
PRESENT:

MARTIN R. CASTRO, Chairman
ROBERTA ACHTENBERG, Commissioner
TODD F. GAZIANO, Commissioner
GAIL L. HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner
DAVID Kladney, Commissioner
MICHAEL YAKI, Commissioner
STAFF PRESENT:

PAMELA DUNSTON, Chief, ASCD
ANGELICA TREVINO
LENORE OSTROWSKY
MICHELE YORKMAN RAMEY
VANESSA EISEMANN, Attorney
YASMIN ELHADY, Attorney
FAYE ROBINSON

COMMISSIONER ASSISTANTS PRESENT:

NICHOLAS COLTEN
ALEC DEULL
CARISSA MULDER
JOHN MARTIN
MARLENE SALLO
ALISON SCHMAUCH
RICHARD SCHMECHEL
TABLE OF CONTENTS

AGENDA ITEM PAGE

I. Introductory Remarks by Chairman  7

II. Remarks by Commissioner Gaziano  16

III. Remarks by Commissioner Yaki  20

IV. Panel One Speakers

   - Kris Kobach, Secretary of State, Kansas  24

   - Chris England, Representative, Alabama House of Representatives  37

   - Scott Beason, Senator, Alabama Senate  42

   - Stacy Abrams, House Minority Leader for the Georgia General Assembly  48

V. Questions by Commissioners  54

VI. Panel Two Speakers

   - Tammy Besherse, South Carolina Appleseed Legal Justice Center  115

   - Chris Chmielenski, NumbersUSA  120

   - Chuck Ellis, Councilman, City of Albertville, Alabama  127

   - William Lawrence, Principal, Foley Elementary School, Alabama  134

   - Steve Marshall, District Attorney, Marshall County, Alabama  139
<table>
<thead>
<tr>
<th>AGENDA ITEM</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>VII. Questions by Commissioners</td>
<td>152</td>
</tr>
<tr>
<td>VIII. Panel Three Speakers</td>
<td></td>
</tr>
<tr>
<td>- Marie Provine, Professor, Arizona State University</td>
<td>181</td>
</tr>
<tr>
<td>- Carol Swain, Professor, Vanderbilt University</td>
<td>187</td>
</tr>
<tr>
<td>- Mark Krikorian, Director, Center for Immigration Studies</td>
<td>190</td>
</tr>
<tr>
<td>- Michele Waslin, American Immigration Council</td>
<td>196</td>
</tr>
<tr>
<td>- Dan Stein, President, Federation for American Immigration Reform</td>
<td>203</td>
</tr>
<tr>
<td>- Victor Viramontes, Mexican American Legal Defense and Educational Fund</td>
<td>209</td>
</tr>
<tr>
<td>- Mary Bauer, Legal Director, Southern Poverty Law Center</td>
<td>214</td>
</tr>
<tr>
<td>IX. Questions by Commissioners</td>
<td>224</td>
</tr>
<tr>
<td>X. Panel Four Speakers</td>
<td></td>
</tr>
<tr>
<td>- Joseph Knippenberg, Georgia SAC and Professor, Oglethorpe University</td>
<td>270</td>
</tr>
</tbody>
</table>
### TABLE OF CONTENTS (Cont'd.)

<table>
<thead>
<tr>
<th>AGENDA ITEM</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Jerry Gonzalez, Georgia SAC and Executive Director, Georgia Assn. of Latino Elected Officials</td>
<td>277</td>
</tr>
<tr>
<td>- Joanne Milner, Utah SAC Chair and Office of Mayor, Salt Lake City Corp.</td>
<td>283</td>
</tr>
<tr>
<td>XI. Remarks by Audience Members</td>
<td></td>
</tr>
<tr>
<td>- Leticia Ramirez</td>
<td>304</td>
</tr>
<tr>
<td>- Hina Nihal</td>
<td>305</td>
</tr>
<tr>
<td>XII. Adjournment</td>
<td>313</td>
</tr>
<tr>
<td>EXHIBIT NO.</td>
<td>DESCRIPTION</td>
</tr>
<tr>
<td>-------------</td>
<td>-------------</td>
</tr>
<tr>
<td>1</td>
<td>Five Facts About Undocumented Workers in the United States, 2008, NCLR</td>
</tr>
<tr>
<td>2</td>
<td>Immigration Myths and Facts</td>
</tr>
<tr>
<td>3</td>
<td>Valle del Sol, et al vs Michael B. Whiting, et al, CV-10-01061-PHX-SRB, Filed 7-17-12</td>
</tr>
<tr>
<td>4</td>
<td>Declaration of Daniel Pochoda with Attachments, ACLU Foundation of Arizona</td>
</tr>
</tbody>
</table>
August 17, 2012 9:02 a.m.

CHAIRMAN CASTRO: Welcome. The meeting will come to order. I'm Chairman Marty Castro of the U.S. Commission on Civil Rights. I wish to welcome everyone to our meeting here on the issue of the civil rights implications of current state law on immigration enforcement laws. It is now 9:02 a.m. on August 17, 2012.

The purpose of this briefing is to analyze whether recently enacted state immigration enforcement laws have adversely impacted the civil rights of both U.S. citizens and noncitizen immigrants. The purpose of this briefing is to examine whether or not the recently enacted state immigration laws foster discrimination or contribute to an increase in hate crimes, cause elevated racial or ethnic profiling, impact students' rights under Plyler versus Doe or compromise the public safety or community policing.

The United States Commission on Civil Rights was created in 1957 as an independent, bipartisan, fact-finding federal agency. Our mission is to inform the development of national civil rights policies and enhance enforcement of
civil rights laws. We prepare reports on those
topics to the President and the United States
Congress for them to take action on the issues that
we develop.

As Lyndon Johnson, then-Senate Majority
Leader, said in 1957, “the Commission is to gather
facts instead of charges. It can sift out the truth
from the fancies, and it can return with
recommendations that will be of assistance to
reasonable men.”

Speaking for the democratic members of
this panel, I can say that there are organizations
here today whose views we strongly oppose. These
are groups that we did not invite but were added to
the panel by our career staff upon recommendations
from our conservative commissioners. No doubt our
conservative colleagues can say that there are
groups here that were invited on recommendations
from the democrats whose views -- with whose views
they strongly disagree.

Speaking for myself personally as the
son and grandson of Mexican immigrants, as someone
who has been personally disparaged during the course
of my life with racial and ethnic epithets, whose
ten-year-old son was bullied at the beginning of the
last school year in Illinois because he was perceived to be undocumented; and as the first Latino chair of this Commission, upon the appointment of myself by President Obama to this Commission, I can tell you that I strongly oppose the views of some of today's speakers.

In fact, if I had the sole authority and the ability to invite all the panelists for today's briefing -- which is not how this Commission works -- it would look very different. But that is not how the process here works. However, every one of today's panelists has a First Amendment right. Peaceful protesters are exercising those same First Amendment rights today. And I want to thank them for being here and expressing their view, and I want them to know that many of us on this issue are in solidarity.

Immigration is a topic that inspires both passion and controversy. This is a topic that is at the forefront of the national discourse. The civil rights aspect of the state immigration enforcement laws was left unanswered by the Supreme Court in its recent ruling in the Arizona case. This is the type of topic our Commission should
be addressing, and I'm glad we're doing it and that it has excited so much passion and activism, as have many other important issues in the agency's storied history.

Our enacting statute has tasked this Commission with an investigative, fact-finding mission to report accurate civil rights information to the President and Congress. In order to fulfill this mission, our agency should aim to protect important constitutional rights, all while maintaining impartiality to hear different opinions on the important civil rights matters in our great nation. If we do not allow constitutionally protected speech -- we do not necessarily agree with an opinion or view -- we are doing a disservice to the fact-finding mission upon which this Commission was originally founded.

Today we find ourselves in Birmingham, Alabama to examine the civil rights impact of the state level immigration enforcement laws here and in other states like Georgia, South Carolina, Utah and Arizona. We are in Alabama today for our first field briefing outside of Washington in many years, and it's apropos for us to be here since the very first field briefing of the Commission was held in
Alabama in 1958. We're coming full circle. So we're here now in Birmingham for many reasons, but today, most of all, because of Birmingham's history as the center of the civil rights struggle of the past and today it's at the epicenter of a new civil rights struggle by immigrant communities.

Yesterday many of us toured to 16th Street Baptist Church and the Birmingham Civil Rights Institute, and it confirmed, in my mind, that Birmingham is indeed a symbol of the fact that oppression can be overcome.

In my opinion, the Commission's role in that struggle against oppression is to shine our historic light, not only on the wrongs but upon why and how they have been created so that the President and Congress understand how to dismantle those walls of oppression and open the promise that this country has made to each and every one of us.

In the past, the Commission has had numerous persons before it whose views we do not agree with. But make no mistake: an appearance by any panelist before our agency does not constitute our agency's agreement or endorsement of views they express. Since the day I was first appointed by the President to this historic Commission, I sought to
have a briefing on this very issue of immigration
since I believe that what we see today is a
continuation of the civil rights struggle that gave
birth to this Commission.

I want to thank my fellow commissioners
who, in a bipartisan fashion, voted to have this
briefing and then voted to provide the funding for
us to come here to Birmingham. In my travels, I
have seen firsthand the discrimination, the hatred,
the bullying, the profiling, the denial of rights,
the spreading of inaccurate information directed at
good, hardworking people whose only crime is to seek
the American Dream and in many cases were effected
because of what they look like or how they speak or
what people perceive them to be, whether they're
U.S. citizens or immigrants, documented or not.

But to end that we must determine what
is happening on the ground and why it is happening.
And that is why we're here today.

Immigrants have played an important and
vital role in the founding of the country.
Immigrants have defended this nation in times of
war. Immigrants have helped build this country into
the power that it is today. Even today, despite
what you may hear today to the contrary, it is clear
that immigrants, and undocumented immigrants in particular, contribute in a positive way to our country, its economy and our state and local finances. However, immigrants have also been the first to answer the call of duty in times of wars and the first to be threatened with removal in times of economic crisis. The same is no different today, and that is why we're here today.

So as I said at the beginning of my remarks, this briefing is for the sole purpose of examining whether or not recently enacted immigration laws foster discrimination and contribute to the increase in hate crimes, cause elevated racial and ethnic profiling, impact students' rights under Plyler versus Doe or compromise public safety in community policing.

Some of the speakers' written statements go beyond the scope of these areas. While they may use their limited time to talk about them, those areas are not a part of our focus and will not end up in the report on the briefing.

Today's briefing features 20 speakers who have been invited between four panels with panels one and two addressing the Commission this morning and panels three and four in the afternoon.

During the briefing, each panelist will
have seven minutes to speak. After all the
panelists have made their presentations, the
commissioners will have the opportunity to ask them
questions within an allotted time frame. In order
to maximize the amount of opportunity for discussion
between commissioners and panelists and to ensure
that the afternoon panelists also receive their fair
share of time, I will be strictly enforcing the time
allotments given to each panelist to present his or
her statement.

The panelists will notice that there's a
system of lights here, warning lights just like the
traffic lights that y'all drove past getting here
today. When the light turns to yellow, that means
you've got two minutes remaining. When the light
turns red, panelists should conclude their
statements. Please be mindful of the other
panelists' time as we do not want to have to cut
anyone off in mid-sentence.

I also ask that my fellow commissioners
be considerate of the panelists and of one another
by keeping our questions and comments concise.
Please ask only one question at a time. I
understand some questions might have multiple parts.
If we all abide by these arrangements, we will have
a very successful panel today. I ask panelists to be considerate, again, of one another and not say anything that is defamatory or degrading. I also ask the members of the audience to remain quiet and orderly. I do not want to have any cheering, clapping or other conduct that would tend to disrupt the orderly and timely flow of the briefing.

At this point I would like to have Vanessa Eisemann, one of our attorneys in the office of our general counsel, come forward to make a brief statement which will be read before each panel.

MS. EISEMANN: Good morning. I am Vanessa Eisemann, an attorney in the Office of General Counsel of the U.S. Commission of Civil Rights.

I want to remind everyone present that each panelist is speaking in his or her personal capacity or on behalf of the panelists' organizations. The panelists' testimony and written statements are the individuals' or the sponsored organization's opinions and positions. Each panelist is entitled to exercise his or her First Amendment right to freedom of speech. The testimony, statements and opinions do not reflect the position or view of the U.S. Commission on Civil Rights.
Rights.

I would also like to remind everyone who's speaking on the record that they are subject to the laws of Alabama and the United States, including the laws of defamation, libel and slander.

I will also -- I am the person operating the timer. I just wanted to clarify when yellow goes on, you only have one minute to conclude.

Thanks very much.

CHAIRMAN CASTRO: As you see, we also have someone who's translating for those who are deaf or hard of hearing.

(Spanish.)

Commissioner Todd Gaziano has asked at this point for personal privilege to say a remark, which I have allowed him two minutes to make a brief statement.

COMMISSIONER GAZIANO: Two or so. And I thank the Chairman for that time. I've been really looking forward to coming to Birmingham. The record reflects that I supported this hearing.

I am particularly interested, as I'll explain, in the views of those who are concerned about the impact of this legislation, but I need to
place on the record two glitches that have occurred in recent days.

The first I'll apparently mention because it doesn't concern most of you, but our Commission is without a Presidentially-appointed staff director confirmed by us, and that creates some special issues for us in our operations. The other commissioners looked to the Chairman and me to work with our staff to establish effective and balanced panels. The Chairman and I and our staff worked for weeks on that. Four weeks ago we came up with a slate that -- that we'd agreed on.

In recent days there were some additional -- there was an additional panelist added. Suffice it to say, the Chairman and I disagreed about whether understandings were reached, but that is a matter we will need to take up with each other.

But I want to state it for the record because in our current situation I think we're going to have to get these agreements in blood or something like that. So -- if we're going to proceed.

The other issue is one that may involve us today, but I hope not. Some of the draft
statements submitted by just a few of the witnesses contain defamatory and degrading material against other witnesses. This creates two problems. First of all, beyond the laws of Alabama and the United States that our counsel mentioned, we have our own rules that prohibit us from accepting that testimony. Some of the testimony has been revised. I'm glad of that, but I think some of that still cannot be accepted into our record. But we may have to argue about that later.

But if the testimony here enters into that -- that area -- and our rules prohibit us from taking any testimony that even tends to degrade -- we are going to have to object, and we are going to have to possibly go into an extended session about these rules.

But my other point is even more important. The kind of defamatory claims, to me, are scurrilous and gratuitous. Others may argue that somehow they're tangentially related to the central focus we're supposed to be studying, which is the effect of those laws. I submit that such tactics, putting the witnesses aside for now, do two things. They poison the well of civil discourse, and they tend to seriously undermine the credibility
of the witnesses who utter.  

I am very open on many of the issues today. My grandparents were -- were immigrants. My father was discriminated against. When I ran for office as a young man, I had people -- I was approached -- to say they had been taught never to vote for someone whose name ended in a vowel. I'm not saying that I know what discrimination is in other ethnic groups, but I'm very interested in this issue.

But it's hard for me to give credence to witnesses who engage in these attacks. And so if if there are attempts that I think cross our rule's lines, I am dutybound under the federal regulations that govern the Commission to try to prevent that. But beyond that, I will also ask the Chairman if he would, out of decency, provide any person present with an opportunity to respond.

That said, none of us invited witnesses to attack each other. We invited witnesses who would stick to the substance of the matter. And I, for one, hope that we don't need to say anything more about that, and we can listen to the substantive remarks and examine this important issue.

Thank you.
CHAIRMAN CASTRO: Thank you, Commissioner Gaziano.

Before I proceed, I just want to indicate that those who are Spanish speakers will need to pick up their headphones by the door in order to ensure that you can actually hear the translation.

(Spanish.)

All right. Let's get started --

COMMISSIONER YAKI: Mr. Chair, I want to --

CHAIRMAN CASTRO: Sure.

COMMISSIONER YAKI: Thank you for that, Mr. Chairman. I just wanted to thank the people of Birmingham for welcoming us yesterday at the baptist church and at the Civil Rights Institute.

I just wanted to touch briefly upon -- quickly about what my fellow commissioner, Gaziano, just said. I want to preface it by saying that my family grew up in the shadow of explicit racial hatred. My father was interred in the Arizona desert because he had Japanese parents, although he had been here, born and raised in America. My mother was initially not allowed to come to the United States because she was Chinese, and the
Chinese were the first ethnic group to be banned from immigrating to the United States due to a law passed by Congress in the 1920s called the Chinese Exclusion Act.

There is -- when you look at the origins of the Chinese Exclusion Act and when you look at the origins of the Japanese American internment, I think it's very difficult to find anything other than -- than words like hate and racism and prejudice as part of the vocabulary of those groups that pushed it.

And so I think that we need to be very careful about trying to tell our panelists to restrain -- to restrain themselves in their speech at a time when -- for people nowadays who, because of the color of their skin, because of the way that they talk, because of how they look or behave, are targeted simply because of these -- these factors do not think and do not understand that there may -- that there is animus. There is hatred. There is racism, and there is prejudice being exercised against them.

Just a quick story. I was -- one of the things I like to do is I like to go in search of food in all the places that I go to. And I was
looking for a place to have fried chicken in
Birmingham. And I came across a couple of places on
different -- different websites, and one of them was
this place that a lot of people know about, a
seafood chain, and it's a place called Max's Deli.
I was looking up these things online. So I was
looking at Max's Deli on the thread talking about
how we're proud you stood up against racism. And I
was going, what was this about?

Well, it turns out that this man, Steve
Dubinsky, who runs Max's Deli out on Colonnade
Parkway had sort of given an offhand interview to a
friend of his, apparently being a reporter, talking
about how HB 56 was going to impact the workers in
his kitchen and how he was concerned about how this
would affect anyone who looked like them or the
color of their skin.

The next thing you know a radio show, a
chop job, took it up, started calling for a boycott
of his restaurant. A thousand -- his -- the
restaurant website or whatever was hit with a
thousand negative reviews in a day to try and drive
people away from there. And, luckily, he recovered
and other people began to rally and the people on
the radio began to realize that this is not how they
wanted to be portrayed.

But for us to ignore the fact that there are serious and very deeply held feelings about these issues -- and they will express themselves in ways that will be astonishing, revolting some of us -- I think it is naive at best.

And to ask people to restrain themselves. Everyone here is, you know, here because they care about the issue on one side or another. We've all been in places where we've all been called names for one reason or another. I think we're all big enough to deal with that. Certainly as a public official, I have had every name in the book called -- called me. And I would not want any panelist on either side to be unduly restrained by -- by feelings and emotions in their statements in this action simply because we have a commissioner who is a little upset about that.

CHAIRMAN CASTRO: Thank you, Commissioner Yaki.

(Spanish).

I'd also like for everyone to know that a court reporter is taking the proceedings here sitting over here so that all of the testimony today will be transcribed.
With those bits of housekeeping out of the way, I now want to proceed with the first panel. Let me briefly introduce them. And as I introduce them, I'd ask you to come forward, sit down. Your name plates are where you should be sitting.

Our first panelist this morning is Chris Kobach, the Secretary of State, Kansas. Our second panelist is Chris England, Representative from the Alabama House of Representatives. Our third panelist is Scott Beason, Senator of Alabama, the State Senate. And our fourth panelist is Stacey Abrams, the House Minority Leader for the Georgia General Assembly.

Please, find your seats there. I would ask each of the panelists to raise your right hand and to swear or affirm that the information that you are about to provide to us is true and accurate to best of your knowledge and belief.

(Whereupon, the panelists were sworn.)

CHAIRMAN CASTRO: Thank you. Secretary Kobach, please, proceed.

MR. KOBACH: Thank you, Mr. Chairman.

It is an honor to present this testimony to the Commission. And although I am Kansas' Secretary of State, I will be testifying more in my personal
capacity as an attorney who assisted in the drafting of Arizona's SB 1070 and Alabama's HB 56. In addition to drafting those laws, I have defended many similar laws, including those others around country, chiefly on preemption claims. And I used to serve as U.S. Attorney General John Ashcroft's chief advisor on immigration law during 2001 and 2003. I am happy to deal with the legal questions any panelist might have and the Commission might have, but I won't be dwelling too much on that.

Arizona's SB 1070 was designed to facilitate cooperation between local law enforcement and federal law enforcement. That was its chief objective. Alabama's HB 56 was an effort to build upon that model and to do additional things to encourage cooperation between local law enforcement, federal enforcement as well as take additional steps to reduce the fiscal impact of illegal immigration upon the people of Alabama.

I will divide my testimony into three parts. First, I will touch on the arrest protocols that have been so much in the press and have been the focus of most public scrutiny of these statutes, the second deal with the mandatory reporting provisions that the Chairman mentioned in his
opening statements. And, third, I will look at some
of the employment issues associated with these laws.

First, the arrest protocols. There
have been many misimpressions and many false
statements made, not necessarily made willfully
about them, but perhaps made by people who simply
haven't read the laws. One of the most notable is
of course when the country's top attorney, Attorney
General Eric Holder, warned Meet the Press in April
of 2010 that the laws might cause additional
profiling; and, yet, he acknowledged in a hearing
before Congress on April 13th that he hadn't yet
read the bills. And reading the bills does do a lot
to clarify some of the misinformation on them. Had
he done so, he would have noticed that the law
prohibits racial profiling, not once, not twice, but
multiple times throughout the bill.

A person may not -- the law may not be
enforced in a way that considers a person's race,
national origin, or ethnicity or color. And in
addition to the protections in the law, there are
also the protections of the Fourth and the
Fourteenth Amendment that normally attend -- that
always attend the enforcement of any law in such a
context.
So if an officer were to consider a person's race or ethnicity in enforcing the law, he would be breaking the law. Any prosecution would not stand if that prosecution then occurred afterward. The justice department obviously came to the same conclusion when they brought their preemption claims against the State of Arizona, the ones that were recently decided in the United States Supreme Court. It did not include any, no racial profiling claims, no unequal treatment claims, because the face of the law does not contain any provisions allowing it. It disallows it. And it basically was challenged in the case that was brought to the supreme court.

A similar unfounded criticism is with regards to the law -- with regards to how the law kicks in. The inference was made -- I believe it was made by the President when he first described it, that a person might go to an ice cream store with his children or grandchildren and then be stopped and asked about his immigration status. The law does not allow that. The law only kicks in when a person has been stopped for violating some other provision, someone perhaps is being investigated or is being stopped in a traffic stop. Only then does
And it merely -- so if you use the President's example, one certainly could not be stopped going to an ice cream parlor. But if someone was running out of that ice cream parlor with a gun in one hand and a bag of money in the other hand, then of course the person can be stopped. But even then the law does not kick in until the officer --

AUDIENCE MEMBER: That's a lie.

CHAIRMAN CASTRO: May I ask please --

AUDIENCE MEMBER: That's a lie, and it's a shame that you invited him and all of us -- it's not right. You should invite us --

COMMISSIONER GAZIANO: Mr. Chairman, could you have --

AUDIENCE MEMBER: Nothing affected by their civil rights.

COMMISSIONER GAZIANO: could you have them promptly removed from the hearing?

AUDIENCE MEMBER: We were civil rights being violated. It's a shame that you invite him and him.

CHAIRMAN CASTRO: Can we bring order, please? Thank you.
Continue. I'm sorry about the interruption.

Mr. Kobach: To continue that example, only once a person is stopped for a violation of some other law and then if there are factors that lead to reasonable suspicion that the individual is unlawfully present in the United States, only then would SB 1070 or HB 56 kick in.

And that brings me to my next point. Some people have asserted that the laws would cause racial profiling because they make the following claim: They claim there's no way to tell us if someone's unlawfully in the country, except by considering a person's appearance, a person's ethnicity or race. That is legally and factually incorrect. There are more than 800 federal court opinions that have been handed down in the context of immigration law on what constitutes reasonable suspicion when an individual is not lawfully in the country.

So to take a common example -- and it occurs all the time -- suppose this officer pulls them over for speeding and when he goes up to the window, he notices that several of the seats have been ripped out and that an eight-passenger van is
holding 16 people. Then there might be some factors that would come into play as he talks to the driver. He might first learn that no one in the vehicle has any identification whatsoever, no driver's license, no nothing. That would be factor number one.

Factor number two might be that the driver is acting evasively when answering the officer's questions. Factor number three might be that the vehicle is traveling on a known alien-smuggling corridor. And I think we can keep going. Factor number four might be that the occupants of the vehicle may have backpacks and other items with them indicating that they've been traveling through the desert, in the case of Arizona, in addition to traveling in this vehicle.

Factor number five -- and I'll stop there. If any member of the --

AUDIENCE MEMBER: (Unintelligible).

And what you are doing is just hurting all our community.

CHAIRMAN CASTRO: Please, do not disrupt the speakers.

AUDIENCE MEMBER: These laws are based on hate. The only safety you want is in your pockets and your bank account. That's all the
COMMISSIONER HERIOT: Mr. Chairman, I assume that Mr. Kobach's remarks will be extended so that he actually gets the full seven minutes.

CHAIRMAN CASTRO: I think the time is --

AUDIENCE MEMBER: I don't agree, and I'm not afraid.

CHAIRMAN CASTRO: Thank you, sir. Sit down, please.

Mr. Secretary, please, continue.

MR. KOBACH: These factors were all recognized in opinions of the Article III courts of the United States as factors that are race neutral that may be considered in determining whether someone is unlawfully present. Usually of course we look for two or more factors in deciding. So the point being that the law is absolutely capable and the law requires that this enforcement be done in a race neutral way.

One final point. What happens next if the officer determines that such reasonable suspicion exists. The federal government in the mid-'90s established --

AUDIENCE MEMBER: (Spanish.)
CHAIRMAN CASTRO: We're going to have -- we're going to have to ask you to leave if you continue to disrupt. We don't mind if you stand up and express yourself quietly. Would you handle this with security, please?

AUDIENCE MEMBER: (Spanish.)

CHAIRMAN CASTRO: (Spanish.)

AUDIENCE MEMBER: (Unintelligible).

CHAIRMAN CASTRO: We are going to have to ask you to leave if you're going to be disruptive. We're happy to have you here if you express your position peacefully and quietly, but we ask you not to interrupt this federal proceeding.

Thank you.

AUDIENCE MEMBER: (Spanish.)

CHAIRMAN CASTRO: Would you, please, ask security to escort the individuals outside the door where they can there make their statements?

AUDIENCE MEMBER: (Spanish.)

COMMISSIONER HERIOT: Mr. Chairman, it is wise to have security on hand.

CHAIRMAN CASTRO: Commissioner, there is security here, but security is in the other room. And Pam Dunston went to go get them.

But as long as these folks are quiet
and don't interrupt, they're free to stay here. We want to be able to proceed, and we also want to have them here to hear this.

(Spanish.)

COMMISSIONER GAZIANO: Mr. Chairman, I think they've already demonstrated that they don't respect our proceedings and should be escorted out.

CHAIRMAN CASTRO: Well, sir, that's what we're seeking to do, and that's happening at the moment. So, please, continue, Mr. Secretary.

COMMISSIONER GAZIANO: Why don't we just wait a minute until the folks that are disruptive are escorted out the room.

CHAIRMAN CASTRO: All right. Let's continue. Mr. Secretary.

COMMISSIONER GAZIANO: No. Let's -- those who have been disruptive have not --

CHAIRMAN CASTRO: I am the chair, and I direct the order of these proceedings. These individuals are being escorted --

COMMISSIONER GAZIANO: The order is obviously lacking. You did not have someone in the room to escort these people out.

CHAIRMAN CASTRO: They're being escorted, sir.
COMMISSIONER GAZIANO: Why don't we wait until -- the secretary has been interrupted --

COMMISSIONER YAKI: Commissioner Gaziano, this is nonviolent protest. I don't see why you're getting so hysterical about this.

COMMISSIONER GAZIANO: They have interrupted --

COMMISSIONER YAKI: And they can engage --

COMMISSIONER GAZIANO: They can engage in their hateful freedom of speech --

CHAIRMAN CASTRO: Order, commissioners.

COMMISSIONER YAKI: They can engage in their freedom of speech --

CHAIRMAN CASTRO: Order, commissioners.

COMMISSIONER YAKI: That is not hateful, sir. That is not hateful.

COMMISSIONER GAZIANO: Yes, it is.

Yes, it is.

CHAIRMAN CASTRO: Calm down, commissioners. Let's all be calm here. Let's let our fellow --

COMMISSIONER YAKI: Commissioner Gaziano, this is a cakewalk.

CHAIRMAN CASTRO: They're being
peacefully removed, and they are being quiet now.
So I'm directing the speaker to continue.

COMMISSIONER GAZIANO: There is one more individual who's disrupted the proceedings.

COMMISSIONER YAKI: In my experience, Commissioner Gaziano, what you're doing is -- he's actually encouraging future things to occur because every time you insist on shutting it down and waiting for someone who is peacefully standing up to be escorted out, you are going to simply be asking for more. It might take --

COMMISSIONER GAZIANO: Thank you for your wisdom.

CHAIRMAN CASTRO: Gentlemen, please.
Let's focus on the presentations from the panelists.
Secretary Kobach, please continue.

MR. KOBACH: Thank you, Mr. Chairman.
Back to where I was. I was talking about a hypothetical arrest with various indicators indicating unlawful presence.

Even at that stage, then the officer is not allowed to make an independent determination of whether a person's unlawfully in the country or not.

I think that's very important to recognize. No officer, either in Arizona or Alabama, is allowed to
independently say, okay, I have concluded that the person is unlawfully present. At that point they must make a phone call to the law enforcement support center, which was created by Congress in the mid-'90s and is operated by ICE.

The law enforcement support center is a 24/7 hotline where any law enforcement officer can call and get a specific determination from the federal government about a person's immigration status.

Now, it's important to recognize these laws are nothing new. The law enforcement center indeed in 2009, according to the supreme court's testimony that it built into its Arizona opinion, received more than one million phone calls from law enforcement officers. That's more than 2,700 calls per day, and these are coming from states all over the country. Not just Arizona and not -- the provisions we're talking about being effected.

The point is the calls, the use of reasonable suspicion which leads to the phone call, is done all the time all over the country. All the Arizona law and HB 56 law do is they make it uniform. Instead of officers exercising their own discretion, indeed perhaps their own bias if they
have any, it makes a mandatory policy. Everybody is
treated equally in all traffic stops. And I think
that efficiency and that equality is one of the most
important points about the -- about the laws.
I'm not sure if I should continue.

CHAIRMAN CASTRO: He's got twelve
seconds, 13?

MR. KOBACH: Well, I was going to talk
about the other -- let me just quickly go --

CHAIRMAN CASTRO: You're done. I'm
sorry. I was going back to --

COMMISSIONER GAZIANO: Was he given all
the --

CHAIRMAN CASTRO: Yes, he was. The
clock was adjusted several times for him. So there
will be an opportunity for your questions to be
elaborated.

I will now ask Mr. England to please
proceed with his comments. You have seven minutes.

MR. ENGLAND: Thank you, Mr. Chair.

First, I want to say on behalf of our state, welcome
to Alabama. And as you said earlier, welcome to the
City of Birmingham.

And you mentioned earlier that you were
looking for a place with some good fried chicken.
I'll take you to Green Acres. You won't have to have anymore, ever.

But -- and as I stated earlier, Birmingham is actually the perfect place for this event to occur because sometimes the laws that we draft and we enact appeal to the lowest common denominator of our citizenry, and they cause those individuals to act in accordance to what they believe that law states that they have the authority to do.

Interestingly, Secretary of State Kobach has pointed out that the federal government in their lawsuit against these -- the laws across the country did not mention civil rights violations in their initial pleadings. And that's simply because they pled preemption and they sought to enjoin those laws. So obviously you cannot allege a civil rights violation if the law actually hadn't been enacted yet because you do not have the evidence to support that assertion.

So, essentially, the additional pleading was preemption because they want to temporarily restrain those laws, and preemption accomplishes that. And after the supreme court, rightfully so, pretty much eliminated most of those
laws and left us with the traffic stop part of the Arizona law, which in its -- in their wisdom, it pretty much left that last revision on life support because they need the evidence to further suggest that civil rights can be violated of those -- the particular class of individuals. Because I believe the evidence will eventually show that and accomplish that threshold.

But uniquely in Alabama one of the things that we were most proud of, I guess, was the fact that we enacted the most toughest law in the country. And the sponsor, who is my colleague -- and I consider him to be a friend -- we just disagree on this issue. And many others capture this as a job legislation.

Unfortunately, when you capture that as a job legislation, you immediately start the natural logical process of determining, well, if it's job legislation, who is -- who are the individuals that are taking the jobs? I don't remember seeing very many articles concerning, we'll say, Croatians or Europeans taking American citizens' jobs. I think that that argument was pretty much focused on Hispanic citizens.

Well, once you take that and you make
that next logical conclusion that those are the individuals that are the job-takers, then it's the responsibility of the surrounding law enforcement and so forth. They kind of put the target on those individuals' backs. And I guarantee you at some point you will begin to see that on traffic stops individuals of Hispanic origin will see the length of their traffic stops increase far beyond the reason for the stop.

Which the law itself -- yes, throughout the law it says that an individuals' race, ethnicity or nationality cannot be used in its enforcement. But, ultimately, when you're creating misdemeanor offenses out of federal offenses off of traffic stops, you're creating a situation where an officer who approaches someone on a first approach after a traffic stop is not equipped with the training necessary. And they oftentimes do not know of the 800 different things that the officer -- or the federal courts have determined are reasons for -- are outside of someone's race or ethnicity or nationality as a way to determine that someone's not here legally.

And on a misdemeanor traffic stop an officer is generally only dealing with 30 to 45
minutes worth of activity because their objective is not to necessarily investigate at that moment. It's to neutralize and move on to the next incident. So they are -- at that point their whole focus is on efficiency. So most officers grab what's closest to them, and those are the obvious things that indicate to them that this person is not of -- is not an American citizen.

Now, even in this law if we manage to get beyond the initial arrest, the fact that each state is not a -- does not keep federal immigration records, it almost makes it a virtual impossibility to prosecute it. Interestingly enough, the law attempts to create different evidentiary standards to make it easier to accomplish the objective of prosecuting someone for this charge. Ultimately, the hoax seems to be that an individual will be arrested and before he asserts his right to an attorney and trial, they will end up pleading guilty and using that information to expedite their deportation.

And I want to stress that I'm not saying that every law enforcement officer has ill intentions when they exercise the authority given to them by this law. What I'm saying is they use the
tools that are closest to them to operate efficiently in this manner, which leads them to use some of the same markers, the same indicators, the same things to create their reasonable suspicion that the law prohibits.

And then it also leads them after the arrest to attempt to clean it up by getting the necessary information with phone calls made later. But, ultimately, we still can't prosecute those cases across the state of Alabama.

Thank you.

CHAIRMAN CASTRO: Thank you. Senator Beason, you may proceed.

MR. BEASON: Thank you, Mr. Chairman.

My initial response/reaction, I guess, to my time as a legislator is to have a debate with my good friend Representative England on the points that he made.

And I do want to point out that I want to go to Green Acres or to Dave's Cafe with you and Michael when we have the fried chicken. That's one of our favorite foods.

I want to start out by thanking the Commission for being willing to come to the great state of Alabama and ultimately discuss the issue of immigration and illegal immigration. This is the
second time I've been involved in a -- one of the
civil rights commission forums. One was in
Montgomery. It wasn't an official broad one. It
was about eminent domain in municipalities and
counties. Frankly, using what I thought was a poor
U.S. Supreme Court decision to extort poor people
out of the property for gain for some businesses and
people who wanted to profit from that situation.

But as we move forward to this issue
that we're talking about today, I'm sure you're
aware that I have been at the center of debate in
Alabama on how and what we should do to deal with
illegal immigration in our state. It has been a
long process. It has been a wearying process on me
and my family. And now that some of it has calmed
down after the legislative session and we've had two
years of dealing this issue, I've had a chance to
reflect on some of the things and the impact that
our law has on people in the state.

And it's easy to talk about the impact
on taxpayers. I think the Commission can look at
that at any time they want to and see the tremendous
cost that occurs, whether it's dealing with medical
coverage for illegal aliens in the state of Alabama
or their family members, whether it's the cost to
the taxpayer in law enforcement through the judicial system. Those things are easy to find out, and I don't think really can be debated.

So what it kind of boils down to now -- and I think of the story of the young man living to the south of us whose community has been adversely affected by free trade agreements like NAFTA. His local economy has been damaged. For whatever reason, he or -- I'm going to say she also -- he or she had no education. Poverty is rampant in their town in the south. Some of his neighbors lived in homes with dirt floors. The government's not been able to (inaudible) tie of poverty and crime in some of those areas.

It's a hopeless situation, and there seems to be no future where he has grown up. Jobs are available just to the north or an imaginary line, and the economy is better there. Who can blame him or her for going north? He can start the most menial job and be given a new life, moving up the social ladder. And of course he'll send some of the money back to help his parents or other siblings.

That's the story that happens everyday, and that seems to be the heart of this debate
because so many people let their heartstrings be pulled on this issue. The story plays out everyday. Who can blame this young person for leaving his home for a better life? Who would not want to help this young person? If this young man or woman lived in your community, wouldn't you help them? Well, the fact is this young person is your neighbor. They are your relatives.

You see, the person I described lived in the economically depressed part of the state of Alabama, in one of the counties say south of Montgomery. He may live in the Blackbelt of our state where unemployment is very high and opportunities for employment are very low, if they exist at all.

The state of Alabama threw tremendous resources in trying to booster the economy there -- bolster the economy there, and many of the things we've tried have not worked. We've been successful in bringing some businesses to those areas over the last few years. But now a young person has decided to move across that imaginary line and go to the Birmingham area for a new start.

He feels sure he could get a job helping with construction crews, but that's a dead
end. He thinks he can find a landscaping job, but no one's hiring. You see, many of the jobs he is qualified for as he tries to start out anew are not available. The chance to prove himself at the bottom ladder of the economic rung is not there.

You see, the focus of illegal immigration has been displaced. The news media and others have focused on the plight of the illegal alien who came to the United States from a country where things are very, very challenging. What has been disregarded in this entire debate is the rights of the American citizen, the Alabamian, who has been displaced and lost some of their opportunities.

And, yes. Have they made some poor decisions possibly? Yes, they have. They failed to get a better education. But still that's not for us to decide. We're not in the high chair of what is right and wrong for that person and how they should direct their life. What we should do is make sure that they have an opportunity.

A true story is when the economy began to slow down here in the state of Alabama, I had a person who ran a framing crew -- they framed houses -- call me to tell me that he could no longer compete because construction companies who were
willing to use an illegal workforce were able to cut
his costs tremendously. He is at risk of losing his
home, and so were the men and women who worked for
him. I talked about that many, many, many times.
Unfortunately, it never made it to the press because
that story didn't seem to matter to people.

I remember the woman when we had
hearings across the state of Alabama who had
apparently worked in the janitorial/maid service
kind of business who came to me crying at a hearing
and said I can't compete anymore because my
competition is hiring an illegal workforce that they
can pay so much. They're getting all the jobs. I
have just paid my mortgage payment on my credit
card. That is a reality that we deal with.

I had pointed out to the Commission
that I didn't want to put my entire statement in
print because I wanted to speak from the heart this
morning. I didn't know exactly where I was going to
-- where it was going to go. But I had said
something about the title needed to be something
about civil rights violations and the responsibility
of elected officials.

And that's what I'm trying to point
out, and I really want to stress to the Commission.
As elected officials in the state of Alabama, it is our job to look out and put Alabamians first and to ensure that Alabamians have every opportunity they deserve as being born American citizens. We cannot solve the world's problems, but we can make very sure that we do not import more problems and challenges for our own people regardless of their skin tone. None of this debate has anything to do with how anyone looks. It has to do with lawful status or not. We live in a world that is extremely different than it was just a decade or so ago. And if I had more time, I could talk about security risks, things that happened when people were coming through the port of Alabama currently. And then I think some people would have a little different view of what we're trying to do. Thank you, Commission.

CHAIRMAN CASTRO: Representative Abrams, please, proceed.

MS. ABRAMS: Thank you to the Commission. I represent the State of Georgia, although I do not speak for all of my colleagues in the general assembly. I am going to say that beyond the stark legal and fiscal implications of HB 87, which was
the version of this law that exists in Georgia, the
human costs are what concerns me most because I
think it speaks to the legitimate role of the law,
particularly state legislators in federal law, a
limited role as set forth by the U.S. Supreme Court
in its decision on SB 1070.

However, despite the ruling, we have
not passed the period where such legislation will
fade away. And, thus, we're called upon, as
legislators and as members before this body, to
examine not merely the intent of the bill but the
real implications thereof.

With regards to legislation that has
used racial profiling as a central method, this
should be anathema to us as lawmakers. And
certainly, with all due respect to my colleagues on
this panel, racial profiling is not simply the worst
in the affect.

Certainly, HB 87 and its companion
bills across the country have been careful to state
that no peace officer can consider race, color or
national origin in implementing the requirements of
the bill. Yet, as every attorney knows, it is not
simply the presence of a clause but the context.
While one provision of the law instructs officers
not to look at race, color or national origin,
subsequent lines state that the violation of this
 provision is not a punishable offense.

Worse, the mild disclaimers embedded in
our version of HB 87 are preceded by 450 lines of
language and followed by another 250 lines of
language that give private citizens and peace
officers unprecedented power to use that bill as
cause for demagoguery. That imbalance could
reasonably undermine a thinking person's belief that
this does, indeed, legalize racial profiling.

It is the legal equivalent of hearing
that whispered voice at the end of a commercial
selling a pharmaceutical. These lines are the
whispered reference to the side effects, a warning
that these laws could cause moral blindness, social
ostracization for illegal immigrants and the
paralysis of our civil rights.

How is this true? As evidenced by
authorities as august as the FBI, a traffic stop has
been historically the pretext for racial profiling
because it is the most subjective of criminal
actions and the hardest to disprove. There is no
documentary proof required for "failure to maintain
a lane" or "failure to yield". There is no --
there need not be a victim or even a witness. And there need only be the reasonable suspicion that this traffic crime has been committed.

Earlier an example was given of jaywalking going to an ice cream parlor. And in the state of Georgia if you are accused of jaywalking while trying to reach that parlor, you could indeed be arrested and detained. Now, that is the law in Georgia because that was a crime in the state of Georgia. It is more important to recognize that while federal law and the speed with which it operates may eventually release that person, that person has now been subjected to detention and to racial profiling in a way that should be impermissible in the United States.

Perception, more than reality, determines human behavior. Indeed, legislators are often elected based on voter perception rather than any exhaustive review of our actual behavior. And we vote on bills based on our perception of what these bills will do rather than the reality. Indeed, if the legislators have not read the bills closely enough to know their impact, it is unreasonable to imagine that others will do better.

Prior to running for office, I served
as Deputy City Attorney for the City of Atlanta, and in that role I was responsible for aiding the Atlanta Police Department in the development of standard operating procedures for the application of a law that was designed to address homelessness in the state of Georgia and the City of Atlanta. The difficulty we found in training officers in this very complicated issue of speech and homelessness speaks to me of the incredible difficulty that will follow if we try to implement show-me-your-papers provisions.

If you have not worked with SOPs, if you have not worked with local law enforcement, if you've not had to do the day-to-day job of making certain that every single officer understands both the constitutional obligations, the legal obligations and certainly something less complex than the federal immigration statutes that we have that are unevenly enforced in the United States, it is impossible to state with any degree of certainty that no one will make a mistake.

More than that, I believe immigration law is complex, multi-layered and very unevenly enforced, which means that it requires adequate funding for teaching our local law enforcement
officers. Although I cannot speak to Arizona or
Alabama, I do know for a fact that Georgia failed to
adequately fund or to defund at all improved
training for our officers. We have simply giving
them another job to do with no money to do it and no
training for doing so.

Now, while the facial intent may be
accepted pro forma, lawyers would be permanently
unemployed if intent was simply sufficient in the
matter of law. While HB 87 has been largely
enjoined from enforcement; and, thus, only anecdotal
evidence can be offered to this body, I urge the
Commission to consider respective implications:

Parents remove their children from
school creating a permanent educational handicap.
Women who fail to report physical assaults for fear
of deportation. Attorneys, lawmakers and yourselves
inhabit the rarified world of knowledge and
comprehension not enjoyed by the average citizen or
noncitizen. It is a luxury to judge law by its
disclaimers. But I urge this body to continue the
more difficult work of investigating the impact
rather than intent.

I will end this by saying -- and I wish
I had more time. I will say this. There's a great
deal that has been said, both on this panel and by those in the audience, and there's -- there's a legitimate debate to be had. But civil rights should not (inaudible) national origin, the terror of police detention, the discrimination in applying for housing.

But the paralysis that stops reporting of a crime should be a higher concern than the economy or any other concern because our national history is riddled with injustice when civil rights do not remain at the core of our lawmaking.

Thank you.

CHAIRMAN CASTRO: Thank you. We will now begin the opportunity for the commissioners to ask questions from now until 10:45. I will call on commissioners to do that. And I will actually take the chairman's privilege and ask the first question.

I would direct this question to Secretary Kobach and Senator Beason. You both talked about the impact that immigrants, undocumented immigrants, have on the cost of benefits that they use, that they use the benefits far exceeding their contribution to the economy, and indicated that they take jobs away from Americans.

I would ask have either of you read a
report by the National Council of La Raza of the five facts about undocumented workers in the United States, which contains studies and data that refute what you state? For example, one of the conclusions they make is that on average all immigrants will pay eighty thousand more in taxes per capita than the use in government benefits over their lifetime.

In addition, I'd ask if you've had the opportunity to read a study called Immigration Myths and Facts by a very leftist group, the United States Chamber of Commerce, which also disputes the underlying premise of some of the statements you make as it relates to the resources used by immigrants? And in fact immigrants contribute billions of dollars to our state, local and federal government.

Have you had the opportunity to review these?

MR. BEASON: I can say I have reviewed part of what the U.S. Chamber of Commerce has said. And my personal opinion about their opinion is they represent some businesses who are more than happy to hire an illegal alien workforce at the expense of American workers. I believe that's -- some of their members' goals looks pretty slanted even if they're
not "liberal".

What we have seen in the state of Alabama is -- the estimate we have is least a $2 million cost in our health care services. That's pretty much an accepted fact from both sides of the aisle in the state of Alabama.

And one thing about employment is we have seen a tremendous decrease in the unemployment rate in the state of Alabama since we passed our legislation. So Alabamians have been put back to work. And I think the number is somewhere over 30,000 people have gone back. We have led the country in reduction of our unemployment rate since we passed our bill.

So there has to be some sort of factor in there that as illegal immigrants have left the state of Alabama, Alabamians have been taking those jobs. Many of those studies fail to recognize that if an illegal worker is filling a certain position, there is probably an American worker who is not only unemployed, but they also may be receiving benefits because the person is unemployed. And that part of the equation is usually not included in those studies.

CHAIRMAN CASTRO: Well, this one did.
It says -- you know, the study revealed that immigration has little or no negative impact on native-born workers, but --

MR. BEASON: Let me ask you a question, Mr. Chairman.

CHAIRMAN CASTRO: But I have this for you to read because --

MR. BEASON: Yeah. Let me ask you a question, Mr. Chairman.

CHAIRMAN CASTRO: The questions go this way, sir.

MR. BEASON: Okay, Mr. Chairman, So under your thinking process, we would be better off if we would just lay off the majority of Alabamians and bring in people from other countries. Because somewhere along the line you have to figure out where is that ending benefit. Is it ten percent of your population? Is it 15 percent of your population? Would half the population be an illegal workforce? Would that be even better than the ten?

Your numbers would say that you should just have unfettered access into the country, and since they all produce $80,000 each, we would better off if almost everyone was illegally present and working.
CHAIRMAN CASTRO: Well, different studies indicate that immigrants, both documented and undocumented, actually create jobs in this county. Sir?

MR. KOBACH: Thank you, Mr. Chairman.

I believe I have looked at the La Raza website, and I did go through some of that, which I believe is looking at separate studies.

CHAIRMAN CASTRO: Right.

MR. KOBACH: But I would say this point. A lot of the economists will try to look at the -- they'll try to offer a global conclusion. It's good for the economy. It's bad for the economy. That's really hard to do. And the economists, themselves, will agree to that because you have separate factors that will cause effect on employment, cause effect on fiscal cost by the state government, how does it affect other -- other costs.

Let me just note three things quickly. One, the fiscal cost center Beason just mentioned. Nationally the fiscal cost has been estimated by multiple studies at about a hundred billion dollars a year of illegal immigration net. That's after you take into account any taxes paid by the unauthorized workers.
The second point, Harvard and George Borjas has, I think very convincingly, hired for the United States, refuted it and said that when you have illegal labor coming in -- if you have low -- basically, when you have low skilled labor, which tends to be predominantly illegal coming into an area, you will see an eight percent short term decrease in wages and a three percent long term decrease in wages.

And then my third point is in Alabama the unemployment numbers tell the story. The law was signed into effect in June of 2011. From May 2011 to the next nine months, the -- yeah, nine-month period, Alabama unemployment dropped from 9.3 percent to 7.5 percent. That was an unprecedented drop in unemployment. Only nine months, 1.8 percentage points. In contrast, the national unemployment rate over the same period dropped 0.7 percent, from 9.0 to 8.3.

So unemployment in Alabama is dropping at approximately triple the rate of the national average. And if you look at the unemployment rates of the states surrounding Alabama, you'll see that something particularly was going on here, and that is the immigration law was encouraging people who
are not lawfully present in the United States to
seek employment elsewhere and in some cases to
return to their own country.

CHAIRMAN CASTRO: Thank you. The
committee members were speaking of the contrary.
But I do move that the NCLR Five Facts About
Undocumented Workers in the United States and
Immigration Myths and Facts by the U.S. Chamber of
Commerce to be included in the record.

I will recognize Commissioner Yaki and
then Commissioner Gaziano and then Commissioner
Kirsanow.

COMMISSIONER YAKI: Yeah. One of the
fascinating things about going to the Civil Rights
Institute yesterday was watching this film about the
founding member and how it was founded by immigrants
who were hired in other countries working alongside
newly freed slaves.

And it brings me back to an issue that
I think we all have to remember as Americans, and
that is when we -- when we talk about the word
"immigrants", we are talking about every single one
of us in this room unless of course you are Indian
American. We're talking about people who -- when
you talk about the Irish experience in New York,
you're talking about people where -- where there was rampant discrimination and laws passed directed -- which exclude the Irish from a number of different communities. I know that even in San Francisco you can see neighborhoods created because this group did not want that ethnic group to live with this ethnic group and so on and so forth. You see -- you see these kind of factors in many great cities in this country.

And I think it's very dangerous for us to start talking about an us versus them because in most cases, especially back in the 1800s when people were just coming over, coming over by ship, swimming, whatever, it was just all us. There was no us and them. And many of them are us. I mean, we just have to be very careful about our language in this scenario.

I want to specifically talk about -- Mr. Kobach, you have stated that you write laws because you believe that these laws will effectuate a reduction in illegal immigration because it's called attrition through enforcement. Those are your exact words, correct?

MR. KOBACH: I didn't say that. I said --
COMMISSIONER YAKI: In other words, you write a series of laws designed to basically make life miserable for people to such extent that you believe that they will want to leave the area, the area in which --

MR. KOBACH: That is incorrect. I never used the term miserable. I will be happy to explain the concept to you.

COMMISSIONER YAKI: No, no, no. There's no need to explain the concept because I think the concept is pretty clear. And the supreme court -- the supreme court knocked out three of them.

So the question I have for you is what is -- is there a -- and this is a very serious question. Do you have a fear as your -- as one of your coauthors -- I think it was Michael. What's his name? Michael Heffner, Heffron?

MR. KOBACH: Yes.

COMMISSIONER YAKI: Do you ever feel like your cowriter, Michael Heffron, that of the strength on your churning minor/majority, that there's violence at the end of the road when you wrote the majority, as he has said in interviews?

Is this something you subscribe to as
well?

MR. KOBACH: I have no such fear. And I think you may be mischaracterizing his words.

COMMISSIONER YAKI: No. Actually, I'm just reading -- actually, I'm reading a quote directly from him right now off the -- from an article from the Wall Street Journal, another leftist publication.

And I want to ask Mr. Beason if you have --

MR. KOBACH: Is there a question here?

COMMISSIONER YAKI: Well, I guess the question -- the question --

MR. KOBACH: I would love to answer your question, Commissioner Yaki.

COMMISSIONER YAKI: Well, the question -- the question -- I mean, I don't know if there's a question anymore because your attrition though enforcement was basically knocked out by the supreme court.

The only thing that's left -- and that is a question for you -- is show your papers. And you gave this example of someone riding through the desert --

Well, my question is when a cop stops a
person riding through the desert and they open the
door and they see that the people look like they're
-- look like they're Hispanic or they look they're
white, what is the decision that that cop is going
to make, and how can you possibly defend the idea
that the decision that policeman will make at that
time based on that -- these other factors you claim
are race neutral, that he stops that car, opens it
up; scenario one, a white family; scenario two is
the Hispanic family, that in scenario two it's not
going to trigger the whole concept of I'm going to
start asking each one of them to show me papers
because of all of these other risk -- these race
neural factors that are in play at this time?

MR. KOBACH: Let me -- okay. Let me
begin by noting that incorrect statement you made
about the supreme court. The supreme court reviewed
the conflict preemption challenge to the arrest
provision. The supreme court upheld the arrest
provisions on official challenge. The supreme court
knocked down two other provisions, one on conflict
preemption, one on field preemption. One had to do
with penalizing the employee beyond (inaudible) in a
work relationship. That other one had to do with
mimicking the federal government's registration
program. The third one was very specific to
Arizona.

But there are 24 provisions in the
Alabama law that still stand. There are
approximately seven or six, depending on how you
count it in the Arizona law, that still stand.

COMMISSIONER YAKI: And, yet, you
believe that they all survived preemption because of
that?

MR. KOBACH: Well, I think --

COMMISSIONER YAKI: You think that by

the supreme court stating that these -- this deal of
the federal government is still --

MR. KOBACH: I don't know how familiar

you are with field preemption, but a field

preemption is a very normal doctrine. I guess this
argument is before the third circuit --

COMMISSIONER YAKI: Well, I suppose

that since we went -- both went to the same law
school, we probably have the same (inaudible). You
never know.

MR. KOBACH: Well, do you think field

preemption covers all of these laws?

COMMISSIONER YAKI: I think that any

first --
MR. KOBACH: The answer is no, and everyone knows that.

COMMISSIONER YAKI: I think any first year law student --

COMMISSIONER GAZIANO: Mr. Chairman, is he going to be permitted to answer the series of five questions that Commissioner Yaki has aggressively posed?

CHAIRMAN CASTRO: This is probably within one question.

COMMISSIONER GAZIANO: I thought he had started to answer the five questions until he was interrupted again.

COMMISSIONER YAKI: No. He was asking me questions back. So I was simply responding.

MR. KOBACH: Well, let me -- let's leave there and let's let people read U.S. versus Arizona -- or Arizona versus United States, rather, and make their own conclusions.

But to your other point, attrition through enforcement. Attrition through enforcement is nothing other than something we've also used before and described it as deterrence. It is the notion that if there is a serious law enforcement problem -- and it doesn't have to be immigration; it
can be anywhere -- that the best way to respond to
the problem is not with 100 percent arrests or with
-- and as said, ignoring the law.

The best way to respond to the problem
is to arrest at a level of enforcement so that
rational utility maximum measures. People who try
to weight their (inaudible) will say, huh, there's a
higher chance that I am going to not be able to get
a job. There's a higher chance that a traffic stop
might lead them -- to the police officer checking
their license. There's a higher chance that
something negative will happen. And they make the
rational decision to leave the jurisdiction.

That's what it is. It's a deterrence.
It's a rational cost benefit system that encourages
people to follow the law and --

COMMISSIONER YAKI: But most -- most
insurance systems aren't aimed at a specific class
of individuals for what --

MR. KOBACH: Around the country
speeding laws are aimed at the class of individuals
who speed. Drug enforcement laws are aimed at the
class of individuals who traffic in and trade drugs.

COMMISSIONER YAKI: So you're -- you're
just weighting on these laws with speeding tickets?
MR. KOBACH: No, I'm not.

COMMISSIONER YAKI: Is that what you're saying?

MR. KOBACH: No. What I'm saying is there are people who immigrate lawfully to the United States. There are people who immigrate unlawfully. Just like the people who drive lawfully and drive unlawfully.

This is not a class of people. This is simply -- and putting it in the sense of the, you know, racially suspect classification. This is simply people who are obeying the law versus disobeying the law.

COMMISSIONER YAKI: So when a policeman opens the car door and see's a white guy and he sees a Hispanic guy --

MR. KOBACH: No. I didn't say that.

COMMISSIONER YAKI: You're going to say that he's going to treat them both equally under the law at that moment in time?

MR. KOBACH: Okay. Listen. A couple of points. One is you're not seeming to recognize that the police officer has identical authority -- identical authority before Alabama's and Arizona's law and after Alabama and Arizona's law to ask the
same questions. They don't authorize the officer. All they do is they mandate that all officers go through the same protocols. So what happened --

the second point --

COMMISSIONER YAKI: I'm asking in practice. I'm asking in practice --

MR. KOBACH: Commissioner Yaki, I'm --

COMMISSIONER YAKI: You know, there's a constitutional order in practice --

MR. KOBACH: The answer is --

COMMISSIONER YAKI: In practice. He doesn't ask the white person for papers for every single member of their family, including their children, but does for the Hispanic family. You're saying that's not racial profiling?

MR. KOBACH: If the officer had the same circumstances in both cars, everything the same except for his skin color, and the officer treats the Hispanic family differently, then he would be breaking the law. That is prohibited under the law. And if you think that that's going to happen, then I'll respectfully suggest that your problem is not with the statute itself. Your problem is with the common police officer.

COMMISSIONER YAKI: Well, I --
CHAIRMAN CASTRO: Commissioner Yaki, we're going to move on. I appreciate your questions. We'll, hopefully, have some time at the end. But we do have limited time. So I'm going to move to other commissioners who indicated a willingness to ask questions.

So we're going to go to Commissioner Kirsanow, followed by Commissioner Gaziano, Commissioner Kladney. So Commissioner Kirsanow I'll recognize.

COMMISSIONER KIRSANOW: Thank you. I'd like to thank the panelists, a very informative panel thus far, on this very important topic.

The Chairman stated a couple of studies by La Raza and the Chamber of Commerce dealing with the alleged impact of illegal immigration. And as you may or may not know, this Commission had has its own study related to that that came out just a couple of years ago.

And in that study it was shown that illegal immigration does impact on employment to this extent. Unemployment among blacks in the United States of America is an astonishing 14.4 percent today. That's far below what it actually is. The appointed population ratio, which is the
more ethnic determination, is 52.8 percent less
unemployed; that is, only one of two working age
blacks in this country are employed.

The study by this Commission just a few
years ago with a number of luminaries testifying who
are experts on this indicated that there was an
egregious impact upon the black community due to
illegal immigration. It makes common sense. It's
not just blacks. It's almost any person that works
in service industry, low wage, low skilled jobs.
Fifty-two point eight percent of blacks employed.
Those are citizens of the United States.

So my question to Mr. Beason is you
cited, for example, at least one reason why this
particular piece of legislation was enacted dealing
with your economy and jobs.

To what extent were other
considerations, such as the preservation of the
sovereignty the state of Alabama, rules of law,
security interests, part of the calculus in your
drafting this piece of legislation?

MR. BEASON: All of those factors were
-- played a part. And the main ones dealt with the
economy, putting people back to work and then the
cost to the taxpayer. But security was definitely
one of those things that played a part. Like I mentioned in my statement, we talked about the fact that we're in a completely different world after 9-11.

If you talk to law enforcement across the state, especially those who deal with what goes in our southern port in Mobile, the interesting story is just a few years ago they were catching -- I can't remember if it was weekly or monthly, and it really doesn't matter what the time period is -- to 20 people trying to come in the country on ships from Central South America.

Now they're saying most of those were from those countries, and now we're beginning to see an influx of people from countries like Iran trying to come in through our -- our southern port. Those are real and clear security concerns for the state of Alabama.

And kind of merging that with some of the other things, we in Alabama expect that if someone is pulled over and they don't have a driver's license, we run them through our computer systems and we cannot figure out who that person is, we believe the state of Alabama has the right to figure out who that person is and why they're in our
state. That is a security issue, especially in the world we live in now. So all of those things did play a part, but we thought the largest, biggest factor was the economy and job creation.

We do have some very, very talented segments of our -- of our timing. I've spoke to black groups. I've spoke to white groups. I've spoken to groups all across the state. And the response from many people in those communities since we passed the law is my son and my daughter have been able to get a job for the first time in three or four or five years.

I had an older black gentleman say I did carpentry work almost my whole life. I'm now beginning to get jobs again. Those are the kind of things that makes what we've done very, very rewarding because we've had an impact on peoples' actual lives.

COMMISSIONER KIRSANOW: Thank you.
CHAIRMAN CASTRO: Commissioner Gaziano, you have the floor.

COMMISSIONER GAZIANO: Sure. Thank you. And thank you all. It has been very helpful. And, Secretary Kobach, since -- I'm going to ask you to help eliminate what seemed to me
to be a little bit of dissonance. Not a direct
certainty, but a dissonance between Representative
England's and Representative Abrams' testimony.

Since you were a distinguished law professor before
you had all of these other titles, I think you are
the perfect person to help me out.

Representative England said that of
course the -- this is just to paraphrase. But
naturally he said the civil rights implications of
these laws weren't challenged up until now because
they couldn't be before they went into effect. But
at one level of course that isn't true.

If a law, even if it's basically
neutral, clearly has a significant racial impact, if
there's grandfather clause, a litmus test, the
justice department wouldn't wait to see whether the
grandfather clause had a disparate impact on certain
-- they -- it would be challenged immediately. So
obviously the United States and other civil rights
litigants have an opportunity to challenge the law.

So here's the dissonance. I heard
Representative Abrams -- and this seems consistent
with a lot of the other testimony that we've
received. The impact of these laws is so clear and
so obviously negative she at least can see it, it
erases the following sort of conundrum of why Attorney General Holder and the Obama administration did not see it as so clear.

And my final point that I think I heard her say was that it would be incredible to think that this law would not have any mistakes. And, of course, if that were the standard, no law could ever pass constitutional muster because in the implementation there are always mistakes. The courthouse doors are always open. And I, in particular, am glad that the courthouse doors will be open as these laws go into effect to prevent any racially improper -- racial profiling.

But back to her statement, she said -- and I'm not sure of the exact words, but to the effect that racial profiling is mandated under these laws.

(a) Is that so in your view? And (b) if it is, wouldn't it be subject to immediate challenge?

MR. KOBACH: Yes, it would be subject to immediate challenge. Anything on the face of the law that looks like it might encourage racial profiling is subject to immediate challenge.

And that brings me to your point about
Senator England's question -- or his statement. It is incorrect to state the civil rights challenge on unequal treatment can't be brought at the facial stage of the law. In fact, in both Arizona and in Alabama there are multiple lawsuits. There is a U.S. Government lawsuit, but then there are multiple other plaintiffs like the ACLU and other organizations. In those facial challenges they make the racial profiling claim. They make it at facial level. The make it before the laws come into effect.

Absolutely. If a law on its terms indicates that it will lead to illegal enforcement, courts routinely strike down those laws. It's just the U.S. Justice Department, I think, it was a little bit more careful in the lawsuit they brought. And they -- it was clear to them that they did not prevail on any sort of racial profiling challenge. The language of the law itself says you can't consider a person's skin color.

I'd like to mention one other legal statement that Senator England made that I would disagree with. He said that in a traffic stop under this law it will create a state offense and that -- he subsequently said that someone could be
prosecuted for this charge.

No. The arrest provisions in these laws do not create any offense. They merely describe protocols for police officers. They do not create an offense under which a person can be prosecuted.

As for President Abrams' point, she said traffic stops would provide opportunities for racial profiling. Well, we had traffic laws before these laws were passed. We will have traffic laws probably as long as cars exist. And you could argue that any law, any law, has an opportunity for racial profiling if the officer chooses to enforce it unequally. But 99.9 percent of the laws on the books in state law and in federal law do not have any provision, any additional provision, saying, hey, don't -- if you enforce this law in a way that is racially unequal, that enforcement will immediately collapse. These laws do. They have an extra level of protection saying you can't do that.

And so, you know, I think her point is an interesting one. But, ultimately, it is a point that gets back to the conduct of the officer. We have to train our officers and assume our law enforcement officers uphold the law as they are
CHAIRMAN CASTRO: The Chair recognizes Commissioner Kladney.

COMMISSIONER KLADNEY: Thank you. I'd like to thank the panel for their time this morning. Senator Beason, I'd like to know what happened to those two houses and losses that were in your remarks this morning before the panel.

MR. BEASON: Oh, yes, sir.

COMMISSIONER KLADNEY: But I have -- have a couple of questions. I'm not very good at speechmaking.

So, Senator -- Secretary Kobach, I'd like to ask you more about -- the first question is about the education. The determination in counting the immigration status of K-12 students, doesn't that really chill the Plyler case?

MR. KOBACH: I am -- I'm very glad you asked that question because I have some --

COMMISSIONER KLADNEY: Well, do you have an answer?

MR. KOBACH: Yeah, I do. I had some areas of testimony. I wanted to get to that in my original statement. And of course we all got sidetracked perhaps on the more interesting traffic
Yeah. The K-12 provision. What it says is that at the time of enrollment that the parents need to bring -- if they've got anything -- any indicator of a person's citizenship. And of course schools all across the country often ask the incoming student if you're a U.S. citizen or not. And it does not require them to bring anything. If they don't or can't, then they -- they simply count it according to the way the law ask for the reports on the school districts.

But the point here is the law states very clearly no person will be denied a K-12 education for free in the state of Alabama. The law says it on its face. And I think some groups were kind of irresponsible when they -- they characterized it as not allowing people to come to school. It is clear.

Let's go to Plyler. Plyler of course said in 1982 that you cannot deny a free public education to someone based on immigration status. But one of the interesting things Plyler said -- and this is why it's always so important to actually read the opinions -- when you go toward this last quarter of the Plyler decision, Plyler faults the
state of Texas for not collecting data before they started legislating in this area, this specific area.

And so Plyler implicitly says states are entitled to collect data. Because the state of Texas alleged that it was costing the school system a great deal of money to provide a free public education to unlawfully present aliens. And so the supreme court in Plyler actually invited indirectly states to collect data. And soon Alabama will have the greatest data than any other state in the union because once you know the population and the K-12 population, then you can start assessing, well, what is the true fiscal impact.

You heard Senator Beason say $200 million. That's an estimate. Everything's an estimate. The federal government -- they're all estimates. But once you start getting real numbers, then you can start making a better calculation of the fiscal impact. But really it's trying to put some light on the subject.

COMMISSIONER KLADNEY: What about making the determination? I mean, you're making a determination of status. That was not in Plyler.

MR. KOBACH: The --
COMMISSIONER KLADNEY: It may mean maintenance, but -- go ahead.

MR. KOBACH: The way the Alabama law is structured it doesn't require the school official to make a determination of status or taking any action on it. It merely ask them to collect information and report it.

Now, they collect the information. The information we'll say, okay, this person is a U.S. citizen indicating birth in the United States. This person, they provided us a green card indicating lawful permanent residency. This person provided us nothing. For the purposes of this reporting, we would assume that the person providing nothing was unlawfully present. We don't know that. We're just assuming it because we're just trying to collect numbers to give the state a better set of data.

So it doesn't -- the school official isn't saying I am interpreting this student's status. The school official is merely presenting -- forwarding the information along to the state of Alabama.

COMMISSIONER KLADNEY: Well, I'm just going according to your statement, sir, of determination.
MR. KOBACH: Well, actually --

COMMISSIONER KLANDNEY: And if that was

in error, that's fine.

MR. KOBACH: I'm sorry. Yeah. The

word "determination". So the state is determining

approximately how many people --

COMMISSIONER KLANDNEY: But they

speculate on what people -- they speculate on their

status?

MR. KOBACH: Because, you know, they

have to at that point, yeah.

COMMISSIONER KLANDNEY: I have a couple

of more questions, Mr. Chairman, since I didn't make

a speech to ask.

CHAIRMAN CASTRO: Okay.

COMMISSIONER KLANDNEY: There is no

requirement in this law for metrics in the stops in
determination whether someone is undocumented or

not; is that correct?

MR. KOBACH: Yeah. The reason for that

is traffic stops, you can't -- you can't get a sense

of the entire population while people are driving on

roads just by looking at their faces or breaking the

laws, whereas you can look at the entire population

of K-12 because you have the entire population
enrolled. And so it's a -- you can get the entire community of all students, as opposed to you can't really measure the entire community of all people driving right now in the state of Alabama.

COMMISSIONER KLANDNEY: Well, I would say that New York City policing define reasonable suspicion in three quarters of a million stops a year.

MR. KOBACH: Oh, there are a lot of them. But that's less than one percent of all the people driving.

COMMISSIONER KLANDNEY: And I'd also like to ask whether there's a penalty in here for an officer who actually does violate the law and does ethical profiling?

MR. KOBACH: Well, that officer -- I think Senator Beason wants to talk about that. But, you know, that officer would already be subject to multiple penalties under state law. And so the --

COMMISSIONER KLANDNEY: And he did this action.

MR. KOBACH: What's that?

COMMISSIONER KLANDNEY: And he potentially did this action.

MR. KOBACH: Yeah. And he participated
in this action as well. So it wasn't necessary to
add additional penalties to that. But the main
point for us in looking at drafting law is to make
sure that no prosecution is going to proceed.

This -- anything unlawful -- anything
going further after the officer has taken into
account skin color is contrary to the Alabama law,
and I think that's the important one.

COMMISSIONER Kladney: You had
something to say, Senator Beason?

MR. BEASON: I was just going to point
out that we do have provisions in state law dealing
with probable cause if you're not accurately
performing your job and your duties.

And I also wanted to say that the
Alabama -- and I conferred with Griffin and England.
We keep metrics over all traffic stops, racial, how
many people are stopped for different crimes. We
keep all those things because of other things that
have -- that have gone on historically. So in a few
years we will be able to research that.

COMMISSIONER Kladney: Thank you very
much.

CHAIRMAN CASTRO: Before I call on
Commissioner Achtenberg, I think in light of the
line of questioning from Mr. Kladney that I want to
clarify the record as it relates to the Plyler
issue.

I don't know, Secretary Kobach, if
you've seen the Dear Colleague letter from the United
States Department of Justice and the U.S. Department
of Education on May 6, 2011, relating to the issue.

And I'll read it in part. “Recently, we
have become aware of student enrollment practices
that may chill or discourage the participation, or
lead to the exclusion of students based on their or
their parents' or guardians' actual or perceived
citizenship or immigration status. These practices
contravene federal law.

As Plyler makes clear, the undocumented
or noncitizen status of a student (or his or her
parent or guardian) is irrelevant to that student's
entitlement to an elementary and secondary public
education. Moreover, districts may not request
information with the purpose or result of denying
access to public schools on the basis of race,
color, or national origin. While a district may
restrict attendance to district residents, inquiring
into students' citizenship or immigration status, or
that of their parents or guardians would not be
relevant to establishing residency within the
district."

And have you read this?

MR. KOBACH: I haven't seen portions of
that, nor did -- I would agree with much of what's
in the letter, except for the statement that it's
contrary to federal law. It's interesting that they
-- the justice department did not include any
challenge to the K-12 reporting provisions in their
lawsuit.

And if it was facially contrary to
federal law, it would have been an easy victory for
them. But it's not. And that letter has -- has
some inaccuracies and those other (inaudible).

CHAIRMAN CASTRO: Well, I move that
this letter be part of the record, and I think we'll
hear later this afternoon from some students who
actually left the school system as the result of
this letter. So I think that that covers this.

I will now recognize Commissioner
Achtenberg, and then afterwards Commissioner Heriot.

COMMISSIONER Achtenberg: Thank you,
Mr. Chairman. And thank you to the panelists for a
very informative presentation. My questions will be
directed to Representative England and Senator
Before I ask my question, however, I want to admit my own prejudice with regard to the topic of this hearing. Not only am I a first-generation American citizen, but my own father was -- crossed the border illegally into the United States. I'm very grateful to him for having done so at great risk to himself. He, ultimately, later was able -- by virtue of marrying my mother, who herself was a naturalized American citizen, he became an American citizen the days when that was possible.

So I am very interested in this topic and very sympathetic to the people who, with great courage, seek a better life for themselves and their children by coming to this land of great promise and great freedom, the United States.

Now, having admitted my prejudice, I'd like to give each of you two the opportunity to comment. Representative England, you have said in the past that you believe that restrictive laws create public mistrust in law enforcement, break up families and appeal to our lowest common denominator and unify people around intolerance and prejudice if I'm not misrepresenting your words.

Could you comment on what impact,
therefore, you believe these laws have had on
employment and unemployment, the attendance in the
public schools of Alabama and the impact on crime
reporting, if any, you believe there has been or
will be?

And if you would comment similarly,
Senator Abrams, on those three issues.

MR. ENGLAND: Thank you. As a member
of the legislature when these -- when these two
particular pieces of legislation, House Bill 56 and
House Bill 658 were introduced, we had public
hearings on them.

And to see the sentiment, the opinions,
and hear some of the remarks of our everyday Alabama
citizens who believed that the introduction of this
legislation allowed them to discuss pure racial
hated and animus and public discourse, to talk about
those people, clearly indicates to me that they felt
like the intention of the law was to create a
particular class of citizens that were, in effect,
denying them opportunity. Some of which these
individuals never saw an opportunity, but they have
a ready made victim or a ready suspect created by
the law.

And one of the things that I've seen
firsthand -- because, you know, while I'm not a
legal scholar or a professor or -- you know, I'm not
that. What I do everyday is prosecute cases. And
I've seen firsthand the effect that the law has had
on communities and individuals.

One of the things that House Bill 56
initially did was created a custodial arrest on
someone who didn't have a driver's license. And
interestingly enough, I had -- within months of the
enactment of the law, out of the 68 people that were
taken into custody, 45 were American citizens.
Forty of those American citizens were
African-American males. Interestingly enough,
somebody who had just obtained employment at
McDonald's lost that job because they were driving
to work and got arrested because they didn't have a
driver's license.

In effect, the law that was designed to
help people -- or create an environment where people
self-deported, that it would be just so
uncomfortable that you wouldn't want to live in
Alabama anymore, that was designed to identify
undocumented citizens, actually succeeded in
arresting more American citizens. And initially --
you talked about security and the effect of
protecting communities. Because of the law -- the effect law enforcement had that had a law enforcement relationship with our community.

And a particular telling story. You know, I'm from Tuscaloosa. And April 27th of last year we suffered a traumatic tornado event. It ravaged our city. It tore a mile and a half wide path through Tuscaloosa in different areas, five miles long. On April 28th, me and my family and some other people, we hit the streets immediately to give aid to those individuals who were suffering and who -- who had lost everything.

Four or five days into this recovery effort, we were made aware of large communities of Hispanic citizens that were afraid to come out of their homes to get aid because they felt like law enforcement would take that advantage, take them into custody and deport them. So we actually would go out to their homes, and we would discover when we arrived there Hispanic families leaving the trailers with trees on them with no power and no access to any -- any substance whatsoever.

When we approached those families, some would run. It didn't matter if there were Spanish speaking individuals with us. It didn't matter if
they were well-meaning or well-intended. Because
the law was in effect, they felt like the minute
they approached anyone from the federal government
or state government they were going to be taken into
custody.

Initially, we find in our communities
that, you know, when you create an environment that
suggests that upon contact reasonable suspicion
could exists because, again, the law enforcement
officer only has a limited amount of time to make
his determinations, that instead of being -- instead
of investigating the reason why you were approached
by law enforcement that you would turn into a
suspect and not be heard.

We find that after the law in the City
of Tuscaloosa individuals are even more reluctant in
Hispanic communities to approach our law enforcement
and report criminal activity. So, in essence, we
have actually created more insecurity for some of
our citizens because they're more ready-made victims
because they know now they're more -- or they're
less willing to go to law enforcement because they
feel like they'll become a suspect.

COMMISSIONER Achtenberg: Thank you
very much. Senator Abrams.
MS. ABRAMS: Thank you. I would like to respond, first of all, by stating that I did not -- correct the record that I did not say that this -- these laws mandate racial profiling. I said that they tend to lead to racial profiling. And as a Yale-trained lawyer, I think I understand the difference.

I would also point out that the stated purpose of this hearing is look at three issues, whether -- or four, although I focused on three. But the first and foremost being fostering information. Fostering information is not the same as intending. It's not the same as I demand it. Fostering information refers to creating an environment where information flourishes and where, unfortunately in my belief, has the -- at least the premiere of having the authority of law to mandate it. And this time I used the word mandate.

But by fostering discrimination, these laws create an environment that states that a certain portion of our population, irrespective of how they arrived here, are considered less than and they not entitled to civil rights that we as a nation hold as our highest goal and value. That is the trouble with these laws.
I represent a state that has high unemployment, that suffers from many of the say social policies that are common within Alabama. But my approach is different. I do not believe that you salvage one community by sacrificing another. And I think that is deeply unfortunate, and I will speak to that in the context of the African American unemployment rates.

African American unemployment is not caused by undocumented workers. If that were the case, then you would have had full employment of African Americans prior to these laws or immediately post-law. There is a complicated history that African Americans, especially African American men, are faced with when engaging the economy of the United States. And I would urge this body to undertake an investigation of that.

Undocumented workers tend to take the lowest income jobs, and certainly we should be concerned if our citizens find themselves to only have opportunities if they are employed in the lowest income jobs. Our citizens should be encouraged and should be afforded the opportunity to achieve any level of employment that they seek. And the fact is we scapegoat a community to justify our
ignoring a larger social impact that we have had on African Americans.

To the question of trading the economic issues that we face for civil rights issues, I would point to the fact that we are not only in Birmingham, Alabama -- and I did come here from Atlanta, Georgia -- but I refuse, as an African American who grew up in Mississippi, to trade my safety for my economy. And I dare state that we should not encourage any person in the United States to make such a trade.

It is historically accurate to state that in the United States we have traditionally used the status of a person to determine their value. We have done that both in our constitution, we have done it in our laws, and we do it in our daily behavior. That is not the high watermark for us as Americans. And I believe it is critical that we move away from that, especially in the 21st century.

Mr. Yaki referred earlier to the Chinese Exclusion Act, but that -- that was only one example. California had a raft of laws that tried their best to restrict access to people who were brought here specifically to provide work. It was in the 1970s when native Americans were finally
given certain rights that native Americans have
taken for granted, taken for granted for centuries.
The challenge with any law that states that your
race can be used as a premise, whether explicitly or
implicitly -- and I will -- I will credit Mr. Kobach
and Mr. Beason and Mr. Ramsey in Georgia who wrote
this law. These are the most carefully crafted
words to state that we don't mean what we're about
to do.

And that is the problem that I have
with these laws. These laws state that we want to
-- and certainly to the point of rational
maximization -- maximally total rationalization. It
is a rational approach to take. It is a very
rational approach to use the tools at your disposal
to create an environment that achieves goals that
you really want to state out loud and that you
quietly, secretly make in your (inaudible).

I do not speak to the intent of Mr.
Kobach or Mr. Beason, but I will speak to the
implications, and I will speak to effect. And the
effect is that within the state of Georgia, we have
Latino populations that are terrified. But more
than that, we have Somali populations. We have
Nigerian populations. We have Sudanese populations.
Because racial profiling is not limited to Latinos, nor is their immigration status.

Now, we have folks who were brought to Georgia by virtue of being refugees. As refugee population, there is an assumption that because you are allowed to be here that everyone's going to be happy about it, but that's not so. And what we have faced in Georgia is the chilling effect on people who are there lawfully on a refugee status who are also afraid because they do not have the sophistication of a Yale or a Harvard or in a certain law school here education.

They don't have the sophistication to understand that these laws don't apply to them. They get their news through the radio, through word of mouth and the worst being from telephone I have ever seen. And with that impact their ability to be

--

COMMISSIONER Achtenberg: Thank you.

MS. ABRAMS: To not suffer from discrimination, I think that has to be the goal of this Commission, and that has to be the goal of our investigation.

COMMISSIONER Achtenberg: Thank you.

CHAIRMAN CASTRO: The Chair will
recognize Commissioner Heriot. And after
Commissioner Heriot, I will ask that last question
of the panel.

COMMISSIONER HERIOT: Okay. Thank you
very much, Mr. Chairman. The chairman made a
determination that we do not have time for all
commissioners to make an opening statement. I'm
fine with that, Marty, this time, anyway, for this
particular issue.

But I did want to point out that I
welcome all the speakers that have come here today,
and it's not because of the Commission rules that we
have balanced panels. I would welcome all of you
even if we didn't have such -- such rules. I also
welcome the protesters were here earlier, the first
group of protesters, those that were quiet in what
they were doing. But I object very much to those
that interrupted the speakers earlier.

I personally have somewhat conflicting
views on immigration issues generally, but the one
issue that I'm not as conflicted about is the issue
of the rule of law and that it troubles me very much
that the first set of laws that immigrants could
come to this country see -- well, of course, there
are immigration laws. That's what they're familiar
with. And they become -- I am convinced and suspect that these laws are a joke.

It doesn't surprise me that the state of Alabama will object to that and will want to do something to make these laws work. I am politically incorrect enough to state that many immigrants come from countries where the rule of law is not as emphasized as it is here. So it's very troubling that someone who has that experience where they come from, come here where they hope that that's not the case. And I would like to know whether any of you on the panel have any comment on that issue.

The other question I would have -- and, again, I would welcome comments from all four of you -- is, you know, what we've been hearing from Ms. Abrams, for example, is that many immigrants in this country have misinterpreted the law. And I'm wondering whether they're reacting to law or the hyperrhetoric that we're hearing about the law. Isn't part of leadership going to immigrants and telling them, no, here is what the law actually requires? You're being misled. Isn't that what leaders like you should be doing? Any of the three.

MR. KOBACH: I'll stick -- begin by echoing what you said about the rule of law. I
mean, that is what drives me in this particular area, and I believe in my own personal view of what the United States saw, the United States saw a particular group of people -- it's not about a particular geography. It's about certain concepts. We are going to be defined by our ideals, and the rule of law is at the very core of them, right next to the U.S. Constitution, right next to the Bill of Rights, right next to the equality of all persons that we see in the Declaration of Independence.

And I would add further that the rule of law -- the absence of the rule of law is probably one of the greatest drivers of immigration in the United States. Because in some countries if you want to start your business, you have to pay off the local law enforcement before you can begin. You have to pay off the local gangs before you can keep your shop open because the rule of law is not -- well, place and property rights are not secure. But people know if they come to the United States, the rule of law will protect their activity.

And so to break down the rule of law, immigration is important. And, you know, just to add in something that Representative Abrams just said, she said the status of persons determines
their value under these laws. No, not at all. A
person -- in my view, a person -- every person has
equal dignity in the eyes of God. But what status
-- lawful status does determine is how the state
protects the person. If a person comes to this
country legally, they have certain rights that a
person does not have if they come to the country
illegally. And that's the way the rule of law
works.

If we sit here and say we're not going
to pay any attention to our immigration law anymore
and we're going to encourage our states to disregard
them, then the rule of law suffers. And I hope that
we all at least share that understanding, everybody
in this room.

MR. BEASON: I would like to address
the hyperrhetoric question. I really think that's
one of the challenges in our state. And I think if
more people would read the law, we would have fewer
problems.

When we first passed our legislation
two years ago, newspaper after newspaper published
reports saying the law did things that the law
simply did not do. And over time we've been able to
get some of that information out to the public and
it's calmed a lot of things down.

But we should be able to have an open

debate about what we disagree on, what we agree on.

But at least let's talk about exactly what the law

actually does and what the law actually says. But

hyperrhetoric has really been ramped up on this

issue. And, frankly, there's a number of groups who

make a lot of money and make a good living by

hyperrhetoric.

MR. ENGLAND: You mentioned two things

specifically, and one was the response of the

leadership to inform their constituency that -- the

truth necessarily about statute. But we also should

have responsibility to protect our constituency.

And one of things that was mentioned

here about the rule of law, the rule of law and the

constitution requires -- and it promises also -- to

not just documented citizens, but also to have equal

--

COMMISSIONER Achtenberg: Human being

citizens. That's the problem. An undocumented

immigrant is not a citizen.

MR. ENGLAND: But they are. The

Constitution of the United States -- well, for the

sake of discussion, we'll say person. But the
Fourteenth Amendment --

COMMISSIONER GAZIANO: There's a difference.

COMMISSIONER Achtenberg: No. You're seriously wrong, and that's the whole issue.

MR. ENGLAND: Okay. Well --

CHAIRMAN CASTRO: Don't interrupt him.

MR. ENGLAND: -- I'll grant you that.

We'll say person. Human. Human.

I think that properly frames the context of our discussion because the Fourteenth Amendment guarantees a human that is in the United States of America equal protection and due process under the law. Unequivocally.

So as a person who is required to protect his constituency, when I see that a law in effect can be used to skirt or get around some of the requirements that we've created for ourselves in order to victimize a particular segment of the population, it is also my responsibility as a leader to protect them as well.

So if they're misinformed about the law, yes, it is my responsibility to make sure that I change their perspective. But if I also see that that law could be used to victimize them, not just
-- not just undocumented humans, but also my Hispanic constituency that has seen an increase in the number of contacts they've had with law enforcement since the enactment of this law. Also, my African American constituency who saw a spike in the number of arrests because of the initial law. It is also my responsibility to protect them as well.

So, again, I understand. And one of the main things that I am -- that I live on everyday because I practice law and I prosecute is the rule of law. But if I see a law being created that creates different legal standards to make it easier to prosecute and incarcerate someone of another race or nationality or origin, that, in my opinion, is not allowed by the rule of law.

MS. ABRAMS: And just to -- and I will just be very brief. I think on the question of the rule of law, there are different rules around this table that (inaudible) the rule of law.

But I think to your point about those coming from other countries that do not respect the rule of law, they also come to this country with fear of law enforcement. And I think that was the question raised by this panel, about the policing.
The issue at hand is whether or not these laws diminish their right that they'll be accessing, the very rights they are afforded by virtue of being in this country. And if you come to this country with a fear of -- with a fear of law enforcement, there is a chilling effect on your willingness to engage law when you find it so that you then have people underreport crimes. You have people, irrespective of their illegal status, find themselves being victimized. And that should be -- I think that should be deeply disturbing to any person, that we find any person on our shores who felt that they should be the subject to victimization.

I think, secondly, the issue is -- going back to the question of status. I agree with Secretary Kobach. But the point of status is the question of does anyone deserve to be harmed because of their status. And I would say -- I would argue the answer to that is no. Your safety should not be diminished simply because you do not carry -- because you are not a U.S. citizen. Just as when I travel abroad, I expect that the countries that I travel to will value my safety in the same way.

Now, certainly there are certain
acknowledgements to which I should not be entitled if I have not abided by the rule of law. And I don't take exception to those things. But there are fundamental rights that we are afforded as humans when we stand in the state -- to stand in the states. And those rights should be protected, and that should be our highest and best intent.

And, lastly, I would say that certainly it was important for us to move away from oscillatizing and certainly educate our communities. But I think, as this panel demonstrates, there's a fundamental misunderstanding, not simply of the rule of law, what the says on its face, but law does not exists in a vacuum. Law exists through the implications and the impact and the implementation of those who are charged with doing so.

And that is where our challenge lies, and that's where our attention must continue to focus. Certainly it is important to us to be very clear about what the law says and does not say. It is equally important for us to be clear about what the law intends and what its impact should be. And I think that is the relevance of this Commission's investigation.

COMMISSIONER HERIOT: But I feel like
you're not answering my question.

CHAIRMAN CASTRO: Commissioner Heriot,

I am going to --

COMMISSIONER HERIOT: It has to be troubling to how an area of the law that is important to everyone, it's the first thing that the immigrants hear about, and it becomes a joke.

Alabama would not have been -- felt it necessary to pass such a law if they hadn't thought that the federal government was falling down on the job. Now, maybe we have the wrong immigration laws. Maybe we should have better immigration laws. I'm willing to sit down at the table with anybody that wants to talk about that. Maybe we need, you know, different laws. But we need laws that are --

CHAIRMAN CASTRO: Well, that is not a topic of today's discussion. This is very focused on what's going on here in Alabama, although I appreciate your -- your willingness to talk about that. And maybe we'll have another briefing in the future about the larger picture of comprehensive immigration reform.

We are running a little behind, but I do want to close this panel by asking the final question. Secretary Kobach, you indicate in your
remarks -- in your bio that you helped author SB 1070 and HB 56 here in Alabama. And you did make mention earlier to litigation of the ACLU involving the issue of discrimination that was not included in the Supreme Court. I don't know if you've had the opportunity to read the ACLU's brief in that case, but I want to ask you some questions regarding some of the statements in there.

And then we'll get to the issue of the legislative history of SB 1070 to try to indicate whether there was discriminatory intent. And based on Supreme Court precedent, they say that the plaintiffs need not show discriminatory motivation by every member, or by majority, of the decision-making body and statements made by the sponsor or author of a law carry particular weight in establishing legislative intent. And one of those authors, coauthors, sponsors was now Former Senator Pearce, and they cite some E-mails from him that are part of the record there.

And I want to ask you some questions about this. He said in these E-mails that are part of the record in this case, “I'm a racist because I don't want to be taxed to pay for a prison population comprised of mainly Hispanics, Latinos,
Mexicans or whatever else you wish to call them. I object to having to pay higher sales tax and property tax to build more schools for the illegitimate children of illegal aliens. I want to deny citizenship to all anchor babies born in this country pre-2006 and hereafter. I object to corporation and municipalities spending billions to translate everything in Spanish.” That's a E-mail from Senator Pearce dated December 14, 2006.

Furthermore, in another E-mail from Senator Pearce --

COMMISSIONER GAZIANO: Mr. Chairman, I really don't see --

CHAIRMAN CASTRO: I do see --

COMMISSIONER GAZIANO: No. I don't see the --

CHAIRMAN CASTRO: Don't interrupt me.

COMMISSIONER GAZIANO: I will interrupt you because I think this may be violating the rule.

But aside from that --

CHAIRMAN CASTRO: Sir --

COMMISSIONER GAZIANO: Just hear me out. I thought this briefing that you asked us to vote for was on the implications of the law. And this is very far afield of it.
CHAIRMAN CASTRO: Well, discriminatory intent of the law is at the field -- at the center of the field of this and at the center of the field of my question. So -- and this is all related to whether there is discriminatory intent by the authors --

COMMISSIONER GAZIANO: If you --

CHAIRMAN CASTRO: -- and there is a --

COMMISSIONER GAZIANO: If you provide the author who you are defaming right now --

CHAIRMAN CASTRO: I'm not defaming anybody.

COMMISSIONER GAZIANO: -- that you might --

CHAIRMAN CASTRO: These are statements in a public document, and I --

COMMISSIONER GAZIANO: It doesn't matter if you're reading. Defamation is not -- it amounts to defamation, sir. And you know that.

CHAIRMAN CASTRO: So let me continue.

COMMISSIONER GAZIANO: We can -- if we could go back to your opening statement, it is the effect of these laws. Now, I want Secretary Kobach, if he cares to, to answer your question.

But this is -- and this is your third
round of questioning when the rest of us are done
when we only had one round of questioning. I submit
this is improper.

CHAIRMAN CASTRO: Well, that's fine.
I'm the chairman. So I have the authority to do
this.

COMMISSIONER GAZIANO: No, you do not, sir.

CHAIRMAN CASTRO: To keep it limited,
let me just -- I'll stay with the first quote since
Commissioner Gaziano has taken up the additional
time.

Do you agree with that statement in
that E-mail, or do you disavow that statement?

MR. KOBACH: I have never heard that
statement before. As a careful attorney, I take
things in context. It sounds to me like the
statement begins with the sentence -- and for all I
know the statement could have been people call me a
racist because in their line of thinking I must be a
racist. I don't know. I never hard that, but that
was my thing as I listened to it.

I've seen peoples' statements being
taken out of context so that their opponents instead
of going on the merits can just call someone a
horrible name. You know, nothing has hurt me more in this whole debate than when people start pointing at someone and saying you're doing this because you're a racist, you're an atheist. I think it is so -- I mean, it hurts me because I'm not. And that also goes against me, and I -- it's very troubling.

CHAIRMAN CASTRO: I'm not saying you're a racist. I'm reading what's in this E-mail.

MR. KOBACH: Yeah, I know. Maybe so.

But you said --

CHAIRMAN CASTRO: And I'm asking you if that's a statement you would disavow.

MR. KOBACH: Well, I want to know if those statements -- it's not his statements.

CHAIRMAN CASTRO: He's the coauthor of the legislation. I just --

MR. KOBACH: It's not his statements.

COMMISSIONER KIRSANOW: It's almost like when did you stop beating your wife.

MR. KOBACH: Yeah. I kind of feel like that in that situation.

By let me just say this, Mr. Chairman.

If I had indication that a state legislator was coming to me for assistance had any racially biased motive, any ethically biased motive, I would refuse
to assist him or her. I would absolutely not -- I
wouldn't even -- it would be, no, sorry, we're not
talking anymore. That would be my reaction.

CHAIRMAN CASTRO: Okay.

MR. KOBACH: The argument that this --
you know, in all respects, it seems to come down to
this. When people run out an argument on the
substance, then they make ad hominem attacks. I don't
know. I just --

CHAIRMAN CASTRO: This was not an
ad hominem attack, sir. This was reading from a piece
of litigation that is in --

MR. KOBACH: I don't know what the
context of the statement. But if he says he's a
racist, I would disagree with that.

CHAIRMAN CASTRO: Well, my question
wasn't on his being a racist. It was related to the
focus on the Mexican and Hispanic community. But
I'll move that this brief be part of the record, and
we can look more closely as we prepare the report.

We will now thank all of you for coming
here today. We very much appreciate it. I know we
went a little longer than planned, but it was a very
interesting discussion.

We would now ask that members of panel
two would begin to move forward and take your seats.

Before we do, I will ask our attorney to come
forward and read the disclaimer paper.

I will first introduce our panel
members, and I will ask our counsel to make a
statement after that.

Our first panelist on panel two is
Tammy Besherse from South Carolina, the Appleseed
Legal Justice Center. Our second panelist is Chris
Chmielenski from NumbersUSA. Our third panelist is
Chuck Ellis, a councilman for City of Albertville,
Alabama. Our fourth panelist is William Lawrence,
principal of Foley Elementary School in Alabama.
Our fifth panelist is Steve Marshall, the District
Attorney for Marshall County, Alabama. And our
sixth panelist is Isabel Rubio, Executive Director
of Hispanic Interest Coalition of Alabama.

And at this point I would ask our
counsel to make our opening statement on the record,
please.

MS. ELHADY: Good morning to you-all.

My name is Yasmin. I am an attorney in the Office
of General Counsel of the U.S. Commission on Civil
Rights.

I just want to remind everyone present
that each panelist is speaking in his or her personal capacity or on behalf of the panelists' organization. The panelists' testimony and written statements are the individual's or the sponsored organization's opinions and positions. Each panelist is entitled to exercise his or her First Amendment right to freedom of speech. The testimony, statements and opinions do not reflect the position or view of the U.S. Commission on Civil Rights.

Also, I would like to remind, both the commissioners and the panelists, that they are subject to the laws of Alabama and of the United States, including the laws of defamation, libel and slander.

Thank you.

CHAIRMAN CASTRO: I will now ask the panelists to raise their right hand and to swear or affirm the information that you provide to us is true and accurate to best of your knowledge and belief.

(Whereupon, the panelists were sworn.)


MS. BESHERSE: Can you hear me?
CHAIRMAN CASTRO: Yes.

MS. BESHERSE: Thank you for having me here today. My name is Tammy Besherse, and I'm a staff attorney at South Carolina Appleseed Legal Justice Center.

South Carolina Appleseed is a nonprofit that fights for law and for South Carolinians to overcome social, economic, and legal injustice, and we are co-counsel against our current state immigration law. Our organization strives for South Carolinians -- everyone's family's safety, safety for all persons. However, we feel that due to current laws in our state, this is not the case.

We do understand that there is a right to be frustrated with the current failure and the current immigration system, but we believe the passage of Arizona laws and others in other states do more harm than good. The states do not afford the laws, and we don't address the real issues.

We have already seen issues in our state where we believe racial profiling has occurred to lawfully present immigrants and U.S. citizens. We had a case of a regular citizen of Puerto Rican descent who was held in jail for no driver's license. Even though he presented a U.S. military
ID, he was repeatedly told by local law enforcement that it must be fake and that he should go back to Mexico. This is becoming a common complaint that we receive in our office.

It is our contention that showing your papers by the laws can create an atmosphere against professionals color -- of color calls about moving to our region, and it can also cause humiliation for South Carolinians of color.

We currently have different anti-immigrant once it's in our state in our current state law. It does have an injunction in place. The papers police provision is the one currently. We do -- we did receive an E-mail ruling yesterday for the fourth circuit, but there is a partial remand to our federal district judge, and we do not have a hearing date yet.

At all of our hearings at the state house on our immigration law officers would be on the ground enforcing the law opposed at every hearing. Not at one hearing did we have an officer who would be responsible with enforcing the law come and say he wanted the task.

As an example, the former chief of the South Carolina Law Enforcement Division, which is
the highest law enforcement agency in South Carolina, indicated he worried about police budgets and manpower and lack of resources. He worried about an officer being put behind a desk and processing more paperwork than being out on the streets. He also pointed out in his testimony that it could prevent victims and witnesses from coming forward.

One sheriff, Sheriff Leon Lott, who wrote an affidavit against the lawsuit wrote in his affidavit that he personally believes the law prevents him from protecting all persons; that when you require officers to retain people on a stop and confirm their racial status, it interferes with his priority as a law enforcement officer. He stated he worried about the risk of lawsuits for enforcing the law too aggressively and for not enforcing it aggressively enough. He felt it undermines police officers' ability to be on the street preventing and deterring crime and deterring — and it deters community policing.

We know the law has made great strides in the Latino community, and he is one of the few officers in the state that has numerous officers dedicated to the Spanish-speaking community. And
he's -- that's one of his concerns.  

One of our other officers from the Department of Public Safety for Orangeburg, Wendell Davis, also cited cost resource concerns. But in addition, he made a point about living in a college town where he has numerous international students and professors that he knows that do not carry what he considered proper ID under the law.

And in his affidavit he stated -- his opinion was what would happen if they did not have proper ID, even though they are here legally? Will they feel harassed if they're stopped for something and immigration checks were performed on them? And perhaps most telling is his experience as a law enforcement officer. He stated in his affidavit he felt there was no way to train local police on this law without bringing in a person's appearance or manner of speaking.

So what we've seen at South Carolina Appleseed that we believe is directly attributable to these laws and ordinances. We have documentation of all of these things I'm about to talk about in our office or they are also in media reports.

Police -- state police have began confiscating valid documents of foreign nationals,
including passports or VISA stamps, and destroying them. This has made the headlines more than one time. We do not know if it's because state law enforcement officers are not trained clearly on all immigration documents that can be out there, or if there is a deeper cause. We do not know. But there are private lawsuits pending against these organizations.

More than one police officer has pled guilty to taking bribes from Latino drivers who do not have licenses. One officer in fact committed the offense for over four years and admitted this in open court. We have to wonder how many other officers are doing this that we don't know about and how many other people have been impacted and how can we prove it if now people are afraid of the police.

Perhaps one of the most egregious things we've seen in our state that did make headlines were the officers in Horry County who initially received an E-mail from a Myrtle Beach police officer about a game called border patrol. The officer from Myrtle Beach had sent this E-mail to the officers in Horry County, and there was proof that they were playing this game on computers. The goal of border patrol is to kill as many Mexicans as
possible before they come into the United States. And people received the most points for killing pregnant women through -- in the game were termed leaders.

How is it possible that officers who do condone these type of activities will not profile? How is it possible that officers who do have this type of attitude will protect all persons and will not particularly go after people of color and will help victims if this, for those officers, is their attitude? And why would victims of crime, any witness come forward when that is publicly known?

CHAIRMAN CASTRO: Your time is up. We need to have an opportunity --

MS. BESHERSE: Thank you.

CHAIRMAN CASTRO: Mr. Chmielenski. I'm sorry I mispronounced your name.

MR. CHMIELENSKI: That's all right. My name is Chris Chmielenski. I am the director of education and activism for NumbersUSA Education and Research Foundation. Thank you for having me here today.

NumbersUSA Education and Research Foundation, with our one million members from all 50 states was founded on the simple idea that the
numbers should be the most important factor in determining federal immigration policy. Our organization firmly believes that race and ethnicity should play no role in the establishment of immigration policy and in the enforcement thereof. We were founded in 1996 to carry out recommendations set forth by the national commission chaired by civil rights champion Barbara Jordan, and we continue to advocate those recommendations today. Failure of the federal government to carry out these recommendations has forced states like Alabama, Arizona and many more to take a more active role in immigration enforcement. NumbersUSA affirms two specific actions that have gained the most traction in state legislatures and they were two recommendations of that Commission. They are, number one, workplace verification; and, number two, verification of eligibility for nonemergency public benefits. Both are key to immigration enforcement and are free of any questions about discrimination since they apply to everyone.

During her 1994 senate testimony, Barbara Jordan identified the root cause of most illegal immigration to the United States. She said, "Employment continues to be the principal magnet
attracting illegal aliens to this country."

Eighteen years after that statement, it's still true.

The Pew Hispanic Center estimates that eight million illegal aliens are in the U.S. workforce, and earlier this year the center reported that migration from Mexico has dropped to net zero, citing the weak U.S. economy as the primary reason. The federal government and the states have begun to recognize that the most effective and just way to discourage illegal immigration is by eliminating the jobs magnet.

In her 1994 testimony, Ms. Jordan envisioned a system that would use existing government data to check the eligibility of all workers in the United States. This recommendation led Congress to create the basic pilot program through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, that would later evolve in today's internet based E-Verify system.

E-Verify is extremely popular among employers that use it. And as of March 21st, 2012, 353,000 employers at 900,000 work sites nationwide are actively using the system to ensure a legal workforce.
Right here in Alabama HB 56 requires all businesses to use E-Verify, but the first state to pass legislation was Arizona. Both Arizona and Alabama took their legal authority from Title 8, U.S. Code, Section 1324(h)(2), which allow the states to use their inherent authority over business licensing to require businesses to comply with the E-Verify mandate in order to continue doing business in the state.

The law was immediately challenged by the United States Chamber of Commerce, but was upheld by the supreme court on May 26, 2011. To this date, 16 states have passed some form of mandatory E-Verify legislation. Plus, Florida Governor Rick Scott signed an executive order requiring state contractors and state agencies to use E-Verify, and Minnesota and Rhode Island have had executive orders in place under past governorships.

E-Verify is simple, and it is easy to use. Within three days after hire, an employer using E-Verify asks the employee to produce the identity and work authorization documents required by the I-9 Form that all employers are required to keep on file. The employer enters the employee's name, birth date and Social Security number along with the
alien number or other immigration number for noncitizens from the I-9 Form into the internet-based system that either confirms the employee's work eligibility immediately or returns a tentative nonconfirmation with instructions for the employee to resolve the issue.

Employers that don't use E-Verify must make their own determination as to the legitimacy of the documents provided by the employee. Employers that accept as legitimate documents that are in fact fraudulent may be held liable for hiring illegal aliens. Employers that ask for additional documents because they suspect fraud may be sued for discrimination.

E-Verify, on the other hand, is a discrimination-free system that puts the burden of liability of a final decision on the shoulders of government data instead of the business owner or the human resource representative.

During her 1994 senate testimony, Ms. Jordan said, "The Commission believes that adopting a more secure, simpler verification process for determining work authorization -- and, in particular, one where employers will no longer have to make any determination as to immigration status
-- is the best defense against discrimination."

In addition to E-Verify, there is another nondiscriminatory way that states can take immigration enforcement action, denying nonemergency public benefits to those who are not eligible for them. This provision was included in Alabama's HB 56 as well as omnibus legislation passed in Georgia, Indiana and South Carolina. Stand-alone bills have also been approved in dozens of other states.

This action was another recommendation of the Barbara Jordan commission. During her 1994 senate testimony, Ms. Jordan, said "Aliens should not have entered the U.S. unlawfully; and if they did, should not receive public-funded aid except in very unusual circumstances."

The program works the same way that E-Verify works except that access is limited to federal, state and local benefits providers and state driver's license agencies. It does not indicate whether the individual being verified is in the country legally or not. It simply tells the requesting agency whether the individual is eligible for public benefits or for a driver's license. Again, it's a nondiscriminatory approach, protects the civil rights of all individuals, but at
the same time prevents illegal aliens from accessing public funds that typically comprise a significant portion of state budgets.

NumbersUSA applauds Alabama, Arizona and other states that have recognized the effect of these simple, nondiscriminatory methods of ensuring that illegal aliens are not able to take jobs or public benefits that unemployed Americans desperately need.

By mandating the use of E-Verify and the SAVE program, these states have done what the federal government should have done decades ago, put the needs of their citizens and lawful residents first.

NumbersUSA also is a longtime proponent of increased cooperation between federal, state and local law enforcement when it comes to the enforcement of immigration laws. Our expertise in this area comes from a federal perspective. For example, we have fought hard in Congress to maintain and strengthen the 287(g) program. While we do not purport to be experts on how such cooperation should work from a state or local perspective, NumbersUSA firmly agreed with Barbara Jordan when she told congress, "An effective
procedure for prompt and permanent removal of aliens ordered deported is an essential part of a credible immigration policy. If people unauthorized to enter believe that they can remain indefinitely once having reached the interior of the nation, they may be more likely to come."

NumbersUSA will continue to actively support states and their legal rights to implement both E-Verify programs and the SAVE program as recommended by the Barbara Jordan commission. We believe these actions, combined with fair and humane interior enforcement, discourage future illegal immigration and reduce the current illegal alien population. We believe that immigration enforcement at the federal, state and local levels can, and must be, accomplished in ways that protect civil rights and avoid discrimination.

Thank you.

CHAIRMAN CASTRO: Mr. Ellis, please, proceed.

MR. ELLIS: I'm from Albertville, Alabama. Thank you for having me.

Wednesday, June 2nd, 1999, started no different than any other summer day in Albertville, Alabama. People went to work, the kids slept-in
because school was out for summer vacation, and
Marlin Strange went to work at 6:00 a.m. at
Industrial Management Holders in Albertville. He
ate lunch like he's done done so many times before
at Alder Springs Grocery, a store owned by his
sister-in-law and her husband.

But as the day progressed, it took a
tragic turn that left a 29-year-old a widow, a
five-year-old girl and a ten-year-old boy without a
dad. Because just after 4:00 p.m. on June 2nd,
Marlin Strange was killed. He was murdered, shot in
cold blood as he went to his truck, his life taken
in a burst of gunfire that lasted, according to
witnesses, no more than five to seven seconds.

In less than ten seconds, and with the
last words he'd ever speak, "Please, man, don't
shoot me", Marlin was dead. Marlin Keith Strange
was dead at the age of 38, dead in the prime of his
life and dead at the hands of an illegal alien.

On June 2nd, 1999, Juan Carlos Martinez
killed Marlin Strange with nine shots from a nine
millimeter. But he did more than kill a man, a
husband, a father. He threw a young family into
disarray. A security blanket was removed to never
be replaced.
My name is Chuck Ellis. I'm an Albertville City Councilman for the City of Albertville, Alabama, and Marlin Keith Strange was my brother-in-law. I tell you this brief story not for sympathy, but to bring you a different side of the fight, the side of the fight that enlightens people about the affects of what can happen if and when we allow people to come to our home without proper verification of who they are, from where they came and what type of citizen they were in the place from which they came.

These things are important. There are reasons the immigration process takes 12 to 18 months. Medical checks are done numerous times to ensure healthy, non-disease carrying individuals are not allowed to enter. We neither want, nor need, to reintroduce diseases that were eradicated years ago. Background checks are conducted to make sure that criminals they don't need to open gateway to access our communities.

If Juan Carlos Martinez would have gone through the Nogales point-of-entry, his criminal record in Mexico would have prevented him from entering the U.S. He had killed before in Mexico, and was also suspected of a death in Florida.
I will not sit here and tell you that my brother-in-law would be alive today if Juan Carlos Martinez had not made illegal entry into the United States, but I will say that his death probably would not have been at the hands of Juan Carlos Martinez.

You see, ladies and gentlemen, on many occasions as an Alabama State Trooper, I've had the unfortunate task of telling people the news of the passing of a loved one, a job that's the toughest thing that I've ever had to do. But on June 2nd, when I told my baby sister about her husband's death, it trumped any and all death notifications I've done. Words of civility sent a young mother to walking the floor at 2:00 in the morning, 3:00 in the morning, sobbing and crying wondering why, why did her country failed her husband, why did her country fail her children.

As a citizen of this state, an Albertville city councilman, I will not sit here and tell you that Alabama's immigration reform law is perfect. Nor will I say that it will solve all the problems that have arisen because of the influx of illegal aliens over the last 20 years. But the intent of the law is good law, long overdue and when
enforced, will make a difference.

I can honestly say, based on my opinion, that diligent measures are taken to ensure that people are treated fairly, with compassion and aren't abused. It really bothers me to hear the characterization of what some people think is going to happen with no real proof that any wrongdoing has ever occurred.

Alabama's immigration reform law has specifically outlined what will not be accepted, and the community leaders of the state have embraced that. To make unfounded claims that peoples' rights are being violated because laws are being enforced is not just ridiculous, but it's also an uneducated conclusion as to the intent of the law.

If the laws being enforced have been challenged and upheld by every court who has heard the case regarding the law and law enforcement officers are properly enforcing the laws based upon case law and training, then people need to get to a point to stop breaking the law or, two, change the rules. Plain and simple.

I would be remiss if I failed to list some of the derivatives of Alabama's immigration reform law. In Marshall County, the county in which
Albertville is located, unemployment plummeted after House Bill 56 became law (10.1 percent in June 2011, down to 7.4 percent in June 2012).

The City of Albertville has seen a partial resurgence in its sales tax revenue, beginning in October and continuing through present. When sales tax revenue averages a monthly increase of nine percent from the previous year's totals, things have changed. More people are buying local, and people that are regaining employment are spending their new income where they live, and that makes a difference.

Should the upswing be attributed totally to the law? Probably not. But you can't tell me that the law hasn't made a difference.

A district judge in Marshall County stated that cases in his court involving Hispanics have decreased over 60 percent since the passage of the law. Car crashes within the City of Albertville involving a party leaving the scene of an accident have decreased tremendously to what they used to be. What was once a every two to three-day occurrence now may occur one to two times per month.

Am I telling you that all these crashes involved a Hispanic that might be an illegal alien?
I am not. I'm just stating that they decreased.

The largest store in Albertville, the largest grocery store, showed a more than 50 percent decrease in their transactions for the social assistance WIC program. Something has changed.

Before House Bill 56 became law, daily transactions averaged 160 per day. Now, it's 70. Once again, I'm not saying that the decrease is totally attributable to illegal aliens, but simply that there has been a decrease.

Immediately after the passage, many opponents stated that the law would be a huge detractor to businesses and new retailers looking to locate in Alabama. Many even stated that automobile makers like Mercedes, Honda and Toyota would sidestep Alabama for more favorable states.

However, on April 20th, just over nine months after House Bill 56 became law, a groundbreaking ceremony was held in Albertville. It involved a first-tier automobile parts provider for Honda Motor Company in Lincoln, Alabama. Industry came, jobs followed and the epicenter for the immigration battle in the state of Alabama became the beneficiary of jobs for her citizens.

In closing, let me say this about the
civility of the rule of law. The rule of law was implemented to ensure equal and fair treatment and punishment across the board. The American citizenry want, and deserve for that matter, to be treated fairly. When they break the laws, our rules, they expect to be punished. And when others -- when others fail to follow the rules, they expect those persons to be punished just as they expect to be punished.

Plain and simply put, people want fairness. Nonuniformity in punishment leads to distrust in leaders and that creates the pure essence of society's sense of equality.

Once again, Mr. Chairman, I thank y'all for having me.

CHAIRMAN CASTRO: Doctor Lawrence, please, proceed.

MR. LAWRENCE: First of all, I've learned a lot today. I'm Bill Lawrence, Principal of Foley Elementary School, Foley, Alabama.

First, Mr. Ellis, I'm so sorry for your loss. There's clearly a lot of different views and points to this issue of immigration, but I can only speak about what's happened at Foley Elementary School. I'm not an expert in anything else except
-- and not even an expert at my school, but I can share what happened at our school.

Foley Elementary is in Foley, Alabama, and I'm here today on behalf my students and their families that have been severely affected by the passing and implementation of House Bill 56.

When I first became principal of Foley Elementary School 15 years ago, we had only five Latino children. Today, there are more than 240 children representing over 14 countries. Ninety-six percent -- and yesterday my registrar told me it's higher than that -- of the children were born in the United States. Many of them were born and raised in City of Foley. For many years we have worked together, gone to church together, celebrated and suffered together. They have become part of the family.

Last night we had a meet the teacher night. It was a joy to see white children and black children and Hispanic children come together after they've been apart for all summer and loving one another. It was a thrill. It truly is a family. Our school is a trusted and safe place, and we've always welcomed all children and their families without questioning immigration status. After all,
we were hired to educate and love children, not to serve as immigration officers.

The U.S. Supreme Court saw it that way, too. Thirty years ago the higher court ruled in Plyler versus Doe that all children should have equal access to public education, regardless of their citizenship or immigration status. It was a decision that was protecting not just our children, but our American values.

And when the law went into effect on September the 29th, the scene at my school was chaos. Many of our Latino children were arriving off of our buses terrified. As we tried to dry tears and find out what was wrong, we learned that they were worried that their parents would be picked up and be deported without ever getting a chance to say goodbye or make arrangements to see them again. That's the rumor that went out throughout the community. Whether that be rumor or reality, that's the effect that happened.

That day as my students came running off the buses in tears, it became clear to me that these children, American-born, Alabama citizens, were facing the brunt of the law. As parents came rushing to the school to withdraw their children, I
was ashamed of what had been done. We had 19 families that came to withdraw their children that day. The next day 39 more Hispanic children were withdrawn. During the first nine days after House Bill 56 went into effect, we had 134 daily absences in our school alone. A total of 64 students withdrew from our school and moved out of state.

Throughout this school year, we had children come to their teachers and counselors in tears fearful. Two kindergarten children were terrified that because they had gotten in trouble in class the immigration officer was going to come and deport their family.

But, amazingly, all but eight of the students have returned to our school. Our parents shared horror stories that caused them to return. One family explained that their American-born children were not allowed to attend schools in Mexico when they tried to go back because the children do not speak Spanish. Another family explained that they had seen drug cartel beheadings of teachers in the schools in which their children were going to be enrolled.

And other families had left in such a rush from fear of being separated from their
children that they wandered from city to city
without work or support from anyone. So they
returned because they all wanted to come home, to
their school where their children were safe, loved
and learning in spite of the fear of possibly being
deported.

When the law was crafted, I was not
privy to discussions that led to House Bill 56. I
would hope that our legislators have told the truth
and did not realize some of the, in their own words,
"unintended consequences" of their actions that we
immediately saw. This law separates families. It
separates mothers and fathers from their children.
It hurts children that are citizens of the United
States who are terrified to live in their own
country.

Yet, even after given the opportunity
to correct these "unintended consequences", these
consequences remain. It only leads me to believe
that if there is an unwillingness to change those
"unintended consequences", allow parents to be able to
get their children as they are being deported, then
this is an "intended consequence" to cause fear in
the hearts of mothers and fathers, sons and
daughters.
Now, as a lifelong conservative republican, I have been surprised when I have been referred to as a bleeding heart liberal when speaking out for our families. I've heard others in rebuttal to me shout we should throw the children back over the fence. These American-born Alabama citizens are already on the right side of the fence. They deserve the benefits, rights and privileges all American children deserve. Every child, regardless of immigration status, deserves to be able to attend school free from fear, a freedom we have long fought to achieve.

Thank you.

CHAIRMAN CASTRO: Mr. Marshall, you may proceed.

MR. MARSHALL: Mr. Chairman and the Commission, welcome to Alabama. If you stay longer today, Commissioner Yaki, and y'all are going to eat fried chicken, I'll just say Roll Tide for you. Thank you for the opportunity to be here today.

At the outset, let me acknowledge that in my current position I'm neither a policymaker nor a drafter of legislation. I'm not in academia or someone who is involved in any research in the field of immigration, nor am I an expert in the field of
federal immigration.

But I appear before you today with a perspective none of my fellow panelists can offer. I represent the men and women of law enforcement of whom I have had the privilege to serve for more than a decade as District Attorney in Marshall County. In that capacity, I can speak from personal experience on the issues faced by public safety professionals regarding the amount of illegal aliens and why many like me support the effort to provide state law for (inaudible).

Let me make one point perfectly clear at the outset. During my tenure as district attorney, I have never worked with any law enforcement officers that I suspected of targeting a person based on race, color or national origin. For anyone to assume law enforcement is inclined to violate civil rights of any individual, is contrary to my prior experience. It's offensive to me as someone who knows these men and women who everyday to try to keep our community safe.

Can we ever legislate away the possibility of any civil rights violations through -- in the enforcement of criminal laws? No. Yet, by the same token, it is, likewise, improper to
presume that civil rights violations can be widespread just because the law has been enacted.

As the Commission deliberates its findings, I believe it is essential that you consider the reasons for enacting the state legislation in determining whether the law can be used for unlawful purposes.

In our community, law enforcement has been forced to address numerous and extensive issues relating to individuals who lack proper documentation to reside in this country. And the lack of a federal response has caused many at those levels to seek assistance from the state policymakers.

In my community the most significant criminal problem involves the sale and possession of methamphetamine. Almost without exception, law enforcement has determined that the distribution of methamphetamine is spearheaded by individuals who are in our country illegally; and, further, who are obtaining methamphetamine that is manufactured in Mexico. When we are successful in making arrests and obtaining convictions, these ringleaders are simply replaced by undocumented individuals to continue their criminal enterprise.
While I do not contend that the methamphetamine problem in our community is a direct result of the presence of illegal immigrants, there is no doubt that the distribution structure is led by an illegal population and access to methamphetamine is greatly enhanced by their presence.

Of paramount concern to me, however, being the instances of violent crime. On most occasions of violence caused by undocumented aliens, the victims, likewise, is living in this country illegally.

One particular case illustrates my frustration in this area. Alberto Trejos, a twice deported, prior convicted drug trafficker crossed the border from Mexico into Arizona and was detained upon illegal reentry into this country. Federal officials refused to prosecute him. Mr. Trejos ended up in Dekalb County, Alabama where he established a drug trafficking organization.

Later Mr. Trejos, along with another undocumented alien, visited my county and subsequently shot, dismembered, burned and buried an undocumented victim who we believe is his cousin. After having the victim to be removed from his
grave, body part by body part and later argued the
background of his murder, I was dismayed that this
human was allowed to return to this country, never
prosecuted and stayed without deportation.

In addition, we have seen situations
where undocumented aliens were victimized by those
who pretend to be their champions. In one case a
woman who claimed to serve as an advocate and a
spokesperson in a Hispanic community allegedly stole
money from documented individuals who sought legal
services from the attorney with whom she worked. We
simply hoped at the time of trial we were going to
be able find our victims to bring them categorically
to justice.

I could offer story after story of why
local law enforcement is frustrated by federal
immigration policy. Suffice it to say that local
law enforcement's issues on the presence of illegal
immigrants is based on real cases and directly
related to keeping communities safe and nothing
more.

Since the passage of the Alabama law
and related amendments, I am unaware of any reports
of local law enforcement in my community of
complaints of racial or ethnic profiling. In
addition, I have not been personally informed of any investigation by any other agency, state or federal, of complaints of racial or ethnic profiling in my community.

Much discussion has been generated locally and nationally related to the Alabama provision, which allow the lawful stop, detention or arrest if reasonable suspicion exists where an individual's immigration status can be checked.

As we've all discussed before, Alabama's law specifically prohibits the law enforcement officer to consider race, color or national origin in implementing the requirements of the act other than what is allowed by the U.S. and Alabama Constitutions. Because of the clear declaration that consideration of race, color or national origin is improper and unlawful, the question becomes will law enforcement ignore this admonition and act contrary to both federal and state law.

Based upon my over a decade of experience with local law enforcement, I have no doubt that the law will be fair and will be constitutionally enforced.

In the public debate relating to this
provision, it is rarely stated in Alabama law merely
restates authority previously given to state and
local law enforcement by Congress. For many years,
federal law has encouraged communication with state
and local law enforcement regarding the immigration
status of any individual and requires federal
officials to respond to such inquiries. Moreover,
this communication and verification has never in my
tenure resulted in any claims of racial or ethnic
profiling.

Alabama law simply codifies what
federal law has already authorized and encouraged in
this area. Prior history by local law enforcement
with the authority previously given by federal law,
demonstrates that the civil rights concerns of many
have been overstated and overblown. There is simply
no reason to believe that law enforcement in my
community will act any differently than has been the
practice prior to the adoption of the new law.

State and local law enforcement are at
the front lines in the battle to keep our
communities safe. To that end, daily these
professionals have contact with many individuals
from traffic stops to misdemeanor and felony
arrests. By a stated policy to inquire as to
immigration status of certain individuals in defined circumstances, Alabama law encourages information exchange among state and federal officials and enhances the ability to identify those who are subject to deportation.

Thank you for the invitation to be here.

CHAIRMAN CASTRO: Thank you. Ms. Rubio, you may proceed.

MS. RUBIO: Good morning. I'd like to thank the Commission for the opportunity to continue to expose the negative impact HB 56 has had on the immigrant community in Alabama. And I'd also like to just -- a point of reference, let you know that HICA is the named plaintiff in the civil rights lawsuit because of the state.

HICA was established in 1999 as the Hispanic community in our state began to grow, commissioned to facilitate social, civic and economic integration of immigrants in their new home. We worked to do this to accomplish our mission in many ways in helping folks become citizens, teaching English, small business development, financial literacy, assistance to victims of domestic violence and basic information
HICA also helps to facilitate in relation with a host community through educational workshops and seminars. We envision a fully engaged, empowered and integrated Hispanic community in Alabama that seize all the possibilities and has every opportunity to achieve their goals and aspirations.

HB 56 and HB 658 have essentially created nearly insurmountable barriers for that vision for thousands of Hispanics and other immigrants who call Alabama home. At the same time, lawmakers have ignited terror within and among immigrant communities and have rekindled the embers of hate and discrimination Alabama has tried to extinguish for decades.

When the Alabama Legislature passed HB 56 in June of 2011, hundreds of frightened families descended upon our office in an effort to understand the impact of the law on their lives. Now, to put that context in 2010, we served a little over 5,200 families or about 18,000 individuals. In 2011, that number nearly doubled as we saw over 9,100 families and close to 33,000 people in our office.

The law comprised of more than 70 pages
sets a racist tone from the beginning in its definitions in Section 3, Number (6), under employment of states, in part, that employment shall not include casual domestic labor performed in a household on behalf of the occupant of the household or the relationship between a contractor and the employees of the subcontractor performing work for the contractor. So it's okay to have your Latino maid, gardener or handyman, but further immigration is now prohibited by law.

HB 56 further perpetuates a climate of oppression and hostility as its explicitly stated purpose is to make Alabama so inhospitable that immigrants will self-deport. The harshest anti-immigrant elimination impacts every aspect of an immigrant's life from running a home, registering their children in school, getting utilities, reporting crimes and registering to vote.

The Alabama Legislature has chomped on the civil rights of not just immigrants in Alabama, but also citizens and legal permanent residents. Most immigrant families redefine the definition of what it means to be a blended family with members all across the immigration spectrum. For those families who may be undocumented, it is highly
likely that they will children who were born in the state and family members who are somewhere in the immigration process.

HB 56 has created a climate so hostile that families have left the state taking with them their U.S. citizen children and, therefore, future voters. This is one of the many family veiled examples of the impact of civil rights on everyone.

Section 12, commonly known as a paper police section, requires law enforcement to overstep their most basic duties of protecting and serving communities by turning them into immigration agents. Most immigrants in Alabama don't look like us. This fact pushes the door wide open for racial profiling of people who look like they aren't from here. This section further pushes immigrants into hiding when they have been victims of crime, such as domestic violence and rape.

HICA provides comprehensive services to victims of domestic violence. While we have had our calls to our domestic violence hotline plummet, we have had the unfortunate opportunity and just this week had the opportunity to work with a teen-ager who was 15 who had been raped. In a previous experience there was nothing we can do to get a mom
to report the crime to police because she was too afraid that law enforcement would become more interested in the immigration issue than the pursuit of the perpetrator in the serious crime.

Fortunately, for the child this week who was raped at the hands of her stepfather, because she lived in the City of Birmingham and Birmingham has rejected HB 56, she moved forward to seek a protection order and to pursue criminal charges against her stepfather.

Through Section 28, the school section, even though it's been enjoined, we have just recently through this year learned that students are still being asked for documentation that's not necessary for them to provide. And, you know, the Plyler versus Doe, we know where that stands. But, you know, nothing can stop the bullying that children face in school. We know that in some schools in the state children have been separated in classrooms by who's documented and who's not.

And, finally, probably the most egregious story I've heard was of a chaplain at the hospital who refused to bury a Hispanic man because he thought the he was undocumented. Now, this man didn't have any resources, his family didn't live
here and they didn't have resources to come. So
this man and his roommate lay in the county morgue
until it was actually finally determined that this
man was a U.S. citizen. So at that point he was
buried. But HB 56 has fueled this sort of intense
hate and ill-tolerance in our community.

These are just a few of the examples of
the devastating effects HB 56 has had on Alabama,
maybe not as high profile as the car and auto
executives who have come into contact with the law.
But, nonetheless, it's turned the lives of families
upside down. HB 56 is wrong. Immigrants make up a
real small percentage of the people in Alabama,
about one percent of eight million people. The cost
has diverted resources away from many more important
issues like education, health care and Medicaid.

If these aren't compelling enough
reasons for us to look at what we're doing here, we
should look at healing cost and the -- the cost to
our already tarnished and battered image. HB 56
ties Alabama to our not too distant dark past of Jim
Crow and racially motivated violence.

We call Alabama the beautiful, but how
can we if it's a state that promotes racist,
intolerant and myopic laws like HB 56. We have an
opportunity to embrace all people in our community.

Thank you for the opportunity.

CHAIRMAN CASTRO: I'll begin the questioning. Mr. Marshall, you indicated that you had not had any complaints come forward regarding racial profiling, but Ms. Rubio just gave a couple of examples of individuals who have suffered criminal activity, extreme criminal activity, and being fearful of coming forward with the understanding that the police could very well take some immigration action.

Do you acknowledge that that might at least be happening in some of the instances where your officers are not receiving -- or your agencies are not receiving complaints? Could there be some correlation, a fearful correlation, that these folks have to come forward to complain to you?

MR. MARSHALL: Let me, I guess, speak from the stance before the bill happened. One of the things that we have found historically is within the community, and particularly the Latino communities where it's present in my community, there was a reluctance to come forward to begin with.

Whether it was a distrust of law
enforcement generated historically from what may
have happened previously or for reasons that were
unknown to us, we have not seen that community come
forward and report, especially in a matter of
property. Violent crimes may be more so, but less
in the area of property crimes.

One of the things is misunderstood
about the law -- and I guess I can speak to this
because I specifically asked for this information to
be included -- is within the current Alabama law it
provides a specific exemption for a victim, or
family members of victims, related to the
application of a (inaudible). To the extent that
they come forward during the course of that criminal
prosecution, no action can be taken against them.

That arose from a particular case that
I had where an illegal individual that came from
Guatemala was stabbed by his roommate who was also
an undocumented alien. We had a roomful in that
house of approximately 11 witnesses, all who were
here in this country illegally. And within a month
by the time we got to our preliminary hearing all of
those individuals were gone.

That was long before the adoption of
this new act in Alabama. These individuals simply
didn't want to have contact with law enforcement generally. And what we hoped through the provision to be included in the act was to be able to tell victims and witnesses that we want to provide justice and accountability, but we need you to come forward.

CHAIRMAN CASTRO: So it sounds like they were fearful before the problem and they're fearful now. How have you communicated --

COMMISSIONER GAZIANO: No. That's --

CHAIRMAN CASTRO: How have you communicated --

COMMISSIONER GAZIANO: That's not what I heard his answer --

CHAIRMAN CASTRO: How have you communicated this position that you've taken in terms of trying to reduce the fear to the community so that they aren't fearful?

MR. MARSHALL: I think -- one of the issues that you're addressing with this hearing is community policing. And I think in a broad context one of the frustrations that exist with community policing as a whole is identifying the people within the community itself so that we can (inaudible) the individuals that can make out -- that can make that
contact and that information known within the
community itself.

What we can simply do and what we
attempted to do is to identify those that we know
have significant contact with the Hispanic
community, make them aware of those provisions and
try to encourage them to come forward especially for
us.

Ms. Rubio's organization would be very
helpful to us in the area of domestic violence to
make them aware of these opportunities for them if
they are in a situation of domestic violence. But,
frankly, even in that area, it's going to be very
difficult. That was true before the act was passed,
and it's also been true since.

CHAIRMAN CASTRO: Thank you, Mr.

COMMISSIONER KIRSANOW: Thank you, Mr.
Chairman. I have two questions. Mr. Chmielenski
talked about E-Verify. Is there anybody on the
panel that oppose the mandatory usage E-Verify by
the employers?

(No responses.)

COMMISSIONER KIRSANOW: Okay. The
second question. I should probably be more
specific. Mr. Marshall, you were talking about the fact that you haven't seen any increase in reports relating to racial profiling.

Are you aware of any either investigations -- strike that. Are you aware of an increase in any complaints under Sections 1981 or 1993 or adjudications against any political entity in the state of Alabama based on any kind of allegation of racial profiling?

MR. MARSHALL: Commissioner, I can only speak to Marshall County itself. A 1983 action or a complaint would not necessarily be directed to our agency, even though we typically work in conjunction with federal officials regarding investigation.

For example, we prosecuted a local police officer who was engaging in trading sex for release or reduction of charges. That was a joint investigation with state and local officials. We would typically be notified if in fact there were those type of allegations.

I work closely with Ms. Vance, a U.S. attorney here. I serve on her law enforcement committee. And thus far, we have not been informed personally of any of those type of allegations or complaints in my community.
COMMISSIONER KIRSANOW: Thank you. It was just an observation. I was just struck by what this panel and the previous panel -- going to certain statements made by Mr. Lawrence and Ms. Rubio that -- what strikes me about this is the staggering misperceptions between two and miscommunication going to Commissioner Heriot was saying.

It seems to me there's a fundamental failure of communicating what's in the bill that raises great concern and hysteria that seems to stifle or chill the rights of individuals to come forth to law enforcement and actually talk about things that are occurring or complain about potential actions that are contrary to what's contained in the bill.

CHAIRMAN CASTRO: The Chair will now recognize Commissioner Achtenberg, followed by Commissioner Gaziano and Commissioner Yaki.

COMMISSIONER Achtenberg: I would like to ask Ms. Rubio if she would share with the panel information -- was there any information adduced at the legislative hearings related to the rationale for exempting household workers as well as, you said, household construction workers, handy people
or that kind of thing?

I mean, what on earth was the alleged rationale for making such a striking exemption in terms of the definition of employment under the ordinance?

MR. RUBIO: Thank you, commissioner.

I'm going to keep my personal thoughts and opinions on that to myself.

How this actually came out was that the bill came down very quickly in its final form, and so there was not the opportunity for people to attend a public hearing to discuss this. And it's my understanding that we weren't made aware of that piece of the definitions until after the law had already, you know, come out of the legislature.

COMMISSIONER Achtenberg: So we have no idea what the legislature, in its infinite wisdom, was thinking when it created those two specific exemptions?

MS. RUBIO: I'd be happy to share my personal opinion with you.

COMMISSIONER Achtenberg: No. So there was no -- there was no public rationale offered for these two exemptions?

MS. RUBIO: No.
COMMISSIONER Achtenberg: The impact on employment or the impact on unemployment?

MS. RUBIO: No, not that -- not that I'm aware of.

COMMISSIONER Achtenberg: And with regard to your personal opinion, I'd be interested given that you work with an affected community on a daily basis. I would be -- I would wonder what is your own personal opinion in that regard.

MS. RUBIO: Well, you know, household help, maids, nannies and gardeners and handymen around the house are very important to the one percent in Alabama. And so it would -- it would appear to me that this was a way to protect keeping the status quo for people who -- you know, for people that can afford that.

CHAIRMAN CASTRO: The Chair recognizes Commissioner Gaziano. We need to get over to Commissioner Heriot. And then I'll take her spot.

Okay.

COMMISSIONER HERIOT: It just seems to me that the word hate gets tossed around entirely too often in this debate. You know, we have a legitimate debate going on about immigration policy. And I hear all of you, and I think everyone here has
made some good points.

But I think the issue that Commissioner Achtenberg is talking about is an excellent example of people not making an effort to think about this from the other side of the debate. You know, when I hear about domestic, you know, housekeeping services being exempted, it is perfectly obvious to me why it was exempted. You know, the thought here is to increase employment rates generally, not to decrease them.

And when the law places some responsibility on the part of the employer to do some checking, to jump through some hoops. The problem is, you know, for employers of a full-time employee, you know, that's not going to be a big deal for them to comply with that law. That's not going to really affect how many people they hire.

But if you tell a homeowner who might want to hire somebody to do minor work, not full-time, part-time work, and you tell them you're going to have to jump through some hoops, it's going to hurt everybody. The homeowner is just not going to hire. That's what's going to happen.

And it is so glaringly obvious that that is the sort of motivation that legislators
would have for exempting that kind of law. I'm really kind of shocked that this would be discussed in this manner. This is not a question of hate. This is a question of legitimate debate about immigration policy.

If any of you would like to comment on that, I would love to here it.

MR. ELLIS: You know, based upon my statement there's been people that say that I try to put a personal side to it and I've got a personal vendetta. It has nothing to do with that.

You know, my daily job is public safety, and I don't have anybody. And somebody can sit here and they can characterize every one of us as whatever they want to. They could call me the pope. I mean, it wouldn't matter the slightest what you say about me, calling people names. But those people wouldn't know that hate is one of those words that distracts (inaudible) people, especially in these parts of the country.

With the last name Ellis, I mean, how can I not sit here and say that I'm a strong proponent of immigration when my own forefathers came here through Ellis Island? And it excites me whenever people do it the proper way. When people
say, hey, I want that American dream.

You know, Tuesday morning I'll be in
Atlanta at 7:00 o'clock in the morning, 7:00 a.m.
I've got to get up, work the day before, and I go to
Atlanta at 7:00 a.m. I'm going to meet a young man
there, and his name is Sonny Patel. Sonny's from
India. Sunny has been in the United States since he
was 12. He's now 26. And Sonny and I became good
friends as I worked my daily job. And he talks to
me. And we got to talking about him migrating to
the United States with his mom and dad. On July the
17th, his dad became a nationalized citizen.
Tuesday morning he'll become a nationalized citizen,
and I'm going to be his sponsor.

I don't hate people. I believe in the
rule of law. It excites me to know Sonny Patel is
going to be doing it. Whenever he gets his license
renewed in December, it will no longer say foreign
national driver's license across the top of it. It
will say the state of Alabama, and that excites me.

CHAIRMAN CASTRO: Ms. Rubio.

MS. RUBIO: Thank you, Commissioner for
your comments. Two quick points. It's my
recolletion that over the past 18 to 20 years,
cabinet positions in government positions that have, you know, on background checks found that they didn't do what's required by having, you know, their employees complete an I-9. So we know that not all people -- you know, if they're hiring nannies or domestic help, go through that process.

The other response I would like to make is in relation to --

COMMISSIONER HERIOT: Well, I'm not talking about to be -- confirming them. People don't want go to through that process. They're not going to hire. People are going to have to comply with the law. If they're told they have to jump through all these hoops, then they're just not going to hire. That's not good for anybody.

CHAIRMAN CASTRO: Commissioner, would you let her finish her response, though, please?

MS. RUBIO: So my second point was to the point of hate. I don't remember if it was 2008 or 2007, but there was a call-in to a radio talk show, a radio station here in Alabama, where we were -- the conversation was around immigration and illegal immigration.

And the radio talk show host said, well, you know, what do you think we should do about
all of these illegals in our community? And the
caller said, well, let's just shoot them all. And
so a week or two after that, there was a militia
group -- I'm not sure if it was in Blount County;
it's generally to the northeast of here -- where
they found a small group of people who were
stockpiling weapons with the intent to use them on
the illegal community.

So I just want to remind everyone that
hate is alive and well. You'll hear later from the
Southern Poverty Law Center, and they do a lot of
work on tracking hate groups. And we just are
concerned that anything that promotes a climate of
discrimination, inequality and hate is wrong, not
just for Alabama but for our country.

COMMISSIONER HERIOT: Well, I'm glad
you brought up the Southern Poverty Law Center
because they have been very promiscuous in how they
identify hate groups. And day before yesterday --

CHAIRMAN CASTRO: Well, you can ask

that of panel three.

COMMISSIONER HERIOT: -- we had a

problem of someone shooting in Washington, D.C. at
the Family Research Council, a perfectly innocent
organization --
CHAIRMAN CASTRO: Commissioner --

COMMISSIONER HERIOT: -- that has been designated by the Southern Poverty Law Center as a hate group. So there are two sides to this issue. If we stop talking about hate and instead started talking immigration policy and what would be the best policy that we can come up with, I think we'd be a lot better off.

CHAIRMAN CASTRO: Commissioner Yaki.

COMMISSIONER YAKI: Mr. Chairman, I'm not going to ask a question. I just wanted to respond to her statement that there is hate. And let's just get it out now rather than a later time in -- later on in the day, which is that she is referring to the executive director of the Family Research Council in Washington, D.C., a conservative think tank. I can say that without describing it as anything -- with any pejorative description. The executive director was blaming the Southern Poverty Law Center for identifying it as a hate group, and somehow that triggered that individual who went -- took a gun to its place of business.

And I am just going to say this in response to that, is when -- Bill O'Reilly was
branding George Tiller of being a killer in Kansas before he was shot by someone who had ill motives.

There was no -- there was no similar advance issued by the Family Research Center. In fact, they gave Bill O'Reilly an award for it as it relates that terrible man.

CHAIRMAN CASTRO: The Chair recognizes Commissioner Kladney.

COMMISSIONER KLADNEY: Thank you. Mr. Ellis, I'd like to extend our condolences for your sister's loss.

MR. ELLIS: Thank you, sir.

COMMISSIONER KLADNEY: And my other question is for Mr. Marshall. In your county do you keep any statistics on how many people have been stopped and how many were U.S. citizens, how many were not? And if so, what are they?

MR. MARSHALL: The short answer is no. The structure of the Alabama system is traffic violations are handled both at the municipal level and the cities. The only cases we see are actually handled by the sheriff's department.

So we wouldn't have any particular data that would tell us one way or the other if there been any change before or after the act was passed.
COMMISSIONER KLADNEY: Oh, okay. Then I'm asking about after the act. It's just -- you know, somebody testified in the last panel that 60 people were stopped, 45 were brought in and checked with the system. Forty-five were American citizens or something like that.

MR. MARSHALL: Representative England is actually a municipal prosecutor for the City of Tuscaloosa.

One thing the Commission should be aware of is the provision of the Alabama law prior to when those individuals that were brought in. Basically, it said if no valid driver's license, we're taking you in for a check. That's now been changed, and that no longer exists.

So there was no -- no determination for the officer other than that somebody didn't have a license. Then I was obligated to be able to bring them to the magistrate. That law has now changed, but we still don't have any data one way or the other. It's just not kept where we can supply you with the impact of the law before and after in that area.

COMMISSIONER KLADNEY: So then you have no -- no plans to keep that data?
MR. MARSHALL: We're not -- the court system is -- the person that actually keeps that data itself or the institute that would keep that data -- one thing that we do track, and I'll give you an example -- and I talked about that -- methamphetamine for us. The trafficking of methamphetamine in Alabama means you have 28 grams of methamphetamine or more. Over 80 percent of our methamphetamine trafficking charges are for individuals who are undocumented in this country.

COMMISSIONER Kladney: How many did you say? I'm sorry.

MR. MARSHALL: Over 80 percent of those cases.

COMMISSIONER Kladney: Thank you.

CHAIRMAN CASTRO: The Chair recognizes Commissioner Gaziano.

COMMISSIONER GAZIANO: Thank you. And thank you all.

This panel is held to elucidate some of the arguable cost and benefits of this law, some of the potential benefits, reducing methamphetamine, preventing those who have a criminal history in our communities, unemployment. Now, some of the -- one of the most interesting, though potential, costs is
the one I want to focus on, and that is the arguable
tendency to increase racial profiling by police.

And so I want to begin by thanking
groups like the Hispanic Interest Coalition and the
Appleseed Legal Justice Center who are going to try
-- who are going to continue to ferret out the
corruption. And whether I'll agree with -- likely
agree with the merits of everything, I think that's
a terribly important role. For example, you know,
if police officers are destroying immigration
documents, there is a problem with fraud, those are
fraudulent documents, those are mistakes, those are
intentionally bad.

But here's -- here's the question that
I wanted to pose. As Secretary Kobach explained,
and is absolutely true pursuant to the supreme
court, the cops are allowed to ask any of these
questions, were allowed to stop upon probable --
reasonable suspicion. And so the number of bad,
corrupt officers who may want to engage in racial
profiling could have done this before or after the
law.

And the argument, it seems to me, on
the sort of cost side is that this law will tend to
give cover for the bad cops. They will have a freer
hand at doing these -- playing horrible video games
and engaging in racial profiling. And I hear that
it might slightly increase, to be honest, corruption
among the honest cops because they'll be tempted to
take bribes. Now, I'm not sure. I think that
that's very unlikely. Or to me that seems possible.
Good cops are now going to be tempted by a new law
like this.

And I suppose I want to direct my
question primarily to District Attorney Marshall.
The other side of this law seems, to me, to bring
light on the issue of potential racial profiling.
Senator Beason did say -- by the way, maybe the data
will be collected by these wonderful lawsuits that
are being brought by your -- some of your colleagues
on the panel. Maybe it --

But at the minimum, it seems to me that
there is a greater effort and emphasis on providing
guidance and training to police officers on what is
acceptable procedures. This law almost requires it
because it mandates that, to ask certain questions
in certain instances.

So even with regard to this arguable
negative, isn't it at least possible, or in your
view likely -- that's what I'm asking you -- that
this will lead to better training post-enactment of HB 56 and a reduction in racial profiling?

MR. MARSHALL: Let's say it better lead to better training. I think that is essential for the effective implementation of this act. One of the issues that has existed is because of the litigation going on, our attorney general's office has been reluctant to be able provide a great deal of guidance. They may be looking at the supreme court to see what they're going to do. Currently Alabama's case is in the Eleventh Circuit, and we're awaiting the results from that case. There has already been one round of training that has taken place.

One thing -- and I will disagree with what Commissioner Yaki had talked about earlier regarding the factors of reasonable suspicion. That training has been going on at the federal level for many years. There is no reason to suspect that my local officers cannot apply those same factors and receive that training and enforce the law in the same way federal officials have been doing for many years.

I can only speak from personal experience of what we've seen thus far, and that is
such reports have not come in. In my community prior to becoming district attorney, both state and federal officials actively investigated a case in which civil rights violations occurred against the Hispanic community involving law enforcement. Those officers went to federal prison. We will continue to be diligent. We will continue to enforce those violations when we see them. And there's no difference in that approach before the act and pursuant to the act now.

CHAIRMAN CASTRO: I have a comment by a panelist.

MR. ELLIS: Yes, sir. I just want to say that I think that law enforcement itself, there's no doubt in my mind that it's helped tremendously.

The supreme court case you refer to is possibly 2005, Menendez versus the State of Arizona, and the rule that allows for our police officer to actually ask for identification of persons in the vehicle.

And unless you've stood at that vehicle of a 12-year-old, whatever type vehicle, at 2:30, 3:00 o'clock in the morning on a dark country road, it's really hard to characterize what you would do
and what you wouldn't do because in a split second
an officer has an opportunity to make life and death
decisions that can possibly save his life and save
the peoples' lives that he's talking to. Whenever a
person comes over to a vehicle with a knife, that
officer has that split second to determine that.

There's no doubt in my mind that the
training has been better, that it's gotten a lot
better. You know, there's always more that we can
do. But the characterization that I spoke about in
my statement that things are happening just because
laws are being enforced is, in my opinion, the
difference.

I understand what Ms. Rubio was saying
in her statement. Some of the things she stated,
she stated specific facts about cases that have been
involved. And those are things that I'll have to go
look at. It's just like district attorney, Mr.
Marshall, said, folks who break the law, whether
it's a police or whomever, and it's a jailable
offense, they need to go to jail.

CHAIRMAN CASTRO: I have a question
that I want to direct to three panelists. Ms.
Rubio, you mentioned in your earlier remarks about
some bullying situations. And our Commission did a
very important statutory enforcement report last year on bullying based on national origin, race, disability, religion, sexual orientation.

And I was hoping that perhaps you, Ms. Rubio, Ms. Besherse from a South Carolina perspective, and of course you, Doctor Lawrence, could expand on any additional knowledge you have about immigrant children being bullied as a result of either the laws in the past or the atmosphere created by them.

And Mr. Lawrence, when you answer, if you could also elaborate a little bit on what happened to those eight families that didn't come back? And have you talked to some of your fellow colleague principals elsewhere, and are they seeing a similar -- do they see similar situations of what you saw?

MS. RUBIO: You know, I don't recall specific situations, quite frankly, other than the one that I mentioned before, which stands out so individually in my mind at the school in north Alabama, that children were separated in classrooms and so forth because of their documentation status. But I would also --

CHAIRMAN CASTRO: And the school did
that, the officials in the school separated them?

MS. RUBIO: Yes. The principal.

Documented, not documented, or U.S. citizen, not
U.S. citizen, yes.

COMMISSIONER HERIOT: What school is
that?

MS. RUBIO: I don't recall the exact
school district, but it was in north Alabama. What
I will say is that just generally -- I mean, we hear
over and over again the stories from school children
who have lost their friends because they were in the
exodus of people that left. And it's very difficult
for children to learn in an environment that is so
stressful and so full of fear.

But I'd refer to Mr. Lawrence and Ms.
Besherse about other specific examples they might
like to share.

CHAIRMAN CASTRO: Ms. Besherse you can
go, and then Doctor Lawrence.

MS. BESHERSE: We do receive complaints
from families, particularly children, about being
bullied by other classmates, particularly other
classmates calling them what we would consider
derogatory names, accusing all of them of being
Mexican when they're not, accusing all of them of
not being citizens.

And, unfortunately, what we find is when it happens, it's out of the presence of the teachers. It's out of the presence of the principal. It's out of the presence, in our cases, where a person in authority will see it. We try to work with those students to encourage them, based on local school policy, maybe to come forward, go through proper administration procedures and then to contact us and let us know what is happening.

School is starting back. Obviously, we expect those situations to go up. We may end up with something to go forward on, but at this point in time we don't.

CHAIRMAN CASTRO: Do you keep records of those --

MS. BESHERSE: We keep records on the calls, what the issue is, and then we have -- typically, we have a community organizer that -- she follows up with everyone to find out what's happening, what's going on.

And once we -- if we start getting those complaints again -- we got those toward the end of year, unfortunately, when school was getting out. But if we start getting those now that school
is getting back in, we will definitely follow-up.

CHAIRMAN CASTRO: Thank you. Doctor Lawrence.

MR. LAWRENCE: Well, our school is pre-K through fourth grade. And so we don't have -- we have bullying, but it has nothing to do with race or immigration. This is -- the bullying that's going on is out of the community, has been our experience.

And we have -- I've heard reports of things going above us. But the things going in the communities are -- with the boys and girls from our school, they're waiting until after school to do those type things. And the parents come to us, but our authority is limited to what we can do in the trailer parks. It is going on, but very little in our school.

In regards to the question about the eight, we don't know where they went. But they never -- we never -- I don't have a clue. I can tell you that since the law went into effect back in September, we have not had one child to register at our school that has had a birth certificate, United States certificate, immunization and a Social Security card.
We believe that there are children in our children that are out there, and we can't find them. And we've had that general discussion once with principals, that there -- we feel like there are children out there who are not coming to school. We can't prove that. We just believe it. I can say we haven't had a single child enroll without those credentials.

CHAIRMAN CASTRO: And prior to the law you did?

MR. LAWRENCE: Yes.

CHAIRMAN CASTRO: Are there any other questions from commissioners?

(No response.)

CHAIRMAN CASTRO: Seeing none, I think we can conclude this panel. Once again, thank you so much for being here and sharing this information with us. We appreciate it.

We will now take a break and return here at exactly 1:00 o'clock for the commencement of panel three. Thank you.

(Whereupon, the proceedings were recessed from approximately 12:20 p.m. to approximately 1:00 p.m., after which the following proceedings were had and done:)
CHAIRMAN CASTRO: Calling the afternoon session to order. It is now 1:04 p.m. And prior to the beginning the third panel of the day, I would like to have our counsel from the Office Of General Counsel come forward and provide the disclaimer.

MS. EISEMANN: Good afternoon. I am Vanessa Eisemann, an attorney in the office of the general counsel of the U.S. Commission on Civil Rights.

I want to remind everyone present that each panelist is speaking in his or her own personal capacity or on behalf of the panelists' organization. The panelists' testimony and written statements are the individual's or the sponsored organization's opinions and positions. Each panelist is entitled to exercise his or her First Amendment right to freedom of speech. The testimony, statements and opinions do not reflect the position or view of the U.S. Commission on Civil Rights or the United States Government.

I would also like to remind, both the commissioners and the panelists, that they are subject to the laws of Alabama and the United States, including the laws of defamation, libel, and
slander.

Thank you.

CHAIRMAN CASTRO: Thank you. I believe many of you were here this morning. But for those of you who weren't, let me just quickly remind you or let you know that you will have seven minutes each to make your remarks.

So you will be timed using this the traffic light here. Green, of course, you move forward. When it turns yellow, you've got two minutes and you can start wrapping up. When it turns red, I will have to interrupt you. Thereafter, we will open it for up questions.

So let me briefly introduce the panelists in the order in which they will speak.

Our first panelist is Doris Marie Provine, Professor at Arizona State University. Our second panelist, who is here somewhere because I saw her today, this morning, Carol Swain, Professor at Vanderbilt University. When she arrives she'll take that seat. And she's on her way. The third panelist is Mark Krikorian, director, Center for Immigration Studies. Our fourth panelist is Michele Waslin, the American Immigration Council. And our fifth panelist is Dan Stein, President of the Federation for American
Immigration Reform. Our sixth panelist is Victor Viramontes from the Mexican American Legal Defense and Educational Fund. And our seventh panelist is Mary Bauer with the Southern Poverty Law Center.

So what I'd like for each of you to do is raise your right hand so I can swear you in. I will now ask you to swear or affirm that the information you are about to provide is true and correct to the best of your knowledge, information and belief.

(Whereupon, the panelists were sworn.)

CHAIRMAN CASTRO: Thank you. Ms. Provine, please, proceed.

MS. PROVINE: Thank you very much. I'm glad to be here.

I'm going to focus today on civil rights in particular. And the -- two of the questions on the floor that you've presented us: Is there danger of increased racial profiling with police, with state laws like SB 1070 and Alabama's 1372? And what is the impact on public safety and community policing? And I'm going to talk from the point of view of evidence that we have from Arizona and from a national survey that three colleagues and I have conducted.
I see Arizona as really a test case for the consideration that is going on today. We have had a human smuggling law since 2005. We have had an employer sanctions law since 2008 in Arizona. And we've had an overactive sheriff with 287(g) authority named Joe Arpaio. He and his deputies have succeeded in getting 45,000 deportations initiated from that office. So what—can we learn from this? Your concern is particularly with the impact on citizens and legal permanent residence of these kinds of state laws.

What we know from studies that have been done is that Latinos in the state of Arizona are four to nine times more frequently stopped than non-Latinos, and they're stopped for longer periods of time in traffic incidents. We also know that our state has had racially profiled Latino immigrants. That's a finding by the Department of Justice, and they've also found abuses in our jail of Latinos for not speaking English or just for being Latino.

The study that I'm a part of as a principal investigator is an NSF-funded study, but these are my opinions, not the National Science Foundation's. We have found that -- what we did was we interviewed police chiefs in large cities, small
cities and sheriffs across the nation. So this is not an Arizona study. This is a national study, and we've had over a 50 percent response rate with each of those groups.

What we find is that police look at this whole issue somewhat differently than the communities in which they work. Police do not see this issue of enforcing immigration law as simple and straightforward as their publics do. The police also are more concerned about the issue of rights violation than the general public. So they have a somewhat more professional attitude.

One of the things that we discovered that's concerning that I think the Commission should think about is that we found that over half of police departments have no written policy about what to do in encounters with people they suspect might be without legal right to stay. Over half are not trained for anything like this. So there's no policy and/or training in over half of the departments. The chiefs say that they lack sufficient people in our personnel with foreign language training. So there are going to be communication issues as well.

Another thing our study found is that
police departments and sheriffs departments have a very strong commitment to community policing. We asked them a lot of specific questions about patrols and community meetings and things like that. They scored very high on that issue.

Our studies also have involved case studies of a few individual places. We examined this issue of community policing versus the attrition versus the enforcement approach that Arizona has now taken. There is actually kind of a face on each of these. Sheriff Arpaio is the attrition person -- the attrition through enforcement representative and the police chief in Mesa, Chief Gascon represents the community policing perspective.

And there were -- there was nearly a shootout in Mesa when the two of them came into conflict. These two forces converged on each. What happened was the sheriff decided to raid at midnight a local library and public buildings to see if any of the custodians might have been undocumented, and he neglected to tell the police chief of that jurisdiction that he was coming. So that -- you can just kind of imagine the situation.

This whole issue of community policing
being endangered by this attrition through enforcement approach, of course, has been discussed on the national level by police chiefs. In their own statements, they are opposed to being involved in immigration enforcement for that very reason.

What I heard today in sitting through this hearing, which has been very interesting, is a fundamental conflict between law on the books with all of the disclaimers that it involves and the law in action with all the discretion it involves. And I think Representative Stacey Abrams was right on point when she said it's a luxury if we judge law by its disclaimers rather than by what it does in action.

Arizona has prohibited racial profiling for many years. It's not as if it's not against the law in Arizona. And we don't tolerate legally on the books pretextual stops in order to achieve other ends. We also have an open courthouse door for all of these violations. But, we, nevertheless have a terrible record of abuses here. The same thing is going to be true when Section 2(b) is in effect, which it isn't yet of course. So we're going on the basis of other evidence here.
I think if we looked just more broadly at the history of racial profiling, we see that when there's no behavioral indicator that would tell the police it's time to step in, that is, this is a person that you should be concerned with; when that is lacking, that's a real opening for racial profiling and for pretextual stops. And we know that. That's from academic studies on driving while black. Someone mentioned on the Commission here today the situation in New York City where this past year there were 680 stops of people for -- maybe being suspicious, 80 percent of whom were Black or Latino. And all these were not productive.

And I think, you know, to kind of say what is this really about, the way I see it -- I don't really want to raise the race as an issue directly. I want to raise the issue of discretion, unguided discretion. And the fact that when we're driving, everybody has done something wrong. You know, we're all violators. We change lanes improperly or have not had our license properly renewed or we have a cracked windshield. Municipal ordinances is another area where the law covers lots of ground.

And so what we have is a situation that
we can anticipate will endanger civil rights. And the impact on Latinos is clear.

My bottom line -- because I'm running out of time here -- is that ordinary people are not lawyers, police aren't perfect, and the stakes are very, very high on the issue of deportation. It's a terrible situation.

Thank you.

CHAIRMAN CASTRO: Thank you, Ms. Provine. Ms. Swain, please, proceed.

MS. SWAIN: Good afternoon. Thank you for inviting me to participate in this grouping. I see myself as speaking on behalf of the millions of Americans who constitute the "We The People" in the preamble of the constitution. And I see these immigration laws as a manifestation of the "We The People" standing up to take responsibility for the sake of the nation.

Since 2007, over 2,000 laws and regulations pertaining to some aspect of immigration have been introduced or passed by state or federal or local government. This is known as federalism. Federalism refers to shared power between sovereign states and the national government. It gets its
authority from our constitution. States are at a disadvantage when they encounter an administration that fails to adequately enforce the laws of the land. I contend that the Arizona and Alabama laws, and many of the laws passed around the country, are a legitimate response to the failure of the U.S. Government to take responsibility in this important area. The rule of law is essential for civilized nations. This morning we witnessed a disruptive, staged outburst by illegal aliens who infringed on the rights of the rest of us to peaceably assemble. The rule of law is what separates civilized nations from oppressive regimes like the ones that many of the illegal aliens fled. The rule of law embodies the idea that nations need predictable and enforceable rules and regulations. No one is above the law, and domestic threats. Sovereign nations are defined by specific geographical boundaries. Political appointees like this Commission take an oath to uphold the laws of the land against foreign and domestic threats. The President, members of Congress and political appointees like this Commission take an oath to uphold the laws of the land against foreign and domestic threats. Sovereign nations are defined by specific geographical boundaries. Political
appointees and elected officials, again, they take
the oath to uphold the laws of the land. They
should not be governed by the emotionalism. They
should be looking at what benefits the "We the
People". Their first responsibilities should be to
American citizens.

The failure to enforce immigration laws
in America is harmful to citizens as well as
noncitizens, and in particular the immigrants,
millions of immigrants if not most of them, that
come here and the ones that try to follow our laws.
And I know many people with permanent residence that
came here, and they have great difficulty getting
themselves heard because all of the resources are
being devoted to people who come here illegally.

It has created an environment where
people who profess here vocally point that the
legality for daring law enforcement officials to do
something about it. In some states sanctuary
cities become crime-ridden because of the lack of
policing. Non-enforcement of the laws is not the
solution to America's immigration nightmare.
Instead, we must organize and insist that Congress
take immediate action to address all aspects of the
problem.
Until that happens, people who are in this country illegally, in my opinion, should be required to register their presence, and they should be detained whenever they're disruptive. If I were the Czar and made all the rules, I would have gotten all of the information on those people that disrupted this hearing, and they would have to check in. They would -- you would have had those people on record. After all, they are uninvited guests in a sovereign nation that has laws that govern entry and exit. It is an insult to every American when their protest actions include open defiance of our national laws.

Until the federal government takes responsibility for the problem, good governance with our state and local officials, we need to do whatever is necessary to protect the welfare of the citizens.

Thank you.

CHAIRMAN CASTRO: Thank you. Now, it's on record that I'm a Czar. Mr. Krikorian.

MR. KRIKORIAN: Thank you, Mr. Chairman, and thanks for inviting me to speak at this -- before this Commission.

Any discussion of the immigration issue
should start with an observation by Father Theodore Hesburgh, who was a member of this very body for 15 years and was Chairman of the U.S. Commission on Civil Rights until he was dismissed by President Nixon in 1972. Father Hesburgh was later selected by President Carter to be chairman of a select commission on immigration and refugee policy, many of whose recommendations were incorporated into the 1986 law.

And this was the basis of Father Hesburgh's approach to immigration: "Close the back door of illegal immigration so as to keep open the front door of legal immigration." Now, how wide that front door should be opened and what criteria to use to select people we let in, I would say is a question of political debate. But the imperative of closing the back door is not open for debate.

Whatever our immigration law, it must be enforced for the rule of law and for national sovereignty to have any meaning whatsoever. State and local cooperation with federal immigration authorities is an essential part of keeping that back door closed. In fact, the enforcement of federal immigration law is not possible without the cooperation of the 700,000 state and local, tribal
and other law enforcement officers serving as force multipliers for federal authorities.

There's no dispute that states have the authority to do this as even the Obama administration's brief in the Arizona lawsuit acknowledged. Even before Section 2(b) was enacted -- that's SB 1070 -- state and local officers have state-law authority to inquire of DHS about a suspect's unlawful status and otherwise cooperate with federal immigration authorities. The question before this body is whether such laws which are fully legitimate for states to pass raise civil right concerns.

I specifically wanted to touch on this fear of ethnic profiling stemming from the arrest protocols and the state immigration laws because that really is the core of the argument from those who oppose immigration law enforcement. As I noted, the Obama justice department specifically avoided this question in its lawsuit against Arizona because of course the law hasn't gone into effect. And what's more, there's really no direct way to know the effect of these various state laws regarding this because they're still in limbo.

Now, it is certainly possible that such
laws could have an impact on civil rights of some Americans. Given that the overwhelming majority of illegal immigrants are from Latin America, poorly drafted or poorly implemented laws might conceivably lead to American citizens of similar backgrounds receiving unwarranted attention from the authorities.

And it is likely there will be some individual instances of unlawful profiling. People are -- we're an imperfect species. But the contention of the anti-enforcement faction is that such profiling is inherent in such laws. In other words, the -- for instance, Arizona state police or sheriff's, for instance. The contention is that they will be intentionally engaging in systematic lawbreaking despite SB 1070's explicit requirements and despite their training.

The underlying assumption here is very clearly that our nation's police officers are inherently engaged in criminal activity, that they are rogue organizations uninhibited by law. Now, as absurd and insulting as that is, there are in fact people who believe that.

But to rebut this floor, we don't need to actually wait and implement these laws and see
how it's working out. We have extensive evidence from the already existing state and local cooperation on immigration enforcement, such as 287(g) and Secure Communities. And what that demonstrates is that profiling has not -- systematic profiling has not been a significant problem and that our law enforcement officers do in fact conduct themselves as professionals rather than as outlaws, as some of the opponents of immigration, of course, would have us believe.

For instance, the Center of Immigration Studies director of research, Steven Camarota, conducted a Hispanic surname analysis of the traffic stops conducted by the Maricopa County Sheriff's Department from 2005 through 2009 at the peak of the illegal crisis in the United States. If ethnic profiling had been systematically widespread, Hispanics would account for almost 97-98 percent of the illegal immigrants in Arizona, would necessarily have represented a disproportionate share of those stopped. They did not. As Camarota notes "Overall, the surname analysis shows Hispanics are being stopped at a rate that reflects their share of the population".

Likewise, in Virginia County in
suburban Washington an independent analysis of the county's immigration enforcement initiative concluded, "We found no evidence of overzealous or inappropriate immigration enforcement actions by police".

And the one study that enforcement of locals used to demonstrate racial profiling in fact does not show what the authors of that claim it shows. The papers from the Earl Warren Institute at U.C. Berkeley Law School analyzed 16 months' worth of ICE data from the Secure Communities Program which checked the fingerprints of arrested suspects. And the authors wrote "Our analysis...raises serious concerns about the level of screening and potential targeting of certain social groups".

But an exhaustive critique by the Center for Immigration Studies of the exact same data set those authors used reveals that the authors made errors so egregious as to completely vitiate their claims.

Just to give one example, the report claimed the share of Black American citizens arrested and screened through Secure Communities was greater than their share of all illegal population. And in fact that was not true precisely because the
authors did not take into account the universe of
people who were included in the statements. In
fact, the proportion -- let me read this one quote
from our study. "The presumed ethnic profile of the
cases in database very closely matches the ethnic
profile of the population of criminal aliens
nationwide and also in the states where most of the
the Secure Communities arrest took place."

The degree of concern over the
possibility racial profiling is natural, and it’s
appropriate. But the record of law enforcement has
been encouraging; evenhanded, professional
enforcement of the law at the local, state and
federal levels.

The record, combined with the essential
role of state and local authorities in immigration
enforcement, should lead us to not only applaud the
initiatives that we are in fact examining today, but
vote for new ones.

Thank you.

CHAIRMAN CASTRO: All right. Ms.
Waslin, it's good to see you again, Please,
proceed.

MS. WASLIN: Good afternoon. And I
thank you for this opportunity to present the
American Immigration Council's views on the impact of state immigration and control laws on civil rights.

The Council is devoted to providing accurate and factual information on immigrants and immigration policy and promoting a rational, constructive dialogue on this contentious issue. The evidence overwhelmingly shows that immigration is a benefit to this country and that contributions of immigrants in the workforce complement rather than detract from jobs and wages from worker.

However, we feel that in states like Alabama and Arizona misperceptions about the impact of immigrants on employment, crime and public benefits have all contributed to an atmosphere of fear that facilitated the passage of overly broad immigration control laws, and I think that we've heard some of these same myths and misperceptions again today.

It has long been established, and the supreme court recently confirms, that states have no power under the constitution to admit or deport noncitizens. Consequently, many state efforts at immigration control focus on creating inhospitable
environments for immigrants, particularly undocumented immigrants.

This approach dates at least as far back as the 1970s with efforts to prevent undocumented immigrants from attending school, which was subsequently found unconstitutional in Plyler v Doe as we've already discussed.

In 1994, Proposition 187 in California would deny basic services in education to unauthorized immigrants and would have required health care workers, state agency personnel and others to report suspected unauthorized immigrants to the federal government. Beginning in the early 2000s, laws denying driver's licenses to unauthorized immigrants were intended to make it difficult to complete everyday tasks that require driving or showing identification.

Subsequent laws that have been passed in Arizona and Alabama and other states have significantly expanded this attempt to regulate the nonimmigration aspects of peoples' daily lives. It's been expanded into the housing, the provision of utilities and other basic services, professional licenses, et cetera.

And this creates direct and indirect
consequences for the civil rights of all residents in those states. This approach has to come to be known as attrition through enforcement, a political strategy that's premised on the notion that if the federal government and states make living conditions difficult enough by targeting known these nonimmigration aspects of daily lives, it will increase the incentives for unauthorized immigrants to self-deport. There is significant evidence that state immigration laws like those in Arizona and Alabama institutionalize a climate that is right for discrimination abuse and civil rights violations.

With respect to Arizona's SB 1070, the supreme court eventually found that the state of Arizona's actions were largely preempted by federal law. While the court's decision in Arizona v the United States did not directly address the issue of civil rights, it did acknowledge that there was significant potential for constitutional violations resulting from the implementation of certain provisions of that law and left the door open to future legal challenge. Those challenges are already taking place in the lower courts on a wide range of issues, in large part because it is virtually impossible to implement these laws without
taking individuals' race or ethnicity into account.

The victims of these laws, however, are not only unauthorized immigrants but also lawfully present immigrants and U.S. citizens who sound like like or look like immigrants and thus may be singled out for additional scrutiny or suspicion.

Those responsible for implementing these laws also suffer an impact. Police officers may be placed in the position of determining who is reasonably suspicious, and public workers may be forced to deny basic services to persons they suspect are unlawfully present. And these state workers faced lawsuits in some cases if they do not implement the law to its fullest extent.

U.S. citizens, all of us, must also submit to any new documentation requirements in order to perform the most basic transactions under the Alabama law. In some cases, U.S. citizens would be required to get special permits in order to rent an apartment. They must obtain permission from the U.S. Government to work. And for these U.S. citizens an error in the government's database can mean the denial of health care, the right to get a job or even a paycheck. Finally, all residents of the state can suffer from the potential fiscal and
economic fallout of these laws.

These state laws have created environments in which harassment, discrimination and abuse are acceptable and sending a signal to those inclined toward discrimination that it's okay to act on their impulses and that harassment and abuse will be tolerated. They create a context in which prior individuals and businesses have taken it upon themselves to demand proof of legal status from people they suspect of being unlawfully present.

We've heard cases reported of clerks at retail stores requiring customers to provide their proof of citizenship in order to make a purchase. Human rights sponsors and have reported that strangers make disparaging or abusive remarks in public to those who appear foreign and that Latino school children, as we heard, are being traumatized and bullied by their classmates.

And of course I cannot overemphasize the impact that these laws have on these unauthorized immigrants themselves. And statistics show that most of them have lived here in the United States for ten years or more. They are U.S. citizen family members.

While racial and ethnic profiling is
prohibited by both the constitution and federal law and state laws, as we've heard, the reality is that immigrants face overwhelming obstacles to vindicate their rights in court. Unlike criminal defendants, immigrants removal proceedings are not entitled to an attorney if they cannot afford one and are generally unable to exclude the introduction of evidence that was unlawfully obtained by law enforcement officials. Moreover, although immigrants are free to file civil rights suits in federal courts, profiling claims are virtually impossible to win if plaintiff has been deported from the country while the suit is still pending.

No one claims that reforming our immigration laws would be easy, and very few would argue there is no role for states in the reform of laws and in a well-functioning immigration system. But by adopting this philosophy of attrition through enforcement, this represents an invitation to discrimination and advancement of civil rights violations.

The American Immigration Council believes that with honest and thoughtful dialogue about the consequences of restrictive state laws is the first step in reversing the tide and moving back
toward a rational discussion of America's immigration laws and immigration's role in America's future.

CHAIRMAN CASTRO: Thank you, Ms. Waslin. Mr. Stein.

MR. STEIN: Mr. Chairman. My name is Dan Stein. I'm the president of the Federation for American Immigration Reform. FAIR is one of the nation's largest and, frankly, the most credible organizations working on the U.S. immigration policy today. We represent over 250,000 members and have visitors and supporters in all 50 states. And in our 35th year of existence, are proud of our track record in trying to find immigration policy that works for the American people to be proud of and the rest of the world will respect.

We seek immigration under no law governing annual limit and forcible limit. We have, since our founding, opposed any form of discrimination in our operational law on the basis or race, ethnicity, et cetera, and I believe we have indicated that position over 35 years of aggressive public policy. We do take pride in the fact that we are clear on our positions on the issue.

Nevertheless, we do believe that an
underlying element of the immigration data must be retaining respect and civility. We have to keep the civilness at wraps. No one doubts the immigration issue is a volatile emotional issue. No one understands it more than I. In the 30 years that I've worked on the issue I see the general deterioration of civility and inability of the two sides of this issue to discuss in responsible and professional ways. There are, ultimately, differences in the policy.

The core question, I think, at this hearing is can our immigration laws be enforced any more in the United States? Has the civil rights industry so defined fears of racial profiling in a manner that make it impossible to actually enforce immigration laws any longer?

FAIR believes very strongly that state laws must be crafted that are consistent with congressional intent to create an effective partnership with the federal government, the executive branch, in the enforcement of immigration law. A lot has changed since I got involved in this issue in 1982.

I was sitting in the supreme court chambers when I heard the majority opinion read in
Plyler versus Doe. I remember thinking to myself, you know, the supreme court really hasn't addressed the broader questions of: How taxpayers are going to be able to pay? What are the negative effects of requiring the states to provide public education to children here illegally?

And a lot has happened since 1982. The country is now -- what used to be one of the great creditor nations and retain local economic dominance is now seeing its economic prospects dramatically altered. Our competitive position has changed dramatically; and, therefore, our revenue has dramatically changed.

Basically, what do people ultimately expect in this country? American citizens expect a nondiscriminatory labor market whereby employers are not free to discriminate against American citizens or lawfully resident workers in favor of illegal immigrants who are so attractive to those who exploit illegal labor.

They expect fairness, and they expect domestic equity, which means that their civil rights to only pay for services for people who are in the country legally, that that should be respected. They want to be able to go out and look for a job
without competing in an unfair illegal market.

Taxpayers have an enormous interest in ensuring that their state resources only go to these persons who have the right to be in the United States.

Now, between 1982 and 2012, we saw an amnesty fest. We saw continued, and what we thought were aggressive, efforts to continue to obstruct the enforcement of immigration laws. The whole organized labor in promoting strong immigration enforcement, even at the state and local level, diminished as the organized labor virtually disappeared in the United States. That has left a polarization in the American electorate on this issue that now seems to me -- there is a parting division on this whole question on whether the rule of law matters in immigration policy.

The NAACP used to be a strong proponent of immigration controls. Back in the 1990s, we worked closely with them on it, and certainly in the 1980s (inaudible). That has changed, and they no longer are an organization that seems to care about the need to limit immigration.

However, the vast majority of the American people support HB 56 and its provisions. We salute Senator Beason and the governor for the
bold steps to exercise national leadership on this issue. The President's recent decision to essentially suspend all immigration enforcement, except to function in a criminal -- criminal punishment, if you would, for national security threats poses the question whether or not we're going to have a functioning immigration control apparatus.

The ability to craft a state/federal partnership that is effective depends upon the executive branch carrying out the letter of law in a manner consistent with congressional intent and the will of the American people as expressed in those laws. This appears to be at this point a form of -- a source of true national division on this question of whether immigration controls actually can be brought about.

So what is the path forward? States ultimately have to try to regain their position as full partners with the federal government to be able verify the status of somebody in the state before providing services or as a function of law enforcement. We have an executive branch that appears unwilling to cooperate. Not only that, but is aggressively opposing states. They're trying to
fashion these efforts.

Are these efforts like HB 56 perfect, SB 1070 in Arizona? No. But the dismantling of state participation and verifying status came about as a result of strategic litigation bought by the ACLU and others over a 30-year period that caused states to no longer make inquiry at a time when the federal government to lose the capacity to verify status in an efficient away.

To leave states and citizens and taxpayers helpless without any tools or remedies to ensure that immigration laws are enforced effectively, fairly, in a nondiscriminatory fashion is to take us down a path, frankly, to national disaster because in the history of civilization no nation has ever survived that did not have effective perimeter security, whether it was in national health care, effective public education. It's impossible to deliver quality services if you're not able in the community to be able to estimate how many people we have coming into the country. It's the basic function of our democratic system.

And so we're all in this together. We're all Americans. We have to come to terms with the reality that immigration deterrence is a
challenging thing. It's morally and ethically
difficult and challenging issue. So we should stop
the name-calling, stop the (inaudible) and work
through common solutions.

Thank you very much.

CHAIRMAN CASTRO: Thank you, Mr. Stein.

Mr. Viramontes.

MR. VIRAMONTES: Thank you,
commissioners, for having me here this afternoon.

My name is Victor Viramontes, and I'm with MALDEF's
national senior counsel.

I think at the very beginning of this
discussion we have to consider what are the
incentives and what the reasons that this
anti-immigrant legislation is being passed. We know
the the bulk of these statutes are struck in federal
court because they're pursuing illegal -- illegal
reasons. So the jurisdictions pursuing these cases
end up with huge legal bills, ended up paying the
legal bills for both sides.

And for what purpose when they see that
ultimately these laws destroy the fabric of our
society by undermining public trust in local law
enforcement and degrading local law enforcement for
doing the very things that they should be doing.
And, first, I wanted to address what I think is the fundamental fairness of these laws, is that they mandate racial profiling. Now, I, as a civil rights attorney do this professionally, but it's the declarations of Chief Gascon and Chief Villasenor that I think are most noteworthy. What they said -- one a former police chief in Arizona, another the current police chief in Arizona -- is that SB 1070 cannot be integrated -- and like it's copycat in Arizona, HB 56 -- that these laws can't be implemented without engaging in racial profiling.

They give the example of -- or Chief Gascon gives the example. A family was accused of making too much noise. If the police officer brought into that household sees a white household, they would be less likely to engage in an immigration investigation than if that person was a Latino. In none of the states across the country any of the legislatures or the government said that they will not use race as a factor in identifying immigration status. On the contrary. They've said that they will use it to the extent that they believe they can do it under state and federal law.

And there is another fundamental problem with these laws. The assumption there is
that some skin tones, some surnames, that some names
will receive a presumption of being American while
others will not.

A second problem with this law is that
not only are you shooting yourself in the foot with
law enforcement by having them stop mothers while
they're taking their children to school instead of
looking at the criminality that they should be
looking at, they do it in a backwards way by going
after a population that study after study has shown
is less likely to commit criminal violations than
the other (inaudible) population.

Now, a failing specific to Alabama, is
this. This Alabama Legislature actually wrote in SB
1070 and said we're not violating enough rights.
Let's be more aggressive. And what they've done is
to chill children and the parents of children from
enrolling and coming to school at the schoolhouse
steps. They've also attempted to bar any
undocumented or any dreamer from attending a public
university in Alabama.

Both of those are absolutely wrong,
wrong mandated policies because they be shooting
themselves in the foot. We have these educated
individuals, these gifted individuals, trying to go
to college, trying to improve and improve their lott
in life. And our society as a whole and Alabama and
other places are barring them. And when -- again,
you're trying to achieve these antisocietic rules.
I have no choice but to ask what's really -- what's
really motivating this?

Now, the third point I want to make is
these laws are aggressively pursuing
antihumanitarian goals. A piece in the laws make it
illegal for day laborers' to solicit legal work
saying I want to cut your lawn, I want to paint your
fence to feed my family and send them to school. It
that makes it illegal, criminal illegally, for them
to do that.

So if person were to block traffic
because just because they wanted to, say, you know,
the Alabama football won on Saturday. No problem.
The same person who does to try to feed their
family, that's a criminal offense. In Alabama
they've also made it illegal for documents
immigrants to enforce contracts, and they made
illegal for undocumented immigrants to try to rent a
house. So you're looking at preventing people from
feeding themselves and their family, preventing them
from having a shelter and a roof over their head.
These are not legitimate legislative goals.

Now, one of my copanelist, I think, was very accurate in saying that the goal of these laws is to make people coward, to push them further into shallows, to deprive them of all their fundamental civil and humanitarian rights. And that just is not appropriate. We know the undocumented was already subject to the worse civil rights abuses that we're seeing across the country.

These individuals are entitled to more protections, not less. Nobody wins when somebody is subject to racial prosecution, to sex harassment and to any of the other violations we see happening to people across the country, but particularly to the most vulnerable in our society.

And another one the problems with these laws is that immigration law is very complicated. You’ve got to work with scalpels and make very, very distinct delineations. And what these laws do is they (inaudible) on mixed-status families. So instead of having particular immigration consequences on individuals, these create immigration consequences on mixed-status families. So, for example, an undocumented father trying to enter into a lease agreement with four citizen
children would be unable to under an Alabama law.

And, finally, I want to say that this is an unfortunate Groundhog's Day for me. As someone who grew up in a California, I lived Proposition 187, and I saw the horrible effect it had in our community. I took us decades to recover from from that.

But I want to strike a hopeful note because at the end we struck the law, the Latino community rose up against it and we are now beyond that stage. And I hope that we get to the place as a country where these laws are looked at as unfortunate footnote in our history.

Thank you.

CHAIRMAN CASTRO: Thank you, Mr. Viramontes. Ms. Bauer.

MS. BAUER: Thank you so much for the opportunity to speak today about the devastating effect that Alabama's extreme anti-immigrant law, SB 56, has had on our state.

My name is Mary Bauer. I'm the legal director of Southern Poverty Law Center. We are based in Montgomery, Alabama, and we are under service of the plaintiffs in legal challenges to anti-immigrant laws in Alabama, Georgia and South
My remarks today will focus on the effects in Alabama since it has the most extreme anti-immigrant law, and it's the only state where such a law has been allowed to (inaudible).

HB 56 was sponsored in Alabama by Senator Scott Beason who, in discussing the need to combat illegal immigration, urged his fellow legislators to "empty the clip and do what needs to be done". Representative Hammon, the house cosponsor of the bill, has said that those that drafted the bill intended it to "attack every aspect of illegal immigrants' life". When the effects of the law became known, Representative Hammon also made it clear that these were not unintended consequences. He said very clearly that these were intended consequences of the law.

And so I want to talk about what those consequences are. The law is passed those third provisions. Despite the fact that many of these provisions have now been enjoined by federal courts, much damage has been done.

In fact, HB 56 has devastated the Latino and immigrant community in Alabama. It would be hard for me to overstate the human tragedy that
has been unleashed on the state by HB 56. It has turned a significant class of people effectively into legal nonpersons, subjecting them to a kind of legal exiling because it has destroyed lives, ripped apart families, and devastated communities.

After the law went into effect, the Southern Poverty Law Center and other groups representing the plaintiffs in our litigation, created a hotline to allow people to call in to share their stories about how they were affected. The first weekend we received a thousand phone calls. We have now over 6,000 phone calls. The breadth of the problems created directly and indirectly by this law is breathtaking.

I want to share with you small sample of the stories that we have heard. A mother in northern Alabama was told that she could not attend the book fair at her daughter's school without an Alabama State-issued ID or driver's license.

A father called us to report that his United States citizen daughter came home weeping from school at other students told her she did not belong there and should go back to Mexico, a country she had never visited.

A judge advised a lawyer that the
lawyer had the obligation to report her own client
to ICE as undocumented. That same judge stated they
he might have the report to ICE any person who asked
for an interpreter as such a request would be a "red
flag".

Latino workers on a construction job
site were threatened by a group of men with guns who
told them to go pack to Mexico and threatened to
kill them in they were there the following day.
Those workers declined to show up for work simply
because of fear of what would happen.

A clerk at a store in Bessemer told a
Latino man lawfully in the United States from Ohio
that he could not make a purchase with his bank card
because he did not have an Alabama state-issued ID.

A victim of domestic violence went to
court to obtain a protective order. The clerk told
her that she would reported to ICE is she proceeded.

A local bar association has advised
lawyers that they should share their information
about undocumented clients to law enforcement. They
are required under HB 56 to override local
obligation to serve a client's confidences.

By the first Monday after HB 56 was
allowed to take effect, 2,285 Latino children were
absent from schools across this state, representing
seven percent of the total Latino school population.
Public schools in Montgomery asked already enrolled
Latino students questions about their immigration
status and that of their parents.

In Madison County, an educator, public
utilities announced that they would not provide
water, gas or sewage service to people could not
prove their status. Numerous probate offices,
including Montgomery and Houston County probate
offices, published notice indicating they would not
provide any services to anyone without proof of
immigration status, effectively denying people birth
and death certificates.

Legal immigrants, including those with
temporary protected status have been told they would
not be able obtain driver's license in the state.

A worker called to say his employer
cited HB 56, refused to pay him and stated that no
worker had the right to be paid under the law.

A husband calls to report that his
wife, nine months pregnant, and was too afraid to go
to a hospital in Alabama to give birth and he wanted
to try to decide whether she should give birth at
home or go to a hospital in Florida.
A Latino man was arrested and detained. While in jail he was told he could not use the telephone to call his attorney cause because the use of the phone would be the business transactions by limited by HB 56.

In the wake of the supreme court decision in Arizona versus United States, I would suggest that the vast majority of this law simply cannot stand. The provisions of this law are inconsistent with a direct mandate of the court that states may not design their own immigration systems to force immigrants to (inaudible). The drafters of this law were on notice from the beginning that this law was likely unconstitutional and would be challenged. Nonetheless, the politicians put their own political agenda ahead of the interest of Alabama, a choice that has cost Alabama millions of dollars and untold damage to its reputation.

Southern Poverty Law Center is delighted that you are having this hearing about the effects of this law on the people of Alabama. The law has devastated our state in many ways. There are many stories to be told. Unfortunately, we do have some concerns that the hearing speakers are not designed to completely bring out those stories.
While there are a few affected community members testifying, we have to call to task some of the groups testifying here on a number of bases. And I'll just share with you some of our concerns about some of the individual groups that have been allowed to testify.

MR. GAZIANO: I object, Mr. Chairman. You need to instruct the witness that given the scurrilous nature of her written remarks that she is not permitted to give such scurrilous, defamatory, unsubstantiated remarks unless we go into executive session.

And I don't think that we ought to waste our time by going into executive session to receive this well-refuted, conclusionary, unsubstantiated defamation.

Plus we can't go into executive session without providing the witnesses who are going to be defamed ten days notice without allowing them to call witnesses. This would be a silly charade, especially for such despicable defamation as the witness has put in her written statement.

CHAIRMAN CASTRO: Well, we don't know what she's going to say.

MR. GAZIANO: I've seen her written
statement. It's -- it's both on the kind of
conclusionary allegations where you string various
boards together based on supposedly a grant that was
provided 20 years ago by a group that had a very
admirable justice but also had a founder who
supposedly --

And by the way, if we go into executive
session, we'd have to pursue the motive a witness
and the organization and her funding stream and
whether that funding stream isn't to provide repeat
sneers like this week after week after week that she
knows are wrong, that she knows are --

CHAIRMAN CASTRO: All right. Calm
down. Let me see what she's going to say. We don't
know what she's going to say.

MR. GAZIANO: No. Mr. Chairman, I move
that the witness be instructed that she is not
allowed to proceed along those lines.

CHAIRMAN CASTRO: Certainly as --

MR. GAZIANO: Okay. Now we need to
discuss the motion.

CHAIRMAN CASTRO: Certainly as --

COMMISSIONER HERIOT: May I --

MR. GAZIANO: No. We need to discuss
the motion.
CHAIRMAN CASTRO: You're out of order, Commissioner Gaziano. Let me speak.

MR. GAZIANO: Are you speaking to --

CHAIRMAN CASTRO: Let me speak.

MR. GAZIANO: Are you speaking to my motion?

CHAIRMAN CASTRO: We have made it clear throughout every panel that we do not want any of the panelists to say anything that is defamatory or derogatory. I think that has been made clear. We do not know what this witness is going to say in her twenty-six seconds. Let her say what she's going to say.

MR. GAZIANO: She said she wants to attack the fellow panelist. I have read those attacks.

CHAIRMAN CASTRO: Let her speak.

MR. GAZIANO: No. We have a motion on the -- and we're entitled to debate our motion.

MS. BAUER: Sir --

COMMISSIONER GAZIANO: No, ma'am. You are not allowed to speak right now. That is what the motion is about, whether you are allowed to speak.

CHAIRMAN CASTRO: Calm down. Calm
MS. BAUER: I'm just going to speak about something if that's okay.

CHAIRMAN CASTRO: Go ahead.

MS. BAUER: I'm prepared to provide a copy of written comments with regards to those issues that I was about to raise.

But one additional point before closing, and that is records --

CHAIRMAN CASTRO: Start the clock, please.

MS. BAUER: There is a record that this was motivated by racism. And I'll refer you to one -- one matter, and that is the 108-page decision by United States Federal Court Judge Myron Thompson who in a very lengthy decision made findings that this law appeared to be motivated by inappropriate racism against Latinos.

He wrote: The court must be sensitive to the use, in the legislative debates of HB 56, of illegal immigrant as a code for Latino or Hispanic with the result that, while addressing illegal immigrants was the target, discriminating against Latinos was the target as well.

CHAIRMAN CASTRO: Thank you.
MS. BAUER: I thank you for listening to me today.

CHAIRMAN CASTRO: Thank you. We will now receive the questions from commissioners, and we will do that until 2:45. Commissioner Kladney.

COMMISSIONER KLADNEY: None, sir.

CHAIRMAN CASTRO: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Okay. Thank you very much to the panel. That has been very informative. I have got a couple of questions. First, I address this question to each, and I want to get the opinion of each panelist.

Is there anyone who opposes the use of either use of E-Verify? And can you explain why?

MS. WASLIN: My organization has written extensively about the E-Verify program. We believe that at this point it is not a program that is fit to be mandatory for all employers for several reasons.

First of all, we believe that there are problems in the databases, that there are many inaccuracies that exists in these databases that have not been fixed. We also have significant evidence that employers have misused to E-Verify
But, most importantly, I think that the E-Verify system, alone without being in the context of a more comprehensive immigration reform, is not as effective. It is not a solution for one very important reason. Employers who want to knowingly, willingly hire an authorized immigrant are simply not going to run them through the system. So this is not a silver bullet. This is not a solution to the problem.

We believe that if it were reformed and if it were made mandatory in the context of prior immigration reform, that would be acceptable.

COMMISSIONER KIRSANOW: Mr. Viramontes.

MR. VIRAMONTES: I second the remarks of Ms. Waslin.

And I just want to say this has been a topic of extensive briefing through challenges, through -- through E-Verify where most have articulated the same basis; that is, the database, the precision in which it's been used and the discriminatory affect it can have on those people who are perceived to have immigration status and the way those markers are perceived.

And so those are the fundamental
problems that refute E-Verify and the reasons that
we don't support its mandatory application.

CHAIRMAN CASTRO: Thank you.

COMMISSIONER KIRSANOW: I mean, I don't
purport to have the depth of your knowledge. I
understand there's supposed to be a 97 percent
accurate rate with respect to E-Verify. If it could
be made 100 percent accurate, would you support it?
Or what percentage does it have to have before you
support it?

MS. WASLIN: I think that, first of
all, it's not a simple yes or no question because it
depends on how you define the accuracy rate.

Another --

COMMISSIONER KIRSANOW: An accuracy --

MS. WASLIN: An evaluation of the program founds that 54
percent of unauthorized immigrants got through the
system.

So, you know, it also needed to look at
one percent. If the error rate was 1 percent, If you apply one percent or
even a
half a percent to the entire U.S. workforce, that is
thousands and thousands of people who could be
inaccurately told they're unauthorized to work, and
they would lose a job and lose a paycheck. So, you
know, if it happens to even one person, I think
that's too many.

But I think, theoretically, yes, if the program could be improved, if the accuracy rate were improved, if there were a clear redress system for people who believe that they've been inaccurately flagged by E-Verify.

And, again, if it were done in the context of immigration reform; then, yes, I think it would support a mandatory --

COMMISSIONER KIRSANOW: All right. Ms. Swain, before I get to that, the 97 percent rate was not so much barring someone from employment, but (inaudible) through those who are not eligible for employment. Ms. Swain.

MS. SWAIN: I just want to add that one reason the system is inaccurate is that it's not able to detect when people have stolen Social Security numbers. And one way to address that is to increase the penalties on individuals found to have engaged in identity theft or stolen Social Security numbers.

MR. KIRSANOW: My second question is -- goes to disparate treatment. It strikes me that we have been talking about civil right implications of immigrants, but what we haven't done is properly
decided yet between illegal immigrants and legal
immigrants.

My father is probably not as smart as
Ms. Achtenberg's father. He came here lawfully
after having escaped secret police of a totalitarian
state. Most of his family members didn't make it.
He's still alive despite the fact that he had to
escape those folks for six years. He needed money,
a lot of costs, a lot of waiting, he does all the
things everybody else, does get documentation.

Is there a cause of action -- I hadn't
thought this through. It's just coming to me. Is
there potentially a cause of action under the
Fourteenth Amendment for disparate treatment between
lawful aliens and unlawful aliens?

In other words, lawful aliens have the
same interest when coming to this great country.
Sometimes they're escaping oppression. Sometimes
they're seeking economic opportunity. All the same
reasons that they scandalized us for years, a number
of costs, you have to get the documentation, you
have to go through the hoops. And, yet, after all
that they look and see that very often illegal
immigrants are getting a pass.

Is there a potential of cause of action
there? Anybody? Anybody?

CHAIRMAN CASTRO: You’ve got no takers.

Oh, Ms. Bauer.

MS. BAUER: I do not believe there is a cause of action. And I believe there is a rather widespread misunderstanding by -- by the commissioners in particular, generally about the line of people are supposed to get in.

For most people who are in the United States out of status now there is no filling a form and no line they can get in. It doesn't exist. Our current system does not provide an opportunity for most people to legalize their status. It simply is not applicable.

And so the idea that people are making this conscious choice to skip ahead, what they get is really an inferior status, being undocumented. You know, there is no undocumented person I know who wouldn't pay the fine, you know, learn English and fill out a lot of paperwork, to become documented if that were an option.

CHAIRMAN CASTRO: Let me - I'm sorry.

MR. KRIKORIAN: Could I just make a quick point --

CHAIRMAN CASTRO: Go ahead.
MR. KRIKORIAN: -- in response that for
the several past years we have taken 1.1 million
legal immigrants a year. This is more than -- more
immigrants for permanent regular immigration status
than all of the other countries of the world
combined.

So, yeah, there is a way to get into
the United States. Even if there were a legitimate
reason for sneaking into the United States, it's
simply false. If it were two million, there would
be other people who are illegal. And if it were ten
million, there would be other people who would want
to come illegally.

CHAIRMAN CASTRO: Let me ask a
question. And then I will let Commissioners Heriot,
Gaziano -- or, rather Achtenberg and Kladney.

Now, Commissioner Kirsanow was talking
about the mixing of documented and undocumented
status. Mr. Stein, your organization -- and I think
our remarks today you talked about cost of
educational expenses for undocumented students.

But it's my understanding, based on
these materials I have reviewed from the briefing
paper that I referred to earlier and the records
from the ACLU in some litigation, that the documents
that parents produced or a portion that they
produced on the alleged cost of undocumented
immigrants to Arizona, including the cost of local
taxpayers or illegal aliens and the cost of illegal
immigration to Arizona, indicates that you actually
mixed both the cost associated with citizen children
as well as undocumented immigrants in that cost.

Is that true or not?

MR. STEIN: Yes, yes. Because that's
a byproduct of the illegal immigration.

CHAIRMAN CASTRO: How is that?

MR. STEIN: Because the children are
born here to parents that are here illegally
wouldn't be born here if their parents weren't here.

CHAIRMAN CASTRO: But those are citizen
children. So do you just aggregate the information
of undocumented children from citizen children when
you come up here to make these conclusions?

MR. STEIN: Well, no, because the
children have been born --

CHAIRMAN CASTRO: Don't you agree
they're inaccurate?

MR. STEIN: Not at all, sir.

CHAIRMAN CASTRO: Really?

MR. STEIN: No.
CHAIRMAN CASTRO: Okay. That's interesting. I will then move on to Commissioner Heriot.

COMMISSIONER HERIOT: Thank you, Mr. Chairman. I want to thank the panelist here. And I find that I do have a certain respect of everybody testifying on this panel. Some more than others of course, but everybody had something to say that I have agreed with. And I think that's as it should be when discussing an issue like, the complicated issue of public policy. And Americans ought to be able to at least see some part of somebody's view isn't quite what they would have wanted. But I think I do well.

I have a couple of questions here. One of my biggest concerns -- and maybe one of you actually mention this, but I'm interested in your comments and suggestions on this. A lot of the argument that we used today against the Alabama statute as well the others that are like it, none appeared that they would be applicable in that we're talking about federal immigration policy.

Even under the laws we already have that were being enforced, a lot of the racial profiling issues, if it were the federal immigration
officers doing it, you know, there would be similar
accusations. And, yet, I assume -- I don't want to
go so far as to say the United States of America
cannot have immigration policy if that's enforced.

So, you know, what is it that -- what
can the federal authorities do? That hasn't been
complained of here.

The other question I have has to do
with children generally because I think we can all
agree that all legislators have a special duty to
make sure that the laws that they pass are for the
children, all children.

But I think we're mixing some issues
that are more serious with less serious issues. The
bullying issue. Sure. There's worries about all
children being bullied on account of their racial
background, on account of a perceived racial
background or a perceived immigrant status.

But I started writing down how many
times I got beat up in elementary school. I got beat
up for being a Russian spy. I got beat up for being
Chinese. I am neither Russian nor Chinese. I got
beat up for being a vampire. I got beat up -- and
this one hurts the most. I got beat up for being
good at math. This happens. So I think we need to
avoid getting too carried away with the issue unless there's real evidence here of something that's special.

On the other hand, the issue that children are not enrolling in schools is a very, very serious one, and one that I think this Commission needs to take very seriously. But even that issue has to be put into perspective.

And, by the way, anybody out there who has some information on that, I would -- I would love to hear from you from you. You can get my E-mail from members of staff or from me.

But it's also important to remember that children’s lives are often disrupted because of the wrong doing of their parents. And coming across the border in an illegal matter is illegal, just as there are some children who are disadvantaged by the fact that their parents commit other crimes and go to prison. So we need keep that in perspective as well.

But with that, I would like -- I would love to any comments from any member of the panel.

MS. PROVINE: Well, I won't say anything about the math or the vampire part. But going back to our first --
COMMISSIONER HERIOT: Not too much
then.

MS. PROVINE: But I think you made a
really good point about federal immigration
enforcement. There are instances of abuse of powers
and poor use of judgment of questioning people
without warrants. And that's unfortunate.

And I also think more broadly that the
federal government's policy really is attrition
through enforcement. So in that sense, you know, a
state like Arizona isn't in another ball park.
There is an important difference, though. Arizona,
at the state and local level, local police do have
their social workers really. They have a
responsibility to have the trust of their community
to be -- so the community would be the eyes and the
ears of local law enforcement. So it's kind of a
different kettle of fish.

And I think it's really important to
factor in this community policing in part.
Community policing is not only about kind of being
protected if you are a victim of domestic violence,
there's a prosecution. It's about being able to
talk with police officers. It's about having a
sense that these are people you could consult about
what the law is. And that's really what's being lost by state laws like Arizona's and Alabama's.

In Arizona, if the police don't enforce -- if they don't put immigration at the very top of the list, they're -- they're liable to assist and suit to make them do that. And so it's really pushing it all out of proportion with a police force that has a different function than the federal police.

So I'm would agree with you. There are problems at the federal level as well.

COMMISSIONER HERIOT: But a probation violation, I would think, you know, applies just as much to the federal government. But it's -- you can't just say, hey, let's just go (inaudible) that's involved here. We can't do any of this. What we've got to do is come up with the best procedures that we can to enforce the laws that we have. And if we need different laws, let's get different laws.

But, you know, I fear that we're talking ourselves under a corner here to where you just can't have immigration policy. And if that's where we are, we need to --

MS. PROVINE: I don't think --
MS. SWAIN: Exactly right. Exactly right.

MS. PROVINE: I don't think it's a corner, but I think careful thought -- the devil really is in the details when it comes to law enforcement, and that's both true at the federal level and the local level.

CHAIRMAN CASTRO: I'm going to move on to another commissioner. Commissioner Achtenberg.

COMMISSIONER HERIOT: I think that Ms. Swain had something to say here.

CHAIRMAN CASTRO: Oh.

MS. SWAIN: Well, I speak as someone that was born and raised in rural poverty, and I grew up being teased and taunted because of my clothes and then later because of my southern accent in different parts of country.

And so I think we need to -- to help people understand that they -- that other people have free speech, that bullying takes place in all sorts of contexts and that you can't protect them from having hurt feelings all the time, that people need thick skins. And so I think that's important.

What I also find, it's very offensive when people walk around with shirts or vehicles that
have on the outside that I'm undocumented, I have no fear. I mean, that is a slap in the face of every American, and it doesn't help their cause. It doesn't help their cause, and I don't believe that the people advising them are doing them a service by encouraging that kind of behavior.

CHAIRMAN CASTRO: That sounds like free speech. But, you know, we sent you a copy of our bullying report and maybe later on you can read that.

COMMISSIONER HERIOT: Mr. Chairman --

CHAIRMAN CASTRO: Commissioner Achtenberg.

COMMISSIONER HERIOT: Wait.

CHAIRMAN CASTRO: Commissioner Achtenberg.

COMMISSIONER HERIOT: I just wanted to say the person who beat me up for being a Russian spy became my best friend.

CHAIRMAN CASTRO: That's good. Ms. Achtenberg, please, proceed.

COMMISSIONER Achtenberg: Thank you, Mr. Chairman.

I would like to, first, say that I have had for decades enormous respect for the Southern
Poverty Law Center because of the quality of their legal work. The analogies that they have provided public interest lawyers from across the country is without fear. And I am often persuaded by the facts that they adduce in their litigation, the legal arguments that they make that have prevailed often in -- in courts that one might imagine would have been at least initially hostile to the theories being propounded and the arguments being made.

I'm wondering, Ms. Bauer, if you would articulate, really for my benefit as a commissioner, on what basis -- the Southern Poverty Law Center criticizes certain organizations and groups.

You don't need to name names, but I'd like to understand particularly the criteria that the organization uses, and specifically if any of those the criteria related to the kinds of conclusions that were -- that were authored by the court in the opinion that you cited in your previous testimony.

I'd like to understand the relationship between those two factors.

MS. BAUER: I mean, I think that the -- the designation that we make in naming hate groups is that we designate groups thus when they denigrate
an entire class of individuals. Largely in poor
community you have this. Now, there's a lot more
detail that can provided on a particular level. I
mean, obviously, we don't need to have just one
individual member. It has to be fairly consistent
at the managerial level.

And, you know, I'm not suggesting that
the individual legislators who Judge Thompson cited
as having made racially insensitive comments on the
legislative floor -- and this opinion is replete
with comments about Mexicans that were -- that came
about on the legislative floor, which many of us
were present. I'm not suggesting members of the
legislature are necessarily members of a hate group,
but there is no doubt in our mind that blaming
problems on Mexicans was part of a legislative
debate in the state house. That was a part of the
story.

And could I just respond on a related
note to the issue about the children being bullied?
You know, it's so far beyond an individual case of
being bullied. One of the articles that we -- that
I quoted in my testify refers to -- an Education
Weekly article that said that at a particular school
in Alabama the administration was promoting Latino
kids -- holding them back at four times the rate they had been held back in previous years.

And they attributed this to the devastating effects of HB 56. When kids are hearing everyday that they not wanted in the state and they do not want them, how can someone learn in this environment? And the devastating effect.

(Applause from audience.)

MS. BAUER: And they're U.S. citizens who are not getting education that they are constitutionally and morally entitled to.

CHAIRMAN CASTRO: We'd ask --

(Applause from audience.)

CHAIRMAN CASTRO: We'd asked the audience to please reserve you applause. We know that you'd like to, but we want to continue. Ms. Swain.

MS. SWAIN: I would like to speak to my own experience with the Southern Poverty Law Center. I'm a professor of political science and law at Vanderbilt University, and I often teach courses that relate to race and immigration.

I reviewed a film that was titled "A" Conversation About Race", and I had someone from the Southern Poverty Law Center characterize me -- well,
call me an apologist for white supremacy. And I ended up with my face on the front page of newspapers across the state. It went viral in the black community, and I was harassed. And it didn't end until one of the editors at the Wall Street Journal wrote an article in defense of me.

And so I -- as a private individual, I'm not such a public figure that I could defend myself. I was maligned by them. I was threatened, and I was put at a disadvantage of exercising my freedom of speech. I recommended the film for classroom use.

And so, I mean, this is an organization that sees itself a paragon of virtue.

CHAIRMAN CASTRO: Commissioner Kirsanow and Commissioner Yaki and Commissioner Gaziano.

MR. GAZIANO: I lost my Italian temper. I am going to tell you -- tell the Italian story.

But before I do so, I believe that, Ms. Bauer, I have -- I've shown restraint. Given the -- I should have given a little bit of latitude at least to the witnesses who are really invited to testify. THEY should be given latitude in discussing statements by the legislative sponsors.

But we really have to be strict with
our rules with regard to witnesses who we have
invited who should be treated with respect.

But this is my question. Several of
the panelists on this panel and others talked about
the climate of fear and the climate of the culture
that -- you know, I suppose the climate of fear is
best summary of at least two of you on this panel.

That it instills generally, I think you
said, in immigrant communities. And I'm not sure
that's accurate. We've had some discussions in
previous panels and in this one that to the extent
that there is a climate of fear, a lot of it is stoked
by misrepresentation, stoked by groups that maybe
accidentally or have an incentive to exaggerate
hyperbole. But I want to set something else aside,
and that is I suppose they do instill a little bit
of fear, whether intended or not into those who are
illegal immigrants.

By my grandfather -- both of my
grandparents on my father's came from Sicily. And
my father told us a story when we were young of the
mafia bosses who came from Chicago to West Virginia
who knew them from the old country and tried to
pressure him into engaging in illegal gambling. He
was made to understand that if he reported this to
the police, they knew his family, and that his
good part of the story is my
grandfather stood up to them, and they thought he
may have been a small enough fry that they didn't
need to threaten him anymore.

But when anti-mafia laws were started
and anti-mafia task forces were started and funding
was put in to stopping the mafia in the United
States, I tell you, it was not a climate of fear for
Sicilian Americans who were lawfully here. It was
relief. My grandfather and his family were greatly
relieved that the laws were being taken seriously.

And so I suppose -- what inspired the
question really was Professor Swain talking about
the importance of the rule of law. And I wonder if
you could elaborate on what kind of lessons it sends
if we don't have these kind of laws.

MS. SWAIN: First of all, I love young
people, and I think it's very important for us as a
nation. We have a responsibility to teach them, you
know, about this great nation. And civility is
important. And when we bring young people to this
country and we tell them that the U.S, you know, is

--
In the situation of mixed-status families, the message is being sent regularly that the U.S. Government breaks up families. The message is not sent that the parents themselves made a decision to create a mixed-status family and that the U.S. Government -- as a consequence, that complicates the situation.

I think it's important for them to understand the laws because the laws are not being enforced in this country across the board. We have youth gangs to walk into malls, they snatch merchandise off the shelves and just walk out. We have increasing violence in this country that comes from youth. And I believe it's because we adults are sending the wrong message. We're sending a message that laws are not to be obeyed and might makes right.

CHAIRMAN CASTRO: Professor Provine.

MS. PROVINE: I really have a -- I really have to object to the analogy of mafia criminals to undocumented.

(Appause from audience.)

MS. PROVINE: I think that's totally inappropriate. And this illusion that my colleague, Carol Swain, just made about criminality among, I
think, it's undocumented immigrants --

MS. SWAIN: Young people.

MS. PROVINE: Young people. Okay.

Young people in general.

What we do know is that unauthorized immigrants are among the lowest criminal violators in this country. It's living here for generations that gets people to be more criminal.

You know, think about it. If you're in fear of deportation, the last thing you're going to do is criminal activity. So I think this is kind that we really should stop.

CHAIRMAN CASTRO: Thank you.

(Applause from audience.)

MR. GAZIANO: I wanted to clarify. And it's certainly -- and it's helpful probably to you. To the apparent analogy, I didn't mean in any sense to compare the kind of criminal activity that the mafia, by definition, were engaging in to unlawful aliens who's only offense may be that they're here unlawfully. In no way was I meaning to compare them.

The only difference is that -- that I don't understand why it would create -- and there doesn't seem to be any evidence -- a climate of fear
for immigrant communities who are here lawfully. And some of those people are victimized by some small numbers of the illegal aliens with criminal records because --

I certainly would suspect in last panel on methamphetamine discrimination in Marshall County, Alabama suggested that those who evade a lawful entry may tend to be engaged in more of the gang and other -- other activities. So what -- it doesn't -- I don't understand that it is -- that these kind of laws, which just create protocols for the enforcement of the laws would necessarily create fear across all immigrant communities without hyperbole, without the misrepresentation, without the -- that some people are engaging in.

MS. PROVINE: And I appreciate --

CHAIRMAN CASTRO: Did you want to respond or --

MS. PROVINE: I just want to say I appreciate that clarification. And, you know, it is a question of the law in action not being -- sometimes creating that climate of fear. It is a complicated situation.

I just want to say I work with naturalization workshops. We're talking about
legally permitted residents who do become citizens. And the reason they most often cite for doing this, which is kind of an onerous process, is our sheriff. I mean, he's a poster child for having more naturalized citizens in Arizona, which tells you something about the law in action with people who have every right to be here.

CHAIRMAN CASTRO: Mr. Viramontes. And then we're going to go to Commissioner Yaki.

MR. VIRAMONTES: In my testimony I identified one of the true issues of community policing, that police officers should be spending their time to actual criminal matters rather than stopping parents and mothers and children going to school.

But a corollary, I think, goes to Commissioner Gaziano. And that is that we want individuals in all immigration statuses to come and report crimes and be witnesses to crimes. So if a person's walking down the street and is mugged and an immigrant sees that crime, we want that person to feel safe going to law enforcement, to feel safe coming forward to report the crime. Because we want to make the community safe for everyone.

And we have some -- I'm not speaking
anecdotally. We have some the records -- and this is the case in Los Angeles. There is a clear delineation between immigration enforcement and local law enforcement. And we've seen criminal rate drops, we've seen communities become stronger and we've seen the streets become safer.

And with these kind of laws that really destroy the community, it's very difficult to piece it back together again and rebuild it up again and build these bridges that have been broken by local law enforcement. And I just want to recognize the civil rights fighters that are here because they're the ones who are going to be doing that rebuilding and putting this back together.

CHAIRMAN CASTRO: Thank you.

Commissioner Yaki. And then there will be Commissioner Kirsanow and Commissioner Kladney.

COMMISSIONER YAKI: Thank you very much, Mr. Chair.

It really -- when it comes to a climate of fear and intimidation, I'm going tell you firsthand -- well, probably not firsthand. I'll talk instead about my father. My father was born in this country of Japanese American parents, an American citizen, his whole family. And then after
the Japanese bombed Pearl Harbor, a few months later they were given 48 hours to get their stuff together, one suitcase, one pillow, and report to a train station to be deported to Arizona.

There was no distinction between legal and illegal. There was no distinction between documented/undocumented, citizen/noncitizen. If you had had a drop of Japanese blood in you, you were sent away.

There is a supreme court case on books, called Lachu v. United States. It still is on the books. The idea -- and I just have to say this with all great sincerity. The idea that these carefully crafted laws, smartly crafted laws, they go out of their way to say things like we're not into racial profiling. We're not into getting any single ethnic group. But everyone knows. Everyone knows who it's against and what its intent is to do.

And its intent is to create a climate of fear and intimidation on the daily lives of people who are working, scratching to make a living and trying to fulfill the American dream in this country. And it doesn't differentiate between whether you're documented or documented in its effect. Because when you're looking to enforce it, you're
really only looking at one thing, and that is what's
the color of your skin, what's their accent, what is
that I think about them makes them different and in
that category.

I want to apologize -- take a few
minutes, first, and apologize to my colleagues for
stepping outside for a few minutes the way I did.
But I was told that there were a number of people
who wanted to come inside but were being prevented
by what had gone from a few security people to a
full-blown sheriffs and police complement outside.
And if -- if they would just indulge me. All of
those people who were outside, please, stand up
stand up.

(Audience complies.)

COMMISSIONER YAKI: These are people
who were out there doing what Americans do best,
which is exercising their First Amendment rights.

With all due respect to you, Professor
Swain, when you talk about the rule of law, with all
due respect to Commissioner Gaziano and Commissioner
Heriot -- she talked about the rule of law -- I
think it's about the inspired words of a man nearly
almost 50 years ago, 49 years ago, in jail here in
Birmingham, who when he was asked by the local
church to just work things out and be quite and
don't -- don't stir things up.

So I'm here in Birmingham today because
there is an injustice here, and we are going to do
things here to prevent injustice. So the idea --
and this is about the rule of law at the time it was
Jim Crow, the rule of the law at the it Plessy
versus Ferguson. Well, it was just after that.

But we're separate but equal was the
"rule of law". People like Doctor King do not stand
for that. People like Fred Shuttlesworth, for whom
the airport was named, do not stand for that. Cesar
Chavez did not stand for that. These are people who
said just because what the law says does not mean
that the law is right. And nonviolent, peaceful
protests is a perfect, legitimate way to express
oneself against a law that is clearly unjust.

So the idea that we would -- we would
do anything to denigrate what these young people,
old people and middle-aged people, people, are here
doing is not consistent with the highest rule of
law, which is to obey -- obey, I think God's
(inaudible), which is do unto others as you would
them do unto you. It's to treat others as you would
like to be treated. And the constitution talks
about, you know, the right to be free and equal.

That's what they're doing.

Thank you very much.

(Applause from audience.)

COMMISSIONER YAKI: And I would like to say on the count of three the morales of my great -- someone who my mentor trained under.

So we'll all say it on the count of three. One, two, three.

(Spanish from audience.)

MR. YAKI: I would like to ask Victor and Mary if they would comment on the fact that you can't -- you cannot separate these laws from the practical effect. You know, the wording of these words from a practical real word impact of how it affects communities, especially the Latino community in the America.

(Applause from audience.)

MS. SWAIN: I would like --

CHAIRMAN CASTRO: You'll have an opportunity. Let them answer his question. I know you want to respond on a statement what Commissioner Yaki said.

So Mr. Viramontes, Ms. Bauer and then Professor Swain.
MR. VIRAMONTES: It is impossible to separate justification for the law from its effect on the community. The people in the community perceives these laws to be a direct attack on them, a direct attack on their families and a direct attack on every -- every being that they are. And that is part of the reason the law is so damaging.

On top of that, because these laws are plainly intended to attack -- blame might be best word -- a whole host of problems we heard today during the Commission, blame them for the fact that the United States has become a (inaudible) nation. These sort of kind of broad claims are just highly destructive pieces of these laws and part of why these laws are being challenged on an equal protection basis.

And I just want to also tell the Commission that there's been some assumption that this Section 2(b) in Arizona has copycats across the country and are going to be inevitably implemented. But it's currently being challenged before the law can be -- on its face. We're asking the court of Arizona to prevent it in part because of its racial discriminatory effect and it's racially discriminatory intent.
So not only is this debate going to
play out politically and on a policy level. It's
also going to be happening in the courts.

MS. BAUER: If I could just follow-up
briefly. I would say just in -- from my personal
answering of our hotline, many of the people calling
us were U.S. citizens -- are U.S. citizens who are
suffering discrimination, who are suffering illegal
contact who are asked for IDs in inappropriate ways.
People born in Puerto Rico were told they can't get
services because people don't seem to understand
that Puerto Rico is a part of the United States.

Children, U.S. citizen kids, who are
denied food stamps because of this law. The impact
of this law drove an estimated tens of thousands of
people from this state. Many of them were U.S.
citizens.

And I would say these are not people
who went back to Mexico as some people announced.
They went to Georgia and Arizona and Texas. And
they enrolled their children in school in the middle
of the year, most disruptive to that school system,
to the Alabama school system and to those children.

We accomplished nothing in terms of
causing people to self-deport, but we destroyed a
lot of children's education during the process. And those are U.S. citizens.

CHAIRMAN CASTRO: Ms. Swain.

MS. SWAIN: America is a country where 78 percent of the people profess to be Christians, and many of the immigrants are Christians. And for that reason, I would like to share Romans 13:1-4. This is in the Bible for those that don't know.

Let every person be subject to the governing authorities, for there is no authority except from God, and those that exist have been instituted by God. Therefore whoever resists the authorities resists what God has appointed, and those who resist will incur judgment. For rulers are not a terror to good conduct, but to bad. Would you have no fear of the one who is in authority? Then do what is good, and you will receive his approval, for he is God's servant for your good. But if you do wrong, be afraid, for he does not bear the sword in vain. For he is the servant of God, an avenger who carries out God's wrath on the wrongdoer.

So people who consider themselves Christians really should consider this scripture when they take their position on the immigration.
As for the atheists and secular humanists, it's not for you. I'm speaking to Christians.

Thank you.

CHAIRMAN CASTRO: I have to -- I have two commissioners who want to speak, and I have five minutes left and I have -- so I'm going to have to ask --

Commissioner Kirsanow and then Commissioner Kladney. And then we will wrap up the panel.

COMMISSIONER KIRSANOW: I guess this is going to go to Mr. Krikorian. If the -- can you hear me now?

I'm talking about state enforcement of immigration laws, new state immigration laws. If the federal government put in force the immigration law on the books, will there be any type of need for state laws in the country?

MR. KRIKORIAN: Probably, yes, because there's really no way that the federal government on its own can enforce immigration laws alone. The federal government can obviously police the borders. The federal government is in charge of, you know, work site enforcement, what have you.

But especially with 11 million illegal
aliens in the United States, there's really no way
that the states on -- the federal government on its
own, without cooperation and partnership with states
and localities, can successfully enforce immigration
laws.

And we've seen repeatedly instances of
how that works. For instance, two of the 9-11
highjackers were actually stopped for speeding
before the attacks. One of them had had an earlier
Visa overstay, earlier immigration violation. Three
of the six were Dix plotters who were plotting
American soldiers at Fort Dixon, New Jersey. Three
of them had been stopped dozens and dozens of times
by local and state authorities for traffic
violations, for drug violations, for public peace
violations.

Because there was no interaction with
the federal immigration authorities those -- those
people were never found. And the only reason that
plot was uncovered was because a Circuit City clerk
somehow recorded them. I forget the exact chain of
events. But the police didn't know because police
-- those local police weren't in partnership with
the federal government.

So the short answer is no. Without
state and local police partnership with the feds,
immigration law cannot be enforced effectively.

CHAIRMAN CASTRO: Ms. Provine and then
quickly Mr. Stein. And then I'm going to turn it
over to Commissioner Kladney.

MS. PROVINE: I just want to make a
quick clarification from Mark's remarks. Based on
our three studies nationally, what he found is that
police do -- they have been cooperating with ICE
authorities. What their -- their perspective is
more nuance. So whether it's a loitering violation,
whether or not calling ICE. But if it's a
significant violation, they are. It's quite a
spectrum like that.

What these state laws are doing is
pushing the matter, escalating the matter, and
saying immigration is on top of everything else. So
we really have a system in which local police, and
they have for decades, had a cooperative
relationship with federal authorities. And, of
course, it's much stronger now than in some of the
cases Mark was talking about.

But I wouldn't want you be misled by my
testimony or his that there's no relationship
without laws I guess because that would -- that be
incorrect.

CHAIRMAN CASTRO: Mr. Stein. And then Commissioner Kladney.

MR. STEIN: And it's certainly true.

If you examine the legislative history, you'll read legislative enactment from Congress since certainly 1996 forward. And certainly after 9-11 it has been to encourage state and local cooperation, the assumption being, at a minimum, state taxpayers need to know how much they're paying for the cost. Nothing much sense if states aren't actually verifying status at every possible opportunity.

I would like to -- and I did want to -- I want to reserve under Title 45, Section 700 of CFR to object to the inclusion of certain paragraphs in the SPLC today as violating rules and that we didn't receive proper notice as being defamatory and inaccurate.

CHAIRMAN CASTRO: All right.

Commissioner Kladney, you have the floor on the last question of this panel.

COMMISSIONER KLABNEY: Thank you.

Since everybody else has given their opinions before they asked their question, I have a short comment.

First of all, I don't think there are 11 million
meth dealers and undocumented people in the United States.

Second of all, I'd like to apologize for the outbursts of some of my colleagues up here today. I didn't think it was professional. And I my question is -- it's a hypothetical, and I would like a few of you on the panel to answer if you think you know the answer.

If a child is in the third grade and a U.S. citizen and his parents are not citizens, while at the school the parents are say picked up by ICE and held, what happens to the child here in Alabama?

Yes, ma'am?

MS. BAUER: I would be delighted the answer that question. Our experience is that that child is taken over by the state. Most of the DHS offices that we have dealt with, the policy of not placing children with a documented family member. There really has been a number of cases with a devastating effect on family as the child is placed in foster care. Sometimes, you know, deep attachments formed by foster parents even when there are available undocumented relatives who would be willing to take the child and would be known to the child.
So there's certainly a profound cross
in the Alabama budget. The analysis done of HB 56
anticipated that there would additional foster care
costs associated with HB 56, and we have seen that
in the real word. We have seen families torn apart.

COMMISSIONER KLADNEY: Do those have --
do those parental rights ever get terminated?

MS. BAUER: We have seen parental
rights terminated after deportation. It's also
caused a number of DHS offices to refuse to attempt
reentry once the parents have been removed from the
United States. So it is incumbent on the parent to
figure out a way to lawfully get back to the United
States to fight for their parental rights, something
which is often unachievable.

So it really has devastating
consequences to a family, particularly in the
context of very young children where foster parents,

you know, very reasonably get very, very attached to
children and want to keep them.

COMMISSIONER KLADNEY: And do young

students in this situation understand that that
could happen at any time?

MS. BAUER: Oh, sure. That's exactly,
I think, what children are worried when they hear
the story is not only being told that you don't
belong here, but it's very likely my mommy might not
be home when I get there.

COMMISSIONER KLADNEY: Yes, ma'am?

MS. SWAIN: Well, I mean, someone can
refute this. But it was my understanding that in
those types of the situation that the parents have
the option -- the parents have the option of taking
their minor children with them, and their children
retain their U.S. citizenship status and that they
government doesn't force the parents to leave the
child behind.

COMMISSIONER KLADNEY: And how do you
understand that option?

MS. SWAIN: I'm asking. I mean, if
that's not true, then I would like someone on the
panel refute it.

MR. STEIN: The parents don't lose
their parental rights. The parents don't lose their
parental rights. IF they're deported, the children
-- the parents have an obligation to take their
children home with them. When a parent loses legal
custody of a child, it is because of abandonment.

MS. BAUER: The definition of
abandonment includes a parent who is incarcerated in
an immigration facility. And the children are --

MR. STEIN: Is there a --

CHAIRMAN CASTRO: Let her finish.

We're speaking one at a time, sir.

MS. BAUER: There is a report by that Miami Research Council that there are thousands of children across the country that are effectively deprived of their parents as a result of these --

COMMISSIONER KLADNEY: When you say deprived, do you mean permanently?

MS. BAUER: Yes.

COMMISSIONER KLADNEY: Can you submit that report to us, please?

MS. BAUER: Yes. And we have personally in our office dealt with these cases. It's true. It's (inaudible) revocation of parental rights. The child is placed outside the family if the parent is actually removed as a result of the process to done by -- by this. The parent is not always given custody of the child. We have seen that happen where the child is then in the custody of the state. Some of the DHS offices make every effort to make sure those families are reunited, but not all do.

And we have seen parents removed
without their United States citizenship.

COMMISSIONER KLADNEY: So would everyone the panel agree that there might be a legislation done in federal way that would at least allow the children to go with the parents? Would that be satisfactory with everybody?

MS. SWAIN: Well, I --

COMMISSIONER KLADNEY: Or would you object to that?

MS. SWAIN: No, I would object to it. But I believe that they -- they already have that option. And parents that lose their rights, they're in the same situation as U.S. citizen children when they're parents are incarcerated. The state makes a determination about what to do with those children if the parents are not there to provide for them.

So I think the situations are comparable. I would be in favor in cases where parents are being deported of the U.S. Government providing a subsidy for the American citizen children to make it easier to do this transition.

COMMISSIONER KLADNEY: So you think that undocumented parents are detained in the United States and --

MS. SWAIN: No. That --
COMMISSIONER KLADNEY: And when the parental rights are terminated -- if they're detained and deported and the parental rights are terminated, do you think that's akin to committing a crime of going to prison and not --

MS. SWAIN: No. No, no. That's not what I said. And, please, don't distort what I said.

I said I think under existing law that the person deported still has parental rights. And when they lose those parental rights, it's based on something else about that individual.

I said I would be in favor in situations where parents are being deported and they want to take that children with them, because they have the option of taking their children or leaving them with relatives, that we make that transition easier by providing them with financial subsidy.

COMMISSIONER KLADNEY: Well, Professor Swain, you asked if anybody on the panel knew different than what you were just --

MS. SWAIN: Well, she --

COMMISSIONER KLADNEY: Let me finish, please. I didn't interrupt you.
MS. SWAIN: Thank you.

COMMISSIONER KLADNEY: And Ms. Bauer supplied me with an answer and said she has access to cases where that's happened?

MS. SWAIN: She didn't provide an answer that addresses what I raised directly. But, I mean, it's something that I objected to, and I will talk with her privately about it. But

CHAIRMAN CASTRO: We have now exceeded the panel time. So I'm going to have to wrap this very interesting conversation up and thank each and every one of you for participating. It was a lively panel. And I thank you for appearing here with us today.

As you exit, I will ask that the fourth and final panel to begin to get ready to move up to the table.

(Brief recess.)

CHAIRMAN CASTRO: You may or you may not have heard earlier that we were trying to ask folks not to clap or applaud. We understand, you know, you want to show support. We're just trying to keep the proceeding moving along as quickly as possible.

(Spanish.)
CHAIRMAN CASTRO: So we'll get started.

We have most of the commissioners up here. The others will be arriving in a minute or two. Well, Commissioner Kladney may be late.

This is our fourth and final of the day. Now, before we start the panel, one of our attorneys from the officer of general counsel will give our standard disclaimer.

MS. ELHADY: Hi, good afternoon to you all. My name is Yasmin Elhady. I'm an attorney in the Office of General Counsel of the U.S. Commission on Civil Rights.

I just want to remind everyone present that each panelist is speaking in his or her own personal capacity or on behalf of the panelists' organization. The panelists' testimony and written statements are the individual's or the sponsored organization's opinions and positions. Each panelist is entitled to exercise his or her First Amendment right to freedom of speech. The testimony, statements and opinions do not reflect the position or view of the U.S. Commission on Civil Rights.

Also, I would like to remind, both the commissioners and the panelists, that they are
subject to the laws of Alabama and of the United
States, including the laws of defamation, libel and
slander.

Thank you.

CHAIRMAN CASTRO: Thank you. Let me
introduce the panelist in the record that they will
speak.

Our first panelist is Joseph
Knippenberg from the Georgia State Advisory
Committee of the U.S. Civil Rights Commission, and
he's also at professor at Oglethorpe University.
Our second panelist is Jerry Gonzalez, also a member
of the Georgia State Advisory Committee to the U.S.
Commission on Civil Rights, and he is also Executive
Director of the Georgia Association of Latino
Elected Officials. Our third panelist is Joanne
Milner from the Utah Advisory Commission.

I'm sorry. Let me repeat myself. Our
third panelist is Joanne Milner, Chair of the Utah
State Advisory Committee and from the Office of the
Mayor, Salt Lake City Utah.

And let me just -- it's more of a
personal purpose -- say that when I was the chair of
the Illinois State Advisory Committee, Chairman
Milner and I became to a briefing -- actually, a
conference that was held by the commissioners. And
at that meeting we talked about working on an
immigration issue. So I'm very glad to see it's
kind of come full circle and that you're here today
with us. So thank you.

Please, beginning with Mr. Knippenberg.

MR. KNIPPENBERG: Thank you for
inviting me. And will begin with the disclaimer
added to the ones already offered and that's I'm
speaking only for myself, not the advice of me, nor
my employer. My areas of expertise -- my areas of
expertise are political philosophy and
constitutional law. Above all, religion and
politics and liberty. I have no scholarly expertise
in immigration law or policy. My contribution will
be in line with the expertise I have.

I also want to apologize in advance
that I have very strong obligation to my wife. I
have to be back in Atlanta at 7:00. So I may have
to leave this briefing early to drive back to
Atlanta.

As I said, I believe that I am best
suited to contribute to our discussion today by
referring to first principles, the understanding of
natural or human rights that serves as the ground of
any and every government's fundamental responsibility to its citizens and other human being. For our purposes, the clearest statement of these first principles can be found in the U.S. Declaration of Independence, and I quote?

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of happiness...That to secure these rights, Governments are instituted among Men, deriving their just powers from the concept of the government..."

Government exists above all to secure the rights of the individuals who joined together to constitute it. Its principal responsibility is to those who are, so to speak, on the inside, the members of the community, the participants in the social contract. In other words, every legitimate government distinguishes between citizens and noncitizens, between those who are parties to the social contract and those who are not.

Further, it is the right and responsibility of the government, on behalf of those who are parties to the social contract, to decide
who, if anyone, shall be permitted to join the
community. I cannot legitimately be governed
without my consent, but that most emphatically does
not imply that I have a right to join, or even
reside in, any community I please.

To state it again, those who are inside
are entitled to exclude those who are outside, to
decide what precisely shall be the conditions of
membership in the political community. This is, as
Justice Scalia puts it, one of the attributes of
sovereignty.

Another consideration is implicit in
this first one. Because government is meant to
secure rights, it is reasonable to ask how best
those rights can be secured. Most of those who have
thought seriously about the subject will tell you
that one of the absolute prerequisites of this
security is the rule of law, enacted by legislators
who are answerable to the electorate; or, if you
will, to the citizenry, and administered impartially
by an independent executive.

I have to be able to know the
consequences of my actions. Those who are
responsible for arranging those consequences have to
have an incentive to put themselves in my shoes.
And those responsible for enforcing the laws should not be able to play favorites. If they did, the entire framework of legislative responsibility and the consent of the governed would fall apart.

Having thus sketched very briefly, all too briefly, the results of more than 300 years of serious and profound thinking on this subject, let me draw out a few implications for our topic today. The first is that when discussing civil rights and immigration law and policy, we should not focus too narrowly. Anytime any law is enacted and enforced everyone's civil rights are at stake. I do not mean by this only that one set of victims could succeed another or that one set of abuses could give birth to it.

In Federalist #84, Alexander Hamilton said that "the Constitution is itself, in every rational sense, and to every useful purpose, a bill of rights". What he meant by this is what I mean today, that laws enacted in accordance with the constitutional structure are meant to protect everyone's right, those of the majority as well as those of the minority. Thus, we must always ask not only after the effect of the law on some without also inquiring after how the law is intended to
secure the rights and liberties of all.

To take one not altogether trivial example: I would be more secure driving on the streets and highways of my home county in metro Atlanta if all the drivers had jumped through the hoops necessary to obtain driver's licenses. That this is at present not necessarily the case was, so to speak, driven home to me by an evening spent sitting with my teen-age son in traffic court. The most frequent citation brought before the judge that evening was driving without a license.

I can make my next point by continuing the consideration of this example. That the law rightly requires that every operator of a motor vehicle have the requisite license and that the public safety is promoted when this is the case does not mean that all our enforcement resources should be devoted to ascertaining whether every driver has a license. There is, and indeed must be room for, executive discretion in how the limited available resources are to be deployed.

I expect that most license checks are conducted when drivers are stopped for other apparent violations and that -- it goes without saying -- that not all of our public safety
resources are devoted to traffic enforcement. The responsible officials decide where their resources are most needed and deploy them accordingly. If they make errors egregious enough to be noticed by the voters, they will not be reelected. So they have at least some incentive to get it right. I take it for granted, of course, that reasonable people can disagree about what a community's enforcement ought to be and that errors in judgment are simply part of the human condition. At the same time, such discretion can be abused, either by the politically responsible executives by their subordinates. Through racial or ethnic bias, inordinate zeal, or personal pique, an executive could use his or her discretion in such a way as to harm those whose protection is his or her responsibility. Fortunately, our system contains a remedy for such abuse, as it does regarding the states.

First of all, we separate law enforcement from adjudication so that those who lay charges and gather evidence have to make a case before an impartial judge and jury. Second, there are at least two other checks on the executive, the oversight of those who make the laws and the
judgments of the voters. A third check follows from different levels of government in our system. So I have in my statement a lot of material about the Georgia law, and I'm just going going to draw one conclusion, and that is: With the insistence that the purpose of government is to protect the rights of all, which includes maintaining the integrity of the rules of entry into the community. Concern with civil rights places a presumption on behalf of the right and responsibility of a government to control its borders and admit into its jurisdiction only those at wishes to admit. Its first responsibility is to its citizens in other words. To secure these rights, to make government live up to its responsibilities, certain sorts of institutions and institutional mechanisms have to be created; separation of powers, checks and balances, frequent elections and so forth. These are the principal means by which our civil rights are to be protected. Making certain that they remain vital should be our foremost concern.

Thank you.

CHAIRMAN CASTRO: Thanks. Chairman Gonzalez, it's always a pleasure to see you. You
MR. GONZALEZ: Chairman, thank you.

It is an honor to be here. My name is Jerry Gonzalez. I am executive director of GALEO, the Georgia Association of Latino Elected Officials. Founded in 2003, GALEO is a nonprofit and nonpartisan organization dedicated towards enhancing civic engagement and leadership development of the Latino community in Georgia.

I'm also the new member of the Georgia State Advisory Committee of the U.S. Commission on Civil Rights. And my testimony here today is on behalf of GALEO, and I am not speaking on behalf of the State Advisory Committee. GALEO has been the leading voice of a recent United States order in U.S. Congress for a broken immigration system by urging the passage of comprehensive immigration reform, and we have been one of the leading voices in our state opposing any efforts to attempt to have state or local laws enforcing or regulating immigration.

To begin with, I want to provide examples of hostile, anti-Latino, anti-immigrant environments that have been created in Georgia. I would like to cite some examples of racial profiling
and diminished public safety for are communities across the state. And, lastly, I wanted to touch upon the racial undertones surrounding the origins of such laws and bring them to the forefront of this part of the battle for consideration.

Georgia is a hostile state against Latinos because of these type of laws. What does hostile environment look like? I'll begin with a story with from a teacher. Overzealous immigration enforcement of some law enforcement communities in this state have led to children internalizing anti-immigrant sentiment. This has had an impact on the childrens' mental health and their ability to learn in school. The teacher indicated that the new students felt out of place and felt like they didn't belong and weren't suppose to be here. The educator also had concerns of hopelessness, depression, as well as an increased risk of suicide.

There is a story a good friend, a state court judge took. His children were playing in a -- I guess this is his children were playing in a park. They were speaking Spanish to each other. These teen-age boys came up to them, slapped them and told them, speak English. This is America.

More recently there was a debate
between school board candidates in Troup County. One of the incumbent candidates said, we have a lot of discipline problems because we have Mexican children. We have Asian children that cannot speak English. They have a hard time communicating with their teacher. So, therefore, the teacher has to send these children to the counselor. And the counselor has the reprimand these children for not speaking English. It was Troup County School Board, District Two, Diane Matthews that said that in the debate.

In the heated debate of HB 87, Georgia State Senator, Renee Unterman, embarrassed herself and embarrassed her state by demoting the geographic changes in her county. She was proud of the sheriff and the 287(g) agreement that they had because there weren't as many foreigners around because they've scattered. She highlighted the fact that this sheriff was purposely arresting people to check their immigration status. Again, this means that this state senator was condoning the practice of racial profiling.

The examples highlighted are not isolated incidents. For these reasons, we believe that the state of Georgia has become extremely
hostile towards Latinos and immigrants. The open hostility for Latinos and immigrants is across sectors and experiences and makes Georgia prone to civil rights abuses in all areas.

I'd also like to say with regards to public safety there's numerous reports of public safety concerns and diminished public safety. I get calls when a crime is committed. Rather than 911 being called, I get a call saying, should we call the cops? In all honesty, I can't tell community members, yes, you will be protected if you call the cops. There have been instances where victims of crimes or victims of car accidents have been deported. So they can't trust the police. There has been a situation where a victim of domestic violence was under a new VISA. She was trying the be forced to sign an voluntary deportation order.

What these type of stories reach the community, it undermines public safety for all. And this is what's happening across the state of Georgia, across the states where they are perpetuating these types of immigrant policies.

Last, I would like to comment on the issue of race and racism, that it does exist within
the debate HB 87 and the people who worked for its passage. Not talking about the inherent racial undertones of the issue of immigration is like not talking about the racial undertones back in civil rights movement. It exists. Southerners don't like to talk about it. We still have a lingering problem.

Unfortunately, unscrupulous politicians have used that tension to target a new group, and that is Latinos. These demographic changes have happened quickly in the south, and they've caused a lot of tension.

I do want to emphasize the fact -- and it is my opinion -- that I have to object to the inclusion of some of the groups that were present earlier. And I've revised my statements not to appease to some of the concern that was raised, but I do believe that some of the groups represented hate groups and did represent the view that is counter to the inclusion of this great country.

Legislators pushing these types of laws talk about the rule of law. I would push back on that notion. Clearly, given the ruling of the U.S. Supreme Court, there are boundaries in which states can and cannot cross in immigration enforcement.
Secondly, the rule of law is -- we can't use the rule of law to further discriminate against a segment of the population.

Additionally, just because it is the law does not make it moral, nor does it make it right. I don't need to remind this audience that it used to come the rule of law that we could own people. It used to be the rule of law that women did not have a voice in our democracy. It used to be the rule of law that blacks and whites were to remain segregated. Our nation is better than this. Our nation should be better than this I think we need to rise above it, repeal these types of anti-immigrant laws that are clearly purposely passed for division and hate. And we need to focus on the real prize, the prize of reforming our immigration laws to ensure that we can all move forward together rather than spending our time on these types of anti-immigrant, anti-Latino laws.

It is personal because I am Latino, and I have been subjected to many of these hateful threats that our community gets. These are just an example of what we see in Georgia. And I look forward to working with the Commission to further look into these civil rights abuses that are
occurring in Georgia, occurring in Alabama and in
other places as well.

Thank you.

CHAIRMAN CASTRO: Thank you, Mr.

Gonzalez. Chairman Milner.

MS. MILNER: Thanks, Mr. Chair and
commissioners. You can smile. I'm your last
speaker.

That being said, Utah, not unlike other
states, has been confronted by negative legislation
regarding immigration, primarily targeting
Hispanic/Latino populations, especially those from
Mexico. Ironically, Utah along with other
southwestern states was originally part of Mexico.
The United States, building on the momentum of
Manifest Destiny, surged into war with Mexico in
1846 in order to capture a tract of land that would
expand U.S. territory from coast to coast.

In 1847, Mormon pioneers fled westward
from persecution in the United States. I'd like to
say that Brigham Young was a definite person in
Mexico.

That being said, the battleground -- of
course, we know that the Mexican-American war took
place, but the battleground at that time was over
land acquisition. Now, the battleground was over
civil rights, and there has been a lot of caustic
debate over this issue. The Utah Compact has
emerged from this, and it’s a declaration of five
principles to reaffirm American core values and
guide Utah's immigration discussion in a rational
and reasonable manner.

And just to give you an idea of the
catalyst cause for this Compact, following the
Arizona -- the signing the of the Arizona bill in
July 2010, the -- I should say, cowardly and rogue
state employees compiled and submitted a list of
1,300 undocumented people in our community with a
complete list of their addresses information,
including the due dates for pregnant women, to
Homeland Security, law enforcement and media. This
was just part of the caustic contentious debate that
was taking place by supposed concerned citizens at
that time.

However, the irony is this produced a
counterproductive response. They crossed the lines
of civil rights. And rather than inciting, it
united people, particularly courageous community
leaders led by a conservative think tank. The
Conservative Sutherland Institute, one of the many
sources in the community, compiled symposiums and
wanted to engage in civil dialogue and civil
conversation to address the issue of comprehensive
immigration reform.

A convening of communication
professionals from very conservative groups;
politicians, business leaders, religious groups as
well as community advocates, assembled themselves
together and formed a coalition for consensus
building. The purpose of this is complementary
allies which could create a very clear and concise
statement of 213 words. They were done for a period
of time, and I believe that if you should have a
copy of that before you in the PowerPoint
presentation that we have prepared.

And these guidelines simply state;
number one that immigration is a federal issue, and
-- it's a federal policy issue, and the states don't
necessarily need to be engaged in battling with
other countries about that.

Secondary is law enforcement. And that
is we respect the rule of law and support law
enforcement's professional discretion. However,
local law enforcement believe sources should focus
on criminal activities, not civil violations or
One of the most important fundamental aspects is our families. Strong families are the foundation of successful communities. We can oppose policies that unnecessarily -- we can oppose policies that unnecessarily separate families. We champion policies that support families that approve the health, education and well-being of all children.

The economy. Utah is best served by a free-minded philosophy that maximizes individual freedom and opportunity. We acknowledge the economic growth where it's workers and taxpayers. Utah's immigration policies must reaffirm our global reputation as a welcoming and business-friendly state.

And, last, the fifth -- if you were to look at the hand -- is a free society. Immigrants are integrated into communities across Utah. We must adopt a humane approach into this reality reflecting our unique culture, history and the spirit of inclusion. The way we treat immigrants will say more about us as a knee society and less about our immigrant neighbors. Utah should always be a place that welcomes people of goodwill.
In the assemblage of this coalition, there was a dramatic shift in the debate. It became very civil. There was more of a dialogue, a conversation. Statesmen and women attending a ceremonial signing of a Compact. And this was led by two former Republican daughters, the current governor, republican senators as well a very conservative legislators, business people, as well as representatives from the -- I should say the dominant church in Utah, the Mormon church, the LDS Church and the Catholic Diocese.

It changed the whole conversation and created coalition building and a national story from that, a very pragmatist approach in search of solutions to initiate a reform movement that actually can be replicated across the nation.

The purpose of this Compact is to send a message for a clear call to Congress and states, and that is in the course of discussion and debate that there needs to be a model created to address these very complex issues and that they need to be customized based on the core values of a state and community, not a cookie-cutter approach. In order to create constitutional legislation, that there needs to be a very proactive and a very
comprehensive civil dialogue.

Thank you.

CHAIRMAN CASTRO: Thank you, Madam Chair. At this point, I will open up to questions from commissioners. Do I have -- Commissioner Gaziano.

COMMISSIONER GAZIANO: I have a special place in my heart for the Virginia State Advisory Committee. So I want to thank all three of you, for serving us on the Commission. Oh, I'm sorry. I was going to ask Mr. Knippenberg -- but that's fine. If you need to go to your wife, that's a much higher obligation than listening to me.

COMMISSIONER HERIOT: Thanks for joining us.

COMMISSIONER GAZIANO: Thank you.

CHAIRMAN CASTRO: Thank you very much.

COMMISSIONER GAZIANO: I especially wanted to thank Mr. Gonzalez for tempering your written remarks. I know that wasn't your -- your first choice, but our rule of law here are our rules. And I'm not sure that your revised statement quite satisfies it, but that's something that we can talk about later and amongst ourselves and be in touch with. I thank you in your oral statement from
staying almost on the rule since I have determined
that very close.

I certainly agree this is an emotional
issue, and the stories you were telling should
bother -- should bother anyone. But especially
because of those troubling stories and especially
because we care about the civil rights implications,
we also have to be careful to be accurate about the
facts and not let the ends as we all, I think,
agree, you know, justify loose facts.

In your written testimony you said with
the passage of HB 87 and shortage of migrant farm
workers, Georgia suffered a $140 million in direct
agricultural losses in 2011 with rotting crops in
the fields. Those losses also accounted for a total
yearly economic impact of approximately $391
million. You may still stand by that. That's
essentially my question.

But the Georgia Department of
Agriculture released a study finding that for that
that there were $10 million worth of losses, a tiny,
tiny fraction. But -- and they also found that
almost all of those losses were attributed to the
poor economy and drought conditions. In other
words, virtually none of it, none of the $10
million, or a tiny, tiny fraction, was related to HB 87.

And so was the department of agriculture's study so -- so widely wrong in your own predictions so -- and if you believe yours are more accurate, please, tell me what the basis of yours.

MR. GONZALEZ: Let me clarify. The Georgia Department of Agriculture did a very sloppy job of doing a survey, which had very little participation from the farmers impacted. They did reach out to stakeholders in the process of doing the survey that they did. So the survey is, by no stretch of the imagination, a sloppy job that I would say the Georgia Department of Agriculture did.

That being said, the sources that I cite in my statement with regard to the numbers that are indicated where are not fabricated by my conjecture. They were fabricated the Georgia Fruit and Vegetable Producers in the spring of 2011. They did a data analysis associated with the crops losses. Now, they surveyed their members of the crop losses that did suffer real harm.

You would go all across south Georgia and see crops rotting in the fields. We have a high
unemployment rate. The governor made an effort to 
try to meet that need with parolees. That failed 
miserably. The crops rotted in the fields. And it 
was because of HB 87.

Ask any Georgia farmer. Clearly what 
led to this crop lossage, it was not because of the 
lack of workers that weren't there just because they 
weren't there. It was because workers bypassed 
Georgia during peak picking season, and the rotted 
in the field because those workers weren't there and 
there weren't enough workers to do the job that was 
necessary to keep the number one industry in Georgia 
alive for that process.

COMMISSIONER GAZIANO: That tells us -- 
that gives us a basis to look further into -- which 
of these studies might be more accurate?

MR. GONZALEZ: Let me -- let me just 
add that -- several years ago during raiding of 
Vidalia Onion Farms, republican congressional 
members stood in the face of immigration and the 
stopped the immigration raids that were happening to 
Vidalia onion farms because they knew it would take 
the crops. Otherwise, the crops would rot in the 
fields as well.

A Republican congressional delegation
stood in the way of immigration enforcing it because we needed -- we had an economic need to be met at that time.

CHAIRMAN CASTRO: Thank you.

Commissioner Yaki.

COMMISSIONER YAKI: Yeah. I just wanted to put into the record that this -- the evidence about the crops rotting in the fields was sworn testimony by the agricultural chief of Georgia to a Washington congressional committee. So that's let's make sure we understand that.

Number two, Forbes Magazine has reported that the Georgia Department of Corrections is now sending prisoners out to the fields to help pick the crops because there's no one -- no one to do it. And so, you know, we can sit here and place, you know, got you, on one of the factors. There would be sworn testimony by the Georgia agricultural chief to a congressional panel. And then we have the Forbes Magazine story that in fact Georgia officials are now sending prisoners out to the fields to pick the crop because some people that used to be there are no longer there.

MR. GONZALEZ: Let he add to that that many farmers in Georgia, also because of the
uncertainty of the labor market, scaled back their
efforts in planting crops. Georgia's agricultural
industry, the number one industry for the state, is
responsible for $68 billion for state.

   The cost associated with the reasons
they passed HB 87 on the face value, I disagree with
them, but they are $250 million. So with $250
million in potential costs that supposed folks have
highlighted. Compared to $68 billion, I think the
state is making out an bandit in this regard.

   So people talk about costs all the
time, but we respect the labor that immigrant
workers bring to our state and fuel our number one
industry, and we respect and value of that because
at real dollars and cents that impacts, not just the
immigrant community, but impacts the vitality and
the economic viability of the entire state of
Georgia.

   COMMISSIONER YAKI: Well, I don't know
about you, but I'm not too keen on the economy and
labor so.

   CHAIRMAN CASTRO: Any other
commissioners?

   (No responses.)

   CHAIRMAN CASTRO: Let's me ask Ms.
Milner. You talked about a very conservative and also a very diverse coalition that came together in Utah. I wonder if you could talk a little bit about how that was accomplished versus how apparently in some other states -- although, in Georgia it sounds like there is some support on the conservative side.

You know, are there some lessons to be learned that can be replicated perhaps in places like Alabama and Arizona?

MS. MILNER: Thank you, Mr. Chair. In fact, the Utah Compact and the neighbor received a Compact is because it was signed on the very day that the Mayflower Compact had been signed, too, as a means for governing of people.

But it has been replicated in numerous states. Seventeen other states. And it's under consideration in many others. The purpose of it is to -- to perhaps minimize the rancor, the rhetoric, some of the heightened emotions that we see and the extreme opinions and see if there's central ground that we can convene to be able to address.

And so it's a very simplistic -- very simple sample, but it's very substantive as well.
And it really sets a decorum. It just changes the
tone of discussion. As was mentioned, Utah was
headed in the very same light that Arizona was in their
legislation. We had copycat legislation that was
being introduced, and it was creating all types of
tension and not unlike what has been shared here her
by other states, Georgia and many others.

We had populations that were being
frightened, terrorized. We had raids on families
that were being split up and disrupted, and it was
causing all types of consternation in our community.
And realizing that there needed to be a means to be
able to address some of those concerns in a very
civilized manner, thus convening. And it was the
coalition that came together.

Some very diametrically opposed groups
that irony about it, came together and found common
ground and found a means whereby we can establish
core principles and values based -- that all of us
share, that we are all benefiting from. And then
from that be able to implement and use that as a
guide for any legislation that's being crafted on a
state level.

More importantly, I think the emphasis
here is that this is a federal issue, and it's not
up to the states to be deputizing law enforcement to
go after, you know, civil matters. It's just --
that's where the cost comes in. It's very
pragmatic. It's practical.

We're talking about 11 million people.

And to hear some who expressed the idea of rounding
up and chipping back, Utah's economy -- successful
economy -- and Forbes has been mentioned Utah to be
be a very prospective up and coming economy. The
reason that it's working is because of the workers
that we have. We benefited from the Olympics on the
backs of -- it was push-pull. We pulled in many
undocumented persons to put their labor to test, to
build the roads, to build the infrastructure to
benefit Utah and the nation or the world. And then
after that --

I'm running out of time here. So I'm
going on with that. But, yes, there is a a civil
approach. When I say simple I just mean simplistic
in the number of words. But I believe what it does,

is it gets back to very basic ground. And that is,
again, that it is a federal issue. We want to

protect the rule of law, that we know that law
enforcement -- we want that to be focused on
criminal activity.
More importantly, families. How can you split up -- we talked about the fabric of society and the rule of law that was expressed earlier. I tend to disagree that it's the rule of law. The fabric of society is families. And when we break up families, we break up any civilization as we know.

So in order to ensure families are staying together and that parents aren't separated from the children and you have questioning as who has parental rights and children are put in foster homes, that is what erode our nation more than anything else. The economy. We know that we're attendant upon the services that are rendered.

And I appreciate Commissioner Gaziano and his personal testimony about his family. I, too, am of Italian descent. And my grandparents' experiences with the same challenges of what's been expressed. And we know that's what happens.

But I think that, you know, this conversation and our assemblage here today will be a moot point in years to come and we'll look back at this conversation in the same way that we come to a reckoning of the civil right issues. As we see -- I mean, I can't help but just be overwhelmed by the
presence of where we're at and the conversation
that's taking place today.

So, anyway, my encouragement to you is
that to be listening to other states and trying to
model legislation. The purposes here, take a look
at those family core principles in your own state
and then come together in a very -- to build upon
the basis of shared values and not to have the
sparring that is taking place. I think that there
is a plan here. It is not just the Utah solution
because of all the places the people wouldn't look
to Utah for a solution. But, it doesn't matter where
it comes from or whether it emerges. Common sense
plays out.

CHAIRMAN CASTRO: Commissioner Heriot.

COMMISSIONER HERIOT: I just wanted to
put something on the record on the agricultural
labor issue again. It's not that I disagree with
anything that somebody said here, but I think we
might have been oversimplifying things a little bit.

I mean, sure, it's true that when have
got in some parts of the state -- well, just about
every state I assume -- a significant amount of
agricultural activity, you have a group of people
who are providing the labor for that. And you'll
the income levels when other people stop doing that, for whatever reason, that that's going to cause an immediate problem. Crops have to be harvested in the way crops are harvested. And it's always possible that we will lose part of the harvest if people aren't available to do the work.

But I think it's important that we also recognize for the record here that those are temporary dislocations, that the economy -- you've got the supply/demand not just, you know, agricultural labor. There are substitutes for that labor. What is going to happen is because not too many people are going to do to work, the wages would go up. That's going to attract a different group of people into the labor market, and it's going to cause farmers to engage in different kind of technologies, perhaps be more mechanized.

But it doesn't mean what the crops are going to rot for now on. What is means is that they're going to create some temporary dislocations, and eventually the economy will adjust to that, whether that's adjusting in the direction of bringing more unskilled laborers or fewer. It will always adjust.

CHAIRMAN CASTRO: Thank you. You want
MR. GONZALEZ: If I could react to that. First and foremost, I think, commissioner, you may have a misunderstanding of how agriculture works, and particularly in Georgia. I'm not an expert in agriculture. I'll admit that.

However, over the discourse that we've been in for the last several years, I've become quite knowledgeable about our agricultural industry. Prices did go up for the enticement of additional workers to come to the fields in south Georgia because they wanted to make sure that the crops were harvested. So the market did react associated with that, and still there was no labor to be found.

Secondly, you made a point about advancement technology catching up and being other ways to harvest the crops. A Vidalia onion cannot be harvested by machine. A peach cannot harvested by machine. A tomato, raspberries, blueberries blackberries --

COMMISSIONER HERIOT: So it would be a challenge for an engineer to me.

MR. GONZALEZ: Well, I don't think an engineer -- I'm an engineer by training. So I understand the challenges associated with that. But
if we were to have a machine pick our peaches, I don't think that you would be eating the peaches. So the mechanism of crop harvesting is not where we need to be.

Now, the other solution is to outsource our food production in this country. What national security ramifications does that bring to the forefront if we were to outsource our food production in this country because we don't have the labor necessary to meet our food production needs in country? We do bring in a significant amount of food, food produced in other places, into our country, but we cannot afford to lose our food production in this country.

And, lastly, agriculture is the number one industry in Georgia and to simply to say, oh, just increase prices or mechanize it, that's a clear misunderstanding of the way agriculture works in Georgia. And I just wanted to make sure that I mentioned that.

CHAIRMAN CASTRO: Commissioner Yaki.

COMMISSIONER YAKI: My father's family, they were interned with farmers in farm fields and the produce business. That's a long story but (inaudible).
But he -- Jerry's absolutely right. There is some -- you cannot mechanize -- there is no -- there is no collagen for a peach. There is no collagen for grapes. There is no collagen for apples. There are people out there making sure that stuff does not look like it got beat to a pulp. No pun intended. We have to have it on our tables everyday.

Jerry, would you comment, though. One of the solutions that people were talking about -- and it's rather ironic -- is simply opening the floodgates to temporary desk worker programs, which is, what, just bringing in a lot of -- well, anyway, why don't you comment on that.

MR. GONZALEZ: I think what's being proposed and what's being talked about just solving the problem by bringing in temporary workers. And that's -- that's you're missing the boat. You're only looking at that solution.

Picking raspberries, blueberries, peaches, Vidalia onions may seem like unskilled labor, but it is not. Talk to any farmer. And the parolee example that Georgia put in place was a perfect example. You had one group of group of workers picking onions -- or I think it was
cucumbers. One group picking cucumbers, immigrant workers, Latino workers, another group that were parolees picking the same crop in the same day. The immigrant workers picked ten truckloads. The parolees picked one truckload.

So it is -- the notion of just importing labor to get up to speed and pick the crops that are necessary is just missing the boats entirely. Our farmers need the labor -- the skilled labor that they have, and they need it to keep them. They need a way to make them legal. It's estimated about 75 percent of the nation's agricultural workforce is undocumented. And that comes from the U.S. senator -- Republican U.S. Senator, Saxby Chambliss. That's his estimate.

So this is serious business for our nation's food supply. We need to make sure that we keep that in mind. We talked about mechanized crops. We talked about crops that are picked by land.

Let's talk about economics about that. Dollar wise, the estimate for a mechanized crop. Per acre, you may yield about $800 for peanuts. Peanuts can be mechanized and has been mechanized. It will yield about $800. For the sweet Georgia
Vidalia onions, you make about $3,000. So are we going to tell your farmers to grow more peanuts, flood the market with more peanuts and make a lot less for the same acre? I think that is a serious mistake, in this -- in this discussion.

We need to address the real needs of the farmers. We need to address the real needs of our economy. We need to address the real needs of making sure that immigration law reflects our values and keep families together as well.

COMMISSIONER YAKI: And we're not even talking about the conditions under which they work, which is still ashame 50 years after CBS first started reporting about.

MR. GONZALEZ: Exactly.

CHAIRMAN CASTRO: I don't know that we have additional questions. However, let me -- as you know from the original concept paper, I wanted to have a documented person come in and testify and the various groups were not able to locate one.

However, we do have someone that's indicated a willfulness to speak, and I'm going to ask her to come here and give us a couple of comments. Ms. Ramirez, would you, please, come forward?
MS. RAMIREZ: Well, hi. My name is Leticia Ramirez. I'm undocumented. I have been living in the United States for 18 years. I'm the mother of three kids that are in elementary school. It's been hard living and so now I'm (unintelligible).

For me, it was just the stupidest thing for gentlemen to sign knowing that a lot of Hispanics and a lot of other communities were going to be devastated by this law. A lot of people in my community are being separated. I've been seeing a lot of mothers being separated from their kids, and I don't want that to happen to me. That's why I come to Alabama, to tell you, to tell other people who are making those laws to stop doing that. Look -- look to us from the community. And another thing is that we're not illegals. We are human beings like you are.

And one more thing. I would like to -- one of the community from here would like to speak to what she's went through here in Alabama.

MS. NIHAL: Thank you. My name is Hina Nihal.

And, first of all, I don't like -- you
know, what fancy words can you say like? But I'm going to speak. I don't know. It's weird to hear people like you talking so rude because you are supposed to defend civil rights.

And it's hard, you know, to hear you say things like Ms. -- her just saying that you've been bullied because you were -- you were Russian or whatever, at that time to say that it was okay. It's not okay. I'm sorry that you've been bullied, but it's not okay. You were trying to say like it was okay. It's never okay to be bullied.

I came to United States when I was 16 years old. I came from extreme poverty. My dad died from cancer when I was eight years old. My mother have to work a lot. And when I was 16 years old, my mother got sick because she work so much. And I -- at that point I decided I couldn't take it anymore, and I have to do whatever it takes to support my family, because it was my turn.

They offered me to come to United States, and I (unintelligible) and I risked my life. It was a tremendous fear. It was -- we run out water, we run out of food and I thought I was going to die. I never wanted to come here illegally. I promise you. None of the people that was there
wanted to come here illegally. None of us looked
for it -- looked for it. We're like a people -- it
was a group of 20 people. And I was the only woman,
16 years old. I was terrified.

And, you know, my thoughts were my mom
and my sister in Mexico. And I was willing to give
my life for them. I came to United States. And God
he gave me the strength to come here. I came here
right after high school. That's why I came here.
Lot of immigrants came here to work hard.

And I don't know about the one percent
that you described it, but I'm -- I'm sure that 99
percent of undocumented are like me because they
don't know anybody that is not here for a good
reason and because we're not with their loved ones.

I graduate from high school, and I am
at college. I'm trying to get my bachelor degree.
And it's all -- it's all (unintelligible) that's
trying to punish people like me. I don't know. And
the tone of you, like you supervising all the staff,
I think you have heart, you can have compassion and
think. Like I can't understand why you want to
punish people like me, put them in jail, put me in
jail or put me everywhere or take me away from
working because I never -- I never got tuition for
I work every -- three jobs sometimes.

I have to support myself and support my family in Mexico. And Alabama, Marshall County, there's a lot of Hispanic people. I don't know whether you heard about -- there's not exaggeration about fear. You should go to -- I live in a Hispanic neighborhood. And I don't know where you get the idea that it's just exaggeration because it's not. You should go there, and you should ask people. And then after that, you should say, oh, they're not -- they're not afraid. You should go there if you think to say it's just an exaggeration. It's just an insult saying it's a exaggeration.

When I was -- when the law first start, I was scared. But I was like, well, I think there's nothing we can do. We have no rights. And then I stop. Like my whole street was Hispanic, and the bus empty. None of the kids wanted to go to school because they were scared that their parents were -- when they came back, their parents won't be there.

I saw this like 12-year-old running to the bus because she got a test that day. And the mother went back running after her crying saying you cannot go to school. She wasn't scared. And I --
was in the window looking at this -- the scene. And I couldn't -- they started crying. And she said, I want to go to school, mom. And she said, no, you can't. They can take you. And they start crying, and I start crying, too.

And I -- at that point I was like this cannot be happening. People with good heart, with sense of justice could see that this is not right. People -- there's some other case in Blount County when this family was stranded. But this guy of the middle of the night, they called the sheriff. They have three U.S. citizens. This guy was wanting to fight with the father. They called the police. And the police, the first thing they asked is if you're illegal. They say, yes. And they say, well, if you're illegal, we cannot file a report. You understand that conflict and you lie. I can call ICE right now and they can come and pick you up.

And they say, yeah, I think you can do that. They didn't know. They were like frustrated because they call for help. And that's what they got. They should have left and they call me.

You cannot sit down and pretend that is -- that is okay. You can also ask the farmers of Steele in the mountains of Alabama if they'll --
like you said you can adjust. It's not like that. Someone will go bankrupt. I don't think they can adjust. Or maybe they can adjust a hundred more years, next generation.

But I think you should invite the farmers so they can firsthand tell you what the impact, if they can recover or adjust like you said. And also in Blount County -- I don't know how you -- how you -- it's nonsense. They like chicken plants where like hundreds and hundreds of people were laid off. Them working there for 20 years, they were laid off who have -- like U.S. citizen, 19 and 18 years old. They were laid off.

And, you know, for what? They bring people from island -- they bring people from island to take the place of those undocumented people who have U.S. citizen children who need the job. And I don't know what the point of -- you don't -- you don't want -- you import people and you take away the job the people that are already here and have attachments and have all this -- have U.S. citizen children and take away their jobs so they can go to food stamps. It doesn't make any sense.

My nephew said, what are we going to do? What you going to do? What everybody is going
to do? Okay. Mexico they're going to kill us. And here they don't want us.

The lady on -- I don't know her name.

She was talking about the Bible and all that. In the Bible -- I don't know if you can go into compassion, but I think Christian will see that we are here and we hardworking people. We just begging for the opportunity to be legal.

We need to do whatever it takes to be legal. Let's work together. Let's find a way to be legal. Because if we need to pay, that's what we have to pay, fines or whatever. Because if that -- when you have a ticket, you pay your fine. Right?

It's not like you're a criminal because you break a law when you speed. It's the same. We came here, and crime is to risk our lives to provide for our families.

Let's -- we just need to work together.

We need an opportunity for the people that we don't commit a crime that we good people, that we work, that we study. And we just need an opportunity. And we're willing and we're desperate to be legal and we can work for the economy of the country because we're already here and we love this country.

CHAIRMAN CASTRO: Thank you.
MS. NIHAL:  Thank you.

CHAIRMAN CASTRO:  We really appreciate it.

(Applause from audience.)

CHAIRMAN CASTRO:  That brings us to the conclusion of the panel and the program.  I want to of course thank all the panelists.  I want to thank our two late editions there for their very moving of hearts.  I also want to personally thank the Commission staff for the efforts that they've made in the last couple of months to pull this briefing together.

And I want to, in advance, thank the staff that's going to instill all this information and present a briefing report to us.  I'm also grateful for the work that Pam Dunston and her team here for what we see here on the ground here and the logistics of the event here today.

And I also want to thank our attorneys from the Office of General Counsel, Vanessa Eisemann and Yasmin Elhady, for all the great work they do leading up to today and till now.

Lastly, the record for this briefing report shall remain open for the next 30 days.  If panelists or members of the public would like to
submit materials, they can mail them to the U.S. Commission on Civil Rights, Office of General Counsel, at 624-9th Street, Northwest, Washington, D.C. 20424, or you can submit public comments to the e-mail at immigration2012@usccr.gov.

It is now 3:54, and this briefing of the U.S. Commission on Civil Rights is now adjourned. Thank you.

END OF PROCEEDINGS
CERTIFICATE

STATE OF ALABAMA
JEFFERSON COUNTY

I hereby certify that the above and foregoing proceedings were taken down by me in stenotype, and the questions and answers thereto were reduced to typewriting under my supervision, and that the foregoing represents a true and correct transcript of the proceedings had on said occasion.

I further certify that I am neither of counsel nor kin to the parties to the action, nor am I in any way interested in the result of said cause.

Given under my hand and seal this the 11th day of September, 2012.

/s/Belinda S. Brewster, CCR, RPR
CCR License #335
Expires: 9-30-2012

My Commission Expires:
September 1, 2013