses outside the United States will claim they became ill while visiting in this country. During the Hospital's current fiscal year, the Public Health Trust of Dade County, which operates Jackson Memorial Hospital, estimates that in excess of \$600,000 will be classified as uncollectible from over 95 admissions of alien patients. Many of these patients, although claiming to be visiting in the U.S., presented themselves to the Hospital's Emergency Room immediately upon arrival in Miami. These patients originate from countries with limited medical facilities.

At Jackson Memorial Hospital, we have documented services provided to immigrants who have entered the United States illegally and have received medical services at Jackson Memorial Hospital, as follows:

1974	\$ 6,988	
1975	78,766	
1976	34,925	
1977	23,000	(estimated; actual service to date: \$17,318)
	<u>\$143,780</u>	

In May 1975, several attempts were made to obtain financial support from the Immigration Service and the State Department for one Haitian National who had entered the United States illegally who require acute and chronic medical care. The results of these efforts were less than fruitful, so no further attempts have been made. This individual continues to receive medical care at the expense of the Hospital and Metropolitan Dade County.

This is not simply a local problem for the Miami area. During the normal course of providing specialized care for indigent residents of other South Florida counties similar cases have been presented by Welfare Departments to our Credit personnel and Social Workers. It has been indicated to us that the following areas have had to render treatment to illegal aliens:

Palm Beach County, Florida - one medical claim this year.

Polk County, Florida - two hospitalizations during the last two years.

Monroe County, Florida - twelve to fifteen medical claims per year.

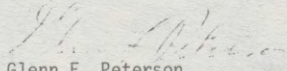
Naples Community Hospital, Collier County, Florida - multiple
Emergency Room visits from November to March each year.

As I have indicated, the identification of the total economic impact is very difficult and therefore the hospitals and agencies do not have readily available statistics. There are several reasons for this circumstance:

1. A foreign national who presents himself to an Emergency Room receives treatment and will not admit illegal entry into the U.S.
2. There is no resource for payment of identified illegal immigrants, so attempts to identify status are fruitless.
3. A foreign national may falsify his purpose for visiting the United States and there is little or no recourse if the Consul will not acknowledge responsibility.

Any assistance that your subcommittee can provide through Federal legislation will not only reduce the burden on hospitals and local governmental agencies in areas of high incidence of illegal immigrants, but will also reduce the burden placed on other patients to cover the resultant write-off of the service provided to this group of patients.

Respectfully submitted,


Glenn F. Peterson
Associate Director of Jackson
Memorial Hospital
Director of Finance

GFP/pmf

Enclosures (9) (See attached listing)

PUBLIC HEALTH TRUST
JACKSON MEMORIAL HOSPITAL

ENCLOSURES TO LETTER TO
HONORABLE PAUL ROGERS, CHAIRMAN
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT
HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE

- Enclosure 1 Letter to U.S. Immigration Service dated May 13, 1975 concerning medical treatment to Mr. Gervais Telusmon, Illegal Alien.
- Enclosure 2 Response from U.S. Immigration Service dated May 15, 1975 re Gervais Telusmon.
- Enclosure 3 The Miami Herald article of May 16, 1975 concerning illegal alien problem.
- Enclosure 4 Letter to U.S. State Department dated May 13, 1975 concerning Gervais Telusmon.
- Enclosure 5 Response from U.S. State Department dated May 21, 1975 re Gervais Telusmon.
- Enclosure 6 Letter to U.S. Immigration Service dated May 30, 1975 re Gervais Telusmon.
- Enclosure 7 Response from U.S. Immigration Service dated June 17, 1975 re Gervais Telusmon.
- Enclosure 8 Contacts within Florida familiar with medical service provided to illegal aliens.
- Enclosure 9 Listing of selected illegal immigrants treated at Jackson Memorial Hospital.

May 13, 1975

Mr. Edward D. Sweeny, District Director
U. S. Immigration Service
District Headquarters
51 S. W. First Avenue
Miami, Florida

Dear Mr. Sweeny:

This is to follow up the telephone communication between Mr. Harold MacKinnon of our hospital and Mr. Nelson of your office concerning the medical status of Mr. Gervais Telisman, a 42 year old Haitian national, who is classified as an illegal alien.

Mr. Telisman was admitted to Jackson Memorial Hospital as an emergency on April 28, 1975, with a diagnosis of malignant hypertension with renal failure. Subsequent to this admission, Mr. Telisman has been diagnosed by his physicians as suffering from end-stage renal disease and requires chronic hemodialysis on an outpatient basis, three times weekly. Mr. Telisman has no funds or insurance coverage to support his required treatment.

Our chronic dialysis unit currently has no available space to provide Mr. Telisman with his necessary treatment even if funding for his treatment was made available through some Federal source. At the current time, Metropolitan Dade County is contracting dialysis treatment for resident, indigent patients at non-County managed dialysis units at a treatment charge equal to the Medicare reimbursement rate. Because of these factors, it is necessary for your office, or the appropriate Federal agency, to assume the responsibility for the medical care of Mr. Telisman within the next week or return him to his native country so that he may receive medical treatment.

I understand that Mr. Telisman has related to our Social Service Department that he has a wife, four children, and his parents still residing in Haiti. He has related some fears of his family being declared enemies of the Haitian Government through his contacting immigration authorities and will choose not to return to Haiti if treatment is not available to him any other place. This choice can only lead to his certain death from the complications of his disease.

It appears that the options available to the U. S. Government in this case are fairly limited. They are:

- Request the local Veterans Administration Hospital to admit this patient into their chronic dialysis unit.

Enclosure 1

- . Request the U. S. Public Health Service, or some other Federal Agency, to fund this patient at one of the local dialysis units that has available dialysis space.
- . Deport Mr. Telisman to Haiti immediately.

It is requested that your office recommend to us, as soon as possible, what should be our course of action in the management of this case.

Sincerely yours,

Glenn F. Peterson
Assistant Director
Hospital Operations
Jackson Memorial Hospital

GFP:rs

cc: Haitian Affairs Section
U. S. State Department
Washington, D. C.

Enclosure 1 - pg. 2

PLEASE REFER TO THIS FILE NUMBER

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
Federal Building, 51 S.W. First Avenue
Miami, Florida 33130

MAY 16 1975

A20 212 045

May 15, 1975

Glenn F. Peterson
Assistant Director, Hospital Operations
Jackson Memorial Hospital
1611 N. W. 12th Avenue
Miami, Florida 33136

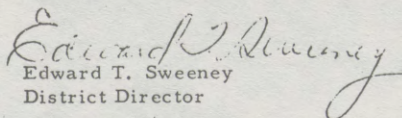
Dear Mr. Peterson:

Reference is made to your letter of May 13, 1975 concerning the case of Mr. Gervais Telusmon.

According to a statement made to one of our Investigators on May 13, 1975, Mr. Telusmon entered the United States illegally from Nassau, Bahamas by small boat in September 1974. However, in view of his medical condition we propose to take no action at this time in deportation procedures. While we are not unsympathetic to the problem of Mr. Telusmon's medical case, our appropriation provides no authority to assume medical expenses in cases of this nature.

As Mr. Telusmon is a native and citizen of Haiti, you may wish to call the Consul of Haiti in Miami for possible assistance in this matter.

Sincerely yours,


Edward T. Sweeney
District Director

Enclosure 2

THE MIAMI HERALD
May 16, 1975

Haitian's Medical Bill Spurs Plea to U.S.

By FRASER KENT

Herald Staff Writer

Fearful that his discovery would bring repercussions to his family back to Haiti, an illegal immigrant didn't seek the life-saving kidney treatment he needed.

Then he collapsed and was rushed to Jackson Memorial Hospital where he touched off a controversy over medical aid to illegal aliens.

① The 42-year-old laborer is still in intensive care with dialysis and intravenous tubes attached to his body.

In-hospital care for him and other illegal aliens has cost the financially-plagued county hospital \$20,000 since November. And if he and other such aliens continue to need care, it could run to \$80,000 by the end of the year according to Glenn F. Peterson, assistant director of hospital operations.

And so Peterson wrote a letter to Edward T. Sweeney, the new district director of the Miami immigration office.

"Your office or the appropriate federal agency must assume the responsibility for the man's medical care within the next week or return him to his native country," Peterson said.

Returning to Haiti would be a medical death sentence, Peterson said because there are no dialysis or organ transplant facilities there. Both kidneys are badly damaged and he will die unless the blood's wastes are periodically filtered by dialysis, he said.

"We'd have to check that out, but we would certainly not deport a man who could not receive the medical treatment he needs to stay alive," Sweeney told The Herald. "But we have no funds allocated for such treatment," he said.

THE HAITIAN said he feared political persecution in Haiti. He slipped into the United States last October and worked in a furniture factory until his collapse April 28.

Doctors think his lethal kidney disease must have started before he fled Haiti, but the symptoms became severe about a month ago.

Now he is ready for "chronic dialysis" — two or three blood-cleansing sessions a week on the kidney for the rest of his life.

In his first two weeks at Jackson, the man's care cost about \$5,000, Peterson said. Dialysis will cost \$135 per treatment, plus medical services and periodic testing. That should run to over \$2,000 a month: a total of \$19,000 for this year's care.

② He's not the first Haitian refugee to get such expensive treatment in the county hospital. Last November, a 22-year-old woman was admitted with insulin-dependent diabetes that requires periodic hospitalization. Her bill, to date: about \$11,000. It could be more than \$17,000 by year's end at the present rate.

③ On Feb. 12, a 53-year-old Haitian woman was put on dialysis for a serious kidney disease. Her bills (including hospitalization) are now around \$9,000 and will continue indefinitely at about \$3,000 a month. That would be \$42,000 for all of 1975.

"We've been eating those costs up to now, but we finally reached the point where we had to call for help," Peterson said. "This is a federal problem, not a county one."

"Our chronic dialysis unit has no space in which to treat (the Haitian man) even if funding were available," he added. There is no waiting list but "All 29 spaces are being

used and we are already sending eight indigent Dade County resi-

dents out for treatment in commercial dialysis centers."

Enclosure 3

May 13, 1975

Haitian Affairs Section
U. S. State Department
Washington, D. C.

Gentlemen:

Attached is a copy of my recent correspondence to the District Director, U. S. Immigration Service, Miami, Florida, concerning the need for medical treatment of a Haitian national who entered this Country illegally.

It is requested that you review this case and provide any assistance possible. It would be unfortunate if this individual were to be released and not receive the treatment necessary to sustain his life.

Sincerely yours,

Glenn F. Peterson
Assistant Director
Hospital Operations
Jackson Memorial Hospital

GFP:rs

Enclosure 4



DEPARTMENT OF STATE

Washington, D.C. 20520

MAY 23 1975

May 21, 1975

Mr. Glenn F. Peterson
Assistant Director
Hospital Operations
Jackson Memorial Hospital
1611 N.W. 12th Avenue
Miami, Florida 33136

Dear Mr. Peterson:

I appreciate your informing the Department of the situation of Mr. Gervai Telisman, whom you claim is a Haitian national illegally in the U.S. Your contact with the Immigration and Naturalization Service appears to be the appropriate course of action in this case. Normally, if a national's life or person are in danger it would be appropriate to inform consular officials of his home country. As you describe his attitude, however, Mr. Telisman may not wish Haitian authorities to be contacted, though it is somewhat unclear from your letter why he feels this way.

Though this problem does not properly fall within the area of responsibility of the Department of State, please feel free to contact me if you believe we can be of further assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Strasser", with a horizontal line extending to the right.

Daniel A. Strasser
Chief, Haitian and
Dominican Political Affairs

Enclosure 5

May 30, 1975

Mr. Edward D. Sweeny, District Director
U. S. Immigration Service
District Headquarters
51 S. W. First Avenue
Miami, Florida 33130

Dear Mr. Sweeny:

Thank you for your response to my letter concerning the unfortunate circumstances of Mr. Gervais Telusmon.

Because of the statements made by Mr. Telusmon concerning the safety of his family remaining in Haiti, I have not contacted the Haitian Consul about this case. I am not in a position to evaluate the validity of these statements, and because of your position, perhaps it would be proper for your office to contact the Consul to seek assistance for Mr. Telusmon's medical treatment.

Mr. Telusmon will be discharged from Jackson Memorial Hospital within the next week and will require chronic hemodialysis treatment. As I indicated in my previous letter, this treatment cannot be provided in our unit unless a Dade County resident is transferred to another unit at the expense of the County. Inasmuch as the Federal Government operates a dialysis unit in Miami, at the Veterans Administration Hospital, which I understand has available space, and several other Federal agencies are charged with the responsibility of providing medical services, the medical care of Mr. Telusmon should be assumed by some agency rather than placed solely on Jackson Memorial Hospital.

I appreciate that the U. S. Immigration Service does not have an appropriation for providing medical services, but isn't the U. S. Public Health Service responsible for providing medical services to your agency? It is again requested that your office pursue within the U. S. Government Agencies, alternatives for providing the necessary medical treatment for this individual.

Sincerely yours,

Glenn F. Peterson
Assistant Director
Hospital Operations
Jackson Memorial Hospital

GFP:rs

Enclosure 6

Wickham
PLEASE REFER TO THIS FILE NUMBER
JUN 18 1975

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
Federal Building, 51 S.W. First Avenue
Miami, Florida 33130

A20 212 045
June 17, 1975

Glenn F. Peterson, Assistant Director
Hospital Operations
Jackson Memorial Hospital
1611 N. W. 12th Avenue
Miami, Florida 33136

Dear Mr. Peterson:

Reference is made to your letter of May 30, 1975 concerning the medical problem of Mr. Gervais Telusmon, a native and citizen of Haiti.

As previously stated, our appropriation provides no authority to assume medical expenses in cases of this nature. On occasion, this Service has used the U. S. Public Health Service in emergency situations where an alien became ill after being detained in deportation proceedings. However, such services were always on a reimbursable basis. This situation does not apply in Mr. Telusmon's case.

Normally, when a person needs financial or medical assistance in a strange country, he looks to his country's representative which, in this instance, is the Haitian Consul. Any request for assistance should be made by Mr. Talusmon personally, or in his behalf by a friend, relative, representative, or by your agency. I am sorry I could not be more helpful in this particular case.

Sincerely yours,

Edward T. Sweeney
Edward T. Sweeney
District Director

Enclosure 1

PUBLIC HEALTH TRUST
JACKSON MEMORIAL HOSPITAL

CONTACTS WITHIN FLORIDA FAMILIAR WITH
MEDICAL SERVICE PROVIDED TO ILLEGAL IMMIGRANTS

Palm Beach County Welfare Department
Ms. Alice Croasdale 305-832-2453

Polk County Welfare Department
Ms. Freida Williams 813-533-1111

Monroe County Welfare Department
Ms. Viola Papp 305-294-4641

Naples Community Hospital, Naples, Florida
Mr. Edward Toreado 813-262-3131

St. Lucie County Welfare Department
Ms. McNeil 305-461-5350

Enclosure 8

PUBLIC HEALTH TRUST
JACKSON MEMORIAL HOSPITAL

ILLEGAL IMMIGRANTS

NAME	NATIONALITY	ADMITTING DIAGNOSIS	ADMIT DATE	DISCHARGE DATE	TOTAL CHARGES	PAYMENT
Peter Ayanwale	Nigerian	Gastrointestinal Bleeding	7/03/75	9/22/75	\$ 31,626.16	No payment by any third party
		Histiocyties Lymphoma	10/28/75	11/12/75	3,682.80	
Tahira Khan	Pakistani	Malignant Tumor	7/14/75	8/13/75	7,280.97	No payment by any third party
Blaze Krstevski	Yugoslavian	Psychiatric Disorder	12/28/76	1/31/77	4,900.00	Dade County - \$2,718.41. Baker Act billed with no payment as yet.
			3/10/77	3/16/77	789.89	Dade County - \$197.44 Baker Act billed with no payment as yet.
Mary Metalls	Haitian	Diabetes	Multiple Admissions		1974 6,987.60 1975 12,444.30	No payment by any third party
Gervais Thelusman	Haitian	Hypertensive Crisis	Multiple Admissions		1975 23,733.25 1976 33,925.11	Dade County - \$15,584.42 Dade County - 1,498.42 Florida HRS - 5,000.00
				1977 to Date	12,627.41	Dade County - 5,842.83
Claude Beinfame	Haitian	Testicular Tumor	Current patient			

GFP/FL/pmf - 6/8/77

Enclosure 9

Mr. ROGERS. Thank you very much for giving us the specific examples that I think will be helpful.

Mr. Clark?

STATEMENT OF IRA CLARK

Mr. CLARK. Thank you, Mr. Chairman.

I intend to be very brief because I think most of the essential points have been made by my colleagues from the hospital sector, and from those who preceded us.

I thought what might be most helpful to the committee would be to attempt to complement the sort of indepth qualitative description that my colleague from Dade County just went through with a sort of quantitative analysis of the same type of experience.

I would like to preface that by pointing out that Kings County Hospital, being the major hospital in the Borough Bureau of Brooklyn, New York, is the largest hospital of the New York City Health and Hospitals Corporation, and one of the largest in the country.

It provides over a million outpatient visits each year and in round numbers about a half million inpatient days of care. As you have heard repeatedly, it is very, very difficult to identify the key numbers that are at issue here, but in order to do some reasonable guesstimates we went into the indepth social histories of some of our patients on a sampling basis by service, so as to try to provide this committee with some feel for the type of care that is being obtained by illegal aliens.

We found in doing this by reviewing indepth social histories, particularly where there were complications and histories and the like, together with ongoing credit investigations that occur, we found that the largest use of inpatient services in the Borough of Brooklyn is in the area of obstetrics and gynecology. You heard Dr. Haughton describe for you, I think this is reflective of the age and sex distribution of illegal aliens generally, and the fact that the major diagnosis within that area generally cannot be deferred.

We at Kings County think on the basis of the method I explained that something on the order of 25 percent of our total OBGYN patient days annualized are received by illegal ailens. This would be about 5,000 patient days of care per year.

Interestingly, the next highest level on a percentage basis appears to be in the area of pediatric care. This is probably the area of highest non-emergent or non-deferral care given, particularly on an outpatient basis. On an inpatient basis it seems like something between 10 and 20 percent of our total inpatient pediatric days might go to illegal aliens, certainly to non-citizens. This would average about 8,000 annualized patient days per year.

With respect to surgical inpatient days, it looks about 10,000 patient days per year, with a preponderance here in this area, as you have heard, really originating at the hospital in its role as a receiving trauma hospital. These are accidents, shootings, cuttings, and other kinds of cases that emanate from the hospital's emergency trauma facilities.

In addition, Kings County is also the receiving hospital for the Borough of Brooklyn for all psychiatric or emotional illnesses. Here

there seems to be a substantial caseload, particularly in areas linked to child abuse and addictive disease.

There we think we are doing something on the order of 6,000 annualized patient days a year.

The lowest percentage, ironically, is in the hospital's largest service insofar as we can determine, using the method as I described. There it looks like about 5 percent of annualized patient days are actually accounted for by illegal aliens.

The total of all services, as I have described, would approximate about 35,000 patient days, and at the hospital's average reimbursement rates, this would approximate something like \$6 million for Kings County Hospital alone.

In the area of ambulatory services, both emergent and otherwise, there is perhaps another million dollars worth of care that in the loose method as I described that could be reasonably attributed to the illegal aliens.

In combination we think something like \$7 million, using the same kinds of descriptive analyses as you have heard earlier, could be attributed to Kings County Hospital. In the New York City Health and Hospitals Corporation presently is operating 16 hospitals and three free standing neighborhood family care facilities. There is anecdotal and cursory observed information to suggest that the earlier figures I shared with you are probably greater for Kings County than they are for other corporate hospitals, but we would like to point out that within the catchment area of Bellevue Hospital is the lower East Side of Manhattan, with a very large Oriental, Chinese population, where it is very clear that a substantial portion of illegal aliens could reside in that area and, in fact, are provided both primary and tertiary care at Bellevue and at Gouverneur Hospital, which is specifically in that community.

In addition, there is the Amherst Hospital in Queens, which has a very large population of people originating from South America on the continent itself as opposed necessarily to the islands. These are Colombians, Peruvians, Chileans and the like. That is Amherst Hospital, and they were not willing to go through the kind of investigation that generated the figures I shared with you earlier, but they do confirm the fact there is a substantial problem.

Lincoln Hospital in well known South Bronx has one of the largest Spanish speaking populations in the City of New York, and it would seem reasonable to me on the basis of all of this information that the New York City Health and Hospitals Corporation, with all of its fiscal problems, within the City of New York—and certainly its fiscal problems are well known—it is incurring not less than something on the order of \$10 million to \$12 million annually in providing care to illegal aliens.

Like most problems associated with the City of New York, they tend to be larger in scope and dimension and complexity, but certainly they are not substantively different from what you have heard my colleagues describe.

Thank you, Mr. Chairman.

Mr. ROGERS. Thank you so much.

Let me ask you this, Dr. Gehrig, on page 5 you indicated that you would not like to have the Immigration Service determine whether

they were illegal aliens, which would then determine whether they would have their services paid for. How can we decide whose bill to pay unless there is some determination made as to their status.

Dr. GEHRIG. Mr. Rogers, what I attempted there is to point out a problem not well reflected by the group you have here today, but has been expressed to me with regard to concern for some facilities, who in reporting to INS felt they were entering into a legal prosecution for deportation.

I personally and I believe our Association would state flatly, there is no way to avoid it. If this Federal Government is going to pay for this type of care, it is going to have to identify, so I only pose this in case we can come to some sort of the methodology which doesn't essentially put the health provider in the position of initiating a chain of legal steps, this would be fine.

However, I would agree with you, we don't have an answer to it, and I doubt very much we would find it.

Mr. ROGERS. It seems to me we have to identify somehow who is receiving care in order to make a proper payment.

Dr. GEHRIG. I would agree.

Dr. HAUGHTON. I would like to speak to another proposal you made earlier with regard to sanctions against the employer. Part of my problem in Chicago would be that many of these illegal aliens do day work, they work for different employers every day. They go to employment agencies that send them out. So it's very difficult to determine. Sometimes that is part of the problem of determining whether they can pay. They have no way of proving what their earnings are, because they are paid in cash and they are paid by different employers every day.

They will work in a warehouse one day, somewhere else another day and they have no pay check stubs or anything to show you. So it would be difficult to identify the employer against whom you would apply the sanction.

Mr. ROGERS. Suppose we were to require that an employment agency—

Dr. HAUGHTON. Who knowingly sends out?

Mr. ROGERS. Or the employer assumes the responsibility for emergency medical care if they are illegal.

Dr. HAUGHTON. I think you would put some employment agencies out of business.

Mr. ROGERS. I think you brought up a good point.

Mr. CLARK. The Legislature of the State of New York just this past week did pass a bill providing for a fine for employers who were found to be guilty of employing illegal aliens.

Mr. ROGERS. So it puts the responsibility on the employer to find out whether he is illegal.

Mr. CLARK. Although there was some criticism on the part of the unions and what not who were pushing this bill on the basis that these people were competing for and in some cases taking jobs away from citizens, that the punitive aspect of the bill was so low that they had some question about its effectiveness as a deterrent. It was a \$500 fine, I think, for each case proven against an individual employer.

Dr. HAUGHTON. There is another problem for the employer. You mentioned the social security number. An employer who employs someone who has a social security number assumes this person is legal, and has some evidence that he is a legal resident.

Mr. ROGERS. Yes. They would have to ask for his proof of citizenship.

Dr. HAUGHTON. Yes, because my Chief has informed me there is a thriving business in false social security cards, and, in fact, there is a social security card factory in Evanston, Illinois.

Mr. PETERSON. Mr. Chairman?

Mr. ROGERS. I wonder if we could ask the Social Security Administration to indicate citizenship status on social security cards.

Mr. PETERSON. I thought you had to be a citizen or a legal immigrant to receive a social security card.

Mr. ROGERS. I think you are supposed to be.

Mr. PETERSON. In preparation of my report, my credit supervisor in the outpatient clinic brought me a brand new case, June 8. This is an illegal alien from Haiti who entered the United States illegally by small boat from the Bahamas in February, 1977, has a social security number, [REDACTED]. Obviously, he went to Social Security to get this or got it somewhere. To our knowledge we were the first ones to identify this person as an illegal alien. So it's not a question in Jackson of identifying these people.

When you ask how much does it cost, I mean we are getting into our accounting system, and there is no reason for us to make a special effort to account for these people separately. There is a bad debt, and this patient came over here for the express purpose of having a testicular tumor repaired and received treatment from a local physician until funds were exhausted, and now appears at Jackson.

We called the INS about this case, but I can assure you this individual will not be returned to Haiti unless some special effort is made because of testimony or something.

Mr. ROGERS. Maybe we can check on that. Maybe you ought to also let us know when cases are not acted on by the INS. Maybe the American Hospital Association ought to have a reporting system for when you report to INS and they do nothing, you make a list of it and let us know.

Mr. PETERSON. Mr. Telusmon was reported to the district headquarters on May 13, 1975. He is not hospitalized; he is still in the United States receiving treatment.

Mr. ROGERS. You might let the committee know and we will make inquiry.

I guess Arizona doesn't have Medicaid.

Mr. CAPPS. No, sir, it does not.

Mr. ROGERS. It wouldn't help you much. Do you think you will ever have it?

Mr. CAPPS. Would you like me to talk a little bit about that problem?

Mr. ROGERS. Thank you very much for being here. We appreciate your help, and if you have specific suggestions the committee would welcome them.

Thank you for your opinions.

Our last witness is Dr. John McRae, representing the American Association of Neurological Surgeons, American Congress of Neurological Surgeons.

STATEMENT OF DR. JOHN A. McRAE, M.D., ON BEHALF OF THE AMERICAN ASSOCIATION OF NEUROLOGICAL SURGEONS, INC., AND THE CONGRESS OF NEUROLOGICAL SURGEONS, INC.

Dr. McRAE. Mr. Chairman, it is a pleasure to address the committee on behalf of neurological surgeons concerning the funding of emergency medical services for unlawful aliens.

My name is Dr. John McRae. I am in the private practice of neurology in Los Angeles and have the privilege of also being a voluntary clinical faculty member of the University of Southern California School of Medicine.

I have submitted for the record a transcript of my testimony.

Mr. ROGERS. It will be made a part of the record [see p. 116].

Dr. McRAE. I would like to depart from it so I don't reiterate what has been said.

In addition to the difficulty of identifying unlawful aliens, another reason statistics are hard to arrive at is because of customs of providing health care which can conceal many of these transactions. An unlawful alien is welcome in a doctor's office, clinic or community hospital without discrimination, but with the exception that payment is expected when service is rendered.

Credit cannot be extended when both the doctor and the patient silently assume that the identity is false.

The figure that we were able to come up with from California as a State was \$57 million spent in 1976. This is from the County Association or the Association of County Boards of Supervisors, and was provided for our California State Senator, Mr. Roberti, who introduced similar legislation in California.

We foresee administrative problems in that the Federal funding authorized in this bill requires first identification of an unlawful alien, certification as to the emergency need for medical services, and an unsuccessful attempt to collect the account directly.

Wishing to escape detection, the unlawful alien is reluctant to seek medical care when this is tantamount to exposure. Consequently, medical conditions are often seen at a late stage when they are less satisfactorily treated, and only at greater expense. Then, ethically, can a physician or nurse be expected to be both a patient's confidant, and the informant?

Emergency medical service is more readily defined than judged. When is pain an emergency? How severe must a headache be to be emergent? Whether the service provided meets the emergency criteria selected can be decided only after the fact, and only after expenses have accumulated.

Emergency medical services must be provided upon demand, even though personal identity is false, let alone provide the documentation the Attorney General may require to certify an unlawful alien status.

There is growing evidence that illegal status per se is a public health hazard. In addition to delay in seeking medical care, commu-

nicable disease control is hampered when the subrosa community maneuvers to escape detection in disease control surveys, public immunization programs, the early detection of conditions such as tuberculosis.

Injury perhaps predominates as a reason for the illegal alien seeking emergency medical service. The unlawful alien has the good health and the assertive prsonality to undertake the rigors of entry and the adventures of subrosa survival in a foreign and complex culture. They are known to street muggers and extortionists as easy prey with assault often not being reported to police authorities in order to preserve anonymity.

The underground milieu in which they travel is a hospitable environment for crime with the attendant criminal violence. Industrial injuries occur, and when the job does not exist in official records, occupational health and safety measures cannot be enforced. Workmen's compensation insurance may be cancelled when an illegal alien is reported injured at work, not becuase of any known increase in actuarial risk but because of the probability that submitted payroll figures are inaccurate, and this insurance premium is payroll based.

In public injury, the unlawful alien most often is referred to the "understanding" attorney who will overlook the illegal status in order to pursue tort damages. Elaborate capping networks involving insurance fraud have been exposed. It is not unusual for both the health care provider and the unlawful alien himself to not participate fairly when settlement funds are disbursed.

There was a mention earlier this afternoon of the knotty ethical problems that do arise. Knotty ethical problems are created when complex emergency medical service has been successful, but continuing sophisticated medical care is known to be necessary for survival. An extreme example is that of acute renal failure, successfully treated as an emergency, but with an after-need for continuing chronic dialysis. In Mexico and other South American countries, a public program of chronic dialysis is not readily available, and deportation is tantamount to a death sentence.

Neurological surgeons share the dilemma of the authors of this bill. Although emergency medical services for unlawful aliens are being provided, an unfair burden on local tax revenue has awakened the fundamental Federal responsibility.

Evidence mounts that the unlawful alien status per se is a public health hazard of considerable magnitude, particularly with illegal entry now epidemic. There is widespread public resistance to voluntarily reporting the unlawful alien, understandable resentment when citizens of Spanish-American extraction are challenged, and frustration within the immigration service in coping with the problem.

The proposed legislation does not pretend to address the entire problem of the unlawful alien. There may be critical need for Federal revenue sharing at the local community level when tax revenue is depleted in providing emergency medical services for a large population of unlawful aliens. Emergency medical services are and must continue to be provided regardless of funding.

Our concern is with the many subtleties tangent to the providing of Federal funding for a social problem which is unhealthy.

[Dr. McRae's prepared statement follows:]

STATEMENT OF JOHN A. McRAE, M.D., ON BEHALF OF THE AMERICAN ASSOCIATION OF NEUROLOGICAL SURGEONS, INC., AND THE CONGRESS OF NEUROLOGICAL SURGEONS, INC.

Mr. Chairman, it is a pleasure to address the subcommittee in behalf of neurological surgeons concerning the funding of emergency medical services for unlawful aliens. Communities are powerless to tide the flow of the unlawful immigrant, and poorly endowed with funding mechanisms to provide their medical services. We commend this subcommittee's recognition of the Federal responsibility.

An accurate measurement of how much emergency medical services for unlawful aliens would cost does not exist. The subrosa identity hampers statistical compilation, and the customs of providing health care conceal many transactions. Emergency medical services are being *provided*. For the unlawful alien, entrance to a doctor's office or clinic, or to the emergency department of a community hospital is without discrimination, except payment is expected at the time services are rendered. Extension of credit is not feasible when both doctor and patient silently assume that identity is false. When cost is beyond the means of the individual, public assistance is not legal, and the ordinary course is referral to that hospital supported by the local communities' tax base. Collection efforts are often fruitless, and in practice, the threat of exposing the individual as an unlawful alien unless the bill is paid has unfortunately been used. An equally questionable practice is that of having the illegal alien sign an affidavit certifying legal status, to allow public assistance funds until such time as the false statement is recognized. Needless to say, months can be consumed in determining the statement to be false. When unpaid medical bills are of smaller amount, often no earnest effort to collect is made. The expense ultimately is paid by assessment in the local communities' taxes. Today, with mounting costs, the local taxpayers have publicly protested, and when told by tax authorities that sizeable funds are expended for the medical care of illegal aliens, there is a reactionary voice of taxpayers demanding a Federal solution. In California alone, the magnitude of the local tax impact has been estimated at \$57 million spent in 1976, however it is uncertain as to what variety of uncollectable accounts has been incorporated in this figure.

The Federal funding authorized requires identification of an unlawful alien, certification as to the emergency need for medical services, and an unsuccessful attempt to collect the account directly. Both pragmatic and ethical problems are predictable. Wishing to escape detection, the unlawful alien is reluctant to seek medical care when this is tantamount to exposure. Consequently, medical conditions are often seen at a late stage when they are less satisfactorily treated, and only at greater expense. Then can a physician or nurse be expected to be both a patient's confidant, and the informant? Emergency medical service is more readily defined than judged. When is pain an emergency? How severe must a headache be to be emergent? Whether the service provided meets the emergency criteria selected can be decided only after the fact, and only after expenses have accumulated. Emergency medical services must be provided upon demand, even though personal identity is false, let alone provide the documentation the Attorney General may require to certify an unlawful alien status.

There is growing evidence that illegal status per se is a public health hazard. In addition to delay in seeking medical care, communicable disease control is hampered when the subrosa community maneuvers to escape detection in disease control surveys, public immunization programs, the early detection of conditions such as tuberculosis. Injury perhaps predominates as a reason for the illegal alien seeking emergency medical service. The unlawful alien has the good health and the assertive personality to undertake the rigors of entry and the adventures of subrosa survival in a foreign and complex culture. They are known to street muggers and extortionists as easy prey with assault often not being reported to police authorities in order to preserve anonymity. The underground milieu in which they travel is a hospitable environment for crime with the attendant criminal violence. Industrial injuries occur, and when the job does not exist in official records, occupational health and safety measures cannot be enforced. Workmen's Compensation insurance may be cancelled when an illegal alien is reported injured at work, not because of any known increase in actuarial risk, but because of the probability that submitted payroll figures are inaccurate, and this insurance premium is payroll based. In public injury, the unlawful alien most often is referred to the "understanding" attorney who will overlook the illegal status, in order to pursue tort damages. Elaborate capping networks involving insurance fraud have been exposed. It is not

unusual for both the health care provider, and the unlawful alien themselves, to not participate fairly when settlement funds are disbursed.

Knotty ethical problems are created when complex emergency medical service has been successful, but continuing sophisticated medical care is known to be necessary for survival. An extreme example is that of acute renal failure, successfully treated as an emergency, but with an after-need for continuing chronic dialysis. In Mexico, and other South American countries, a public program of chronic dialysis is not readily available, and deportation is tantamount to a death sentence.

Neurological surgeons share the dilemma of the authors of this bill. Although emergency medical services for unlawful aliens are being provided, an unfair burden on local tax revenue has awakened the fundamental Federal responsibility. Evidence mounts that the unlawful alien status per se is a public health hazard of considerable magnitude, particularly with illegal entry now epidemic. There is widespread public resistance to voluntarily reporting the unlawful alien, understandable resentment when citizens of Spanish-American extraction are challenged, and frustration within the immigration service in coping with the problem.

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Mr. ROGERS. Thank you very much.

If the doctors and nurses are not going to determine the status or be willing to, how do we then find out so we can pay for it?

Dr. McRAE. I believe this is asking the same question asked of the previous people.

It's the illegal status itself that is the problem. Funding is a minor portion of the problem, but it's the illegal status itself that brings it to the Catch-22 situation.

Mr. ROGERS. In other words, you report to Blue Cross anyone who qualifies for Blue Cross.

Dr. McRAE. Correct.

Mr. ROGERS. Should you report then to the Federal Government if we assume a responsibility to pay for illegal aliens?

Dr. McRAE. That would be required under the bill that has been proposed. To the extent it would cause an illegal alien to avoid medical care, it is bad medicine.

Mr. ROGERS. I understand, but otherwise, how are we going to have any limitation on who we pay for? You could submit a bill for anybody that comes in the hospital.

Dr. McRAE. The problem is that with something which is illegal, why fund it?

Mr. ROGERS. In other words, you don't think it should be funded.

Dr. McRAE. I think this is a revenue sharing problem because these people by and large, I don't have any percentage, no one knows how much care they will pay for. I will tell you in Los Angeles a woman who is to have a baby very frequently will come up with \$1,000 to \$1,500 in order to have that at a private hospital, in order to avoid detection, and this represents a considerable portion of their wealth to do so.

How much of this would come into this program if it were made available, I do not know. I can tell you the unhealthy practices that have come up because of the illegal status. It is not unheard of for county hospitals in attempting to collect these bills to threaten exposure of the individual as an illegal if they do not pay. The

converse is true. An affidavit is signed by the illegal alien stating that he has legal status, and this qualifies him for a Medicaid program, and it will take nine months to a year for the system to prove that his statement is false, and in the meantime, funds are flowing.

It is raising hob with the entire system.

Mr. ROGERS. Your suggestion is we not fund such a program, but let it be handled as it is?

Dr. McRAE. Correct.

Mr. ROGERS. Fine.

Doctor, thank you so much for your advice and your experience you have given us. It will be most helpful to the committee in deciding what to do.

Dr. McRAE. Thank you.

Mr. ROGERS. This concludes our hearings.

The committee stands adjourned.

[The following letters were received for the record:]

Federation of American Hospitals

Michael D. Bromberg, Esquire, Director

National Offices 1101 17th Street, N.W. Suite 310

Washington, D.C. 20036 Telephone 202/833-3070

June 8, 1977

Honorable Paul G. Rogers
 Chairman
 Subcommittee on Public Health
 and Environment
 Interstate and Foreign Commerce
 Committee
 2125 Rayburn House Office Building
 Washington, D.C. 20515

Dear Mr. Chairman:

The Federation of American Hospitals represents the nation's 1,050 investor-owned hospitals, with over 111,000 beds encompassing small rural hospitals as well as large urban and suburban medical centers. These facilities were all built or acquired with private capital, thus saving billions of dollars in public funds.

I am writing to express the support of the Federation for H.R. 2400, a bill introduced by Congressman B.F. Sisk with a number of cosponsors, which seeks to reimburse hospitals for emergency health care services rendered to illegal aliens. As you know, the bill provides that hospitals providing such care to aliens, with no means of reimbursing the facility, may apply to the Secretary of HEW for payment.

The favorable outcome of this legislation is of particular concern to our member hospitals in states--California, Texas, New Mexico, and Arizona--bordering on Mexico. Bad debts arising from the provision of care to illegal aliens have become an increasing problem for those hospitals located in border towns. Because many of these facilities exist as the only source of institutional treatment in the counties that they serve, they are individually forced to absorb often staggering amounts in bad debts. For example, one facility--Llano Estacado Medical Center located in Hobbs, New Mexico--reports that it has incurred \$124,680 in bad debts attributed to care of illegal aliens in the past twelve months. A breakdown shows that \$4,680

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of this arose from 156 emergency room visits, while 45 non-reimbursed inpatient stays resulted in \$122,000 in bad debts. Of those illegal aliens treated, 60% were farm and ranch workers, 20% were unemployed, 10% were construction workers, and 10% worked in the oil fields. Llano Estacado is the only hospital serving the area.

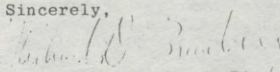
At a time when cost containment in health care is being seriously debated by both the Administration and Congress and "fat lists"--areas where hospitals can ostensibly cut their costs--are being proclaimed by the Secretary of HEW, we feel that it is especially important that the acute pressures facing hospitals are carefully studied. A 180 bed facility like Llano Estacado simply cannot cope with \$124,680 in bad debts over a twelve month period and expect to continue serving its community, much less face the prospect of a 9% cap on its revenues.

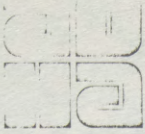
As far as H.R. 2400 is concerned, we have one proposed amendment. The bill currently provides that the Attorney General must be consulted as to the status of the illegal alien before the Secretary of HEW may approve an application for reimbursement for treatment. This would seem to involve a great deal of administrative paperwork and time-consuming delays. Therefore we urge that the Secretary be empowered to make the determination on the request for reimbursement on his own.

We ask that this statement be submitted in the record of the hearings that you are holding on H.R. 2400. We further ask that your Committee act favorably on the legislation, thereby providing much needed relief to all border hospitals striving to serve their individual communities.

Thank you for your consideration of our requests.

Sincerely,


Michael D. Bromberg, Director
National Offices
Federation of American Hospitals



AMERICAN OSTEOPATHIC
HOSPITAL ASSOCIATION

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Telephone 312/692-2351

July 6, 1977

Hon. Paul G. Rogers, Chairman
Subcommittee on Health and the Environment
House Interstate and Foreign Commerce Committee
House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This letter will present the views of the American Osteopathic Hospital Association on the bill H.R. 2400 and related bills which would provide for emergency medical treatment of certain aliens. I would be most appreciative if you would see to it that this correspondence becomes part of the official hearing record.

H.R. 2400 provides that the Secretary of Health, Education and Welfare may reimburse a medical facility which provides emergency health care for illegal aliens for the portion of the cost of the care rendered that is not reimbursable under other public assistance or other payment programs. The AOHA supports this bill and its solution to the problem created by illegal aliens seeking health care.

Emergency health care for illegal aliens should be a federal, not a state or local responsibility. We believe this appropriate since immigration laws and their enforcement are a matter of federal authority.

In testimony previously submitted to your Subcommittee on this issue, a number of examples were cited regarding the cost impact of providing this care on the health delivery system. However, determining the true dimensions of the problem and the true cost involved is difficult and present statistical data is not adequate. The Department of Health, Education and Welfare has taken a sound step in commissioning a study in a six-state area to determine the scope of the problem. This step is a recognition that there is a problem and that data must be gathered to measure its impact.

Since the data from the HEW study will not be available for several months, and since it concentrates only in six states, we would recommend that a more comprehensive study be undertaken, perhaps by the Government Accounting Office.

In conclusion, we support enactment of H.R. 2400 and appreciate the opportunity to comment on its merits. Our only concern is the apparent lack of reliable statistical data to delineate the true nature of the problem across the nation.

Sincerely,

Michael F. Doody
Michael F. Doody
President

MFD/ncm

[Whereupon, at 4:30 p.m. the subcommittee adjourned.]



