

1 U.S. COMMISSION ON CIVIL RIGHTS

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3 PUBLIC FIELD BRIEFING

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5 FRIDAY, AUGUST 17, 2012

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7 The Commission convened at the Sheraton  
8 Birmingham Hotel in the Birmingham Ballroom, 2101  
9 Richard Arrington Jr. Boulevard North, Birmingham,  
10 Alabama at 9:02 a.m., MARTIN R. CASTRO, Chairman,  
11 presiding.

12 PRESENT:

- 13 MARTIN R. CASTRO, Chairman
- 14 ROBERTA ACHTENBERG, Commissioner
- 15 TODD F. GAZIANO, Commissioner
- 16 GAIL L. HERIOT, Commissioner
- 17 PETER N. KIRSANOW, Commissioner
- 18 DAVID KLADNEY, Commissioner
- 19 MICHAEL YAKI, Commissioner

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1 STAFF PRESENT:

2 PAMELA DUNSTON, Chief, ASCD

3 ANGELICA TREVINO

4 LENORE OSTROWSKY

5 MICHELE YORKMAN RAMEY

6 VANESSA EISEMANN, Attorney

7 YASMIN ELHADY, Attorney

8 FAYE ROBINSON

9 COMMISSIONER ASSISTANTS PRESENT:

10 NICHOLAS COLTEN

11 ALEC DEULL

12 CARISSA MULDER

13 JOHN MARTIN

14 MARLENE SALLO

15 ALISON SCHMAUCH

16 RICHARD SCHMECHEL

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1                                   TABLE OF CONTENTS (Cont'd.)

2	AGENDA ITEM	PAGE
3	- Isabel Rubio, Executive Director,	146
4	Hispanic Interest Coalition of Alabama	
5	VII. Questions by Commissioners	152
6	VIII. Panel Three Speakers	
7	- Marie Provine, Professor, Arizona	181
8	State University	
9	- Carol Swain, Professor, Vanderbilt	187
10	University	
11	- Mark Krikorian, Director, Center	190
12	for Immigration Studies	
13	- Michele Waslin, American Immigration	196
14	Council	
15	- Dan Stein, President, Federation for	203
16	American Immigration Reform	
17	- Victor Viramontes, Mexican American	209
18	Legal Defense and Educational Fund	
19	- Mary Bauer, Legal Director, Southern	214
20	Poverty Law Center	
21	IX. Questions by Commissioners	224
22	X. Panel Four Speakers	
23	- Joseph Knippenberg, Georgia SAC and	270
24	Professor, Oglethorpe University	

25

1

2

TABLE OF CONTENTS (Cont'd.)

AGENDA ITEM	PAGE
- Jerry Gonzalez, Georgia SAC and Executive Director, Georgia Assn. of Latino Elected Officials	277
- Joanne Milner, Utah SAC Chair and Office of Mayor, Salt Lake City Corp.	283
XI. Remarks by Audience Members	
- Leticia Ramirez	304
- Hina Nihal	305
XII. Adjournment	313

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## E X H I B I T S

EXHIBIT NO.	DESCRIPTION
1	Five Facts About Undocumented Workers
	in the United States, 2008, NCLR
2	Immigration Myths and Facts
3	Valle del Sol, et al vs Michael B.
	Whiting, et al, CV-10-01061-PHX-SRB,
	Filed 7-17-12
4	Declaration of Daniel Pochoda with
	Attachments, ACLU Foundation of
	Arizona

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## 1 PROCEEDINGS

2 August 17, 2012

9:02 a.m.

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

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

21 The United States Commission on Civil  
22 Rights was created in 1957 as an independent,  
23 bipartisan, fact-finding federal agency. Our  
24 mission is to inform the development of national  
25 civil rights policies and enhance enforcement of



1 civil rights laws. We prepare reports on those  
2 topics to the President and the United States  
3 Congress for them to take action on the issues that  
4 we develop.

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

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

21           Speaking for myself personally as the  
22 son and grandson of Mexican immigrants, as someone  
23 who has been personally disparaged during the course  
24 of my life with racial and ethnic epithets, whose  
25 ten-year-old son was bullied at the beginning of the

1 last school year in Illinois because he was  
2 perceived to be undocumented; and as the first  
3 Latino chair of this Commission,  
4 upon the appointment of myself by  
5 President Obama to this Commission, I can tell you  
6 that I strongly oppose the views of some of today's  
7 speakers.

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

19 Immigration is a topic that inspires  
20 both passion and controversy. This is a topic that  
21 is at the forefront of the national discourse. The  
22 civil rights aspect of the state immigration  
23 enforcement laws was left unanswered by the Supreme  
24 Court in its recent ruling in the Arizona case.  
25 This is the type of topic our Commission should

1 be addressing, and I'm glad we're doing it and that  
2 it has excited so much passion and activism, as have  
3 many other important issues in the agency's storied  
4 history.

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

18 Today we find ourselves in Birmingham,  
19 Alabama to examine the civil rights impact of the  
20 state level immigration enforcement laws here and in  
21 other states like Georgia, South Carolina, Utah and  
22 Arizona. We are in Alabama today for our first  
23 field briefing outside of Washington in many years,  
24 and it's apropos for us to be here since the very  
25 first field briefing of the Commission was held in

1 Alabama in 1958. We're coming full circle. So  
2 we're here now in Birmingham for many reasons, but  
3 today, most of all, because of Birmingham's history  
4 as the center of the civil rights struggle of the  
5 past and today it's at the epicenter of a new civil  
6 rights struggle by immigrant communities.

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

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

19           In the past, the Commission has had  
20 numerous persons before it whose views we do not  
21 agree with. But make no mistake: an appearance by  
22 any panelist before our agency does not constitute  
23 our agency's agreement or endorsement of views they  
24 express. Since the day I was first appointed by the  
25 President to this historic Commission, I sought to

1 have a briefing on this very issue of immigration  
2 since I believe that what we see today is a  
3 continuation of the civil rights struggle that gave  
4 birth to this Commission.

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

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

20 Immigrants have played an important and  
21 vital role in the founding of the country.  
22 Immigrants have defended this nation in times of  
23 war. Immigrants have helped build this country into  
24 the power that it is today. Even today, despite  
25 what you may hear today to the contrary, it is clear

1 that immigrants, and undocumented immigrants in  
2 particular, contribute in a positive way to our  
3 country, its economy and our state and local  
4 finances. However, immigrants have also been the  
5 first to answer the call of duty in times of wars and the first to be  
6 threatened with removal in times of  
7 economic crisis. The same is no different today,  
8 and that is why we're here today.

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

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

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

26           During the briefing, each panelist will

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

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

20 I also ask that my fellow commissioners  
21 be considerate of the panelists and of one another  
22 by keeping our questions and comments concise.  
23 Please ask only one question at a time. I  
24 understand some questions might have multiple parts.  
25 If we all abide by these arrangements, we will have

1 a very successful panel today. I ask panelists to  
2 be considerate, again, of one another and not say  
3 anything that is defamatory or degrading. I also  
4 ask the members of the audience to remain quiet and  
5 orderly. I do not want to have any cheering,  
6 clapping or other conduct that would tend to disrupt  
7 the orderly and timely flow of the briefing.

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

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

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



1 Rights.

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

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

10 Thanks very much.

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

14 (Spanish.)

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

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

23 I am particularly interested, as I'll  
24 explain, in the views of those who are concerned  
25 about the impact of this legislation, but I need to

1 place on the record two glitches that have occurred  
2 in recent days.

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

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

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

24           The other issue is one that may involve  
25 us today, but I hope not. Some of the draft

1 statements submitted by just a few of the witnesses  
2 contain defamatory and degrading material against  
3 other witnesses. This creates two problems. First  
4 of all, beyond the laws of Alabama and the United  
5 States that our counsel mentioned, we have our own  
6 rules that prohibit us from accepting that  
7 testimony. Some of the testimony has been revised.  
8 I'm glad of that, but I think some of that still  
9 cannot be accepted into our record. But we may have to  
10 argue about that later.

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

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

1 of the witnesses who utter.

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

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

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

25 Thank you.

1                   CHAIRMAN CASTRO: Thank you,  
2 Commissioner Gaziano.

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

8                                   (Spanish.)

9                   All right. Let's get started --

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

12                   CHAIRMAN CASTRO: Sure.

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

17                   I just wanted to touch briefly upon --  
18 quickly about what my fellow commissioner, Gaziano,  
19 just said. I want to preface it by saying that my  
20 family grew up in the shadow of explicit racial  
21 hatred. My father was interred in the Arizona  
22 desert because he had Japanese parents, although he  
23 had been here, born and raised in America. My  
24 mother was initially not allowed to come to the  
25 United States because she was Chinese, and the

1 Chinese were the first ethnic group to be banned  
2 from immigrating to the United States due to a law  
3 passed by Congress in the 1920s called the Chinese  
4 Exclusion Act.

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

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

23           Just a quick story. I was -- one of  
24 the things I like to do is I like to go in search of  
25 food in all the places that I go to. And I was

1 looking for a place to have fried chicken in  
2 Birmingham. And I came across a couple of places on  
3 different -- different websites, and one of them was  
4 this place that a lot of people know about, a  
5 seafood chain, and it's a place called Max's Deli.  
6 I was looking up these things online. So I was  
7 looking at Max's Deli on the thread talking about  
8 how we're proud you stood up against racism. And I  
9 was going, what was this about?

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

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

1 wanted to be portrayed.

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

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

19 CHAIRMAN CASTRO: Thank you,  
20 Commissioner Yaki.

21 (Spanish).

22 I'd also like for everyone to know that  
23 a court reporter is taking the proceedings here  
24 sitting over here so that all of the testimony today  
25 will be transcribed.



1                   With those bits of housekeeping out of  
2 the way, I now want to proceed with the first panel.  
3 Let me briefly introduce them. And as I introduce  
4 them, I'd ask you to come forward, sit down. Your  
5 name plates are where you should be sitting.

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

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

19                   (Whereupon, the panelists were sworn.)

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

22                   MR. KOBACH: Thank you, Mr. Chairman.  
23 It is an honor to present this testimony to the  
24 Commission. And although I am Kansas' Secretary of  
25 State, I will be testifying more in my personal

1 capacity as an attorney who assisted in the drafting  
2 of Arizona's SB 1070 and Alabama's HB 56. In  
3 addition to drafting those laws, I have defended  
4 many similar laws, including those others around  
5 country, chiefly on preemption claims. And I used  
6 to serve as U.S. Attorney General John Ashcroft's  
7 chief advisor on immigration law during 2001 and  
8 2003. I am happy to deal with the legal questions  
9 any panelist might have and the Commission might  
10 have, but I won't be dwelling too much on that.

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

20 I will divide my testimony into three  
21 parts. First, I will touch on the arrest protocols  
22 that have been so much in the press and have been  
23 the focus of most public scrutiny of these statutes,  
24 the second deal with the mandatory reporting  
25 provisions that the Chairman mentioned in his

1 opening statements. And, third, I will look at some  
2 of the employment issues associated with these laws.

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

18 A person may not -- the law may not be  
19 enforced in a way that considers a person's race,  
20 national origin, or ethnicity or color. And in  
21 addition to the protections in the law, there are  
22 also the protections of the Fourth and the  
23 Fourteenth Amendment that normally attend -- that  
24 always attend the enforcement of any law in such a  
25 context.

1           So if an officer were to consider a  
2     person's race or ethnicity in enforcing the law, he  
3     would be breaking the law. Any prosecution would  
4     not stand if that prosecution then occurred  
5     afterward. The justice department obviously came to  
6     the same conclusion when they brought their  
7     preemption claims against the State of Arizona, the  
8     ones that were recently decided in the United States  
9     Supreme Court. It did not include any, no racial  
10    profiling claims, no unequal treatment claims,  
11    because the face of the law does not contain any  
12    provisions allowing it. It disallows it. And it  
13    basically was challenged in the case that was  
14    brought to the supreme court.

15           A similar unfounded criticism is with  
16    regards to the law -- with regards to how the law  
17    kicks in. The inference was made -- I believe it  
18    was made by the President when he first described  
19    it, that a person might go to an ice cream store  
20    with his children or grandchildren and then be  
21    stopped and asked about his immigration status. The  
22    law does not allow that. The law only kicks in when  
23    a person has been stopped for violating some other  
24    provision, someone perhaps is being investigated or  
25    is being stopped in a traffic stop. Only then does

1 the law kick in.

2 And it merely -- so if you use the  
3 President's example, one certainly could not be  
4 stopped going to an ice cream parlor. But if  
5 someone was running out of that ice cream parlor  
6 with a gun in one hand and a bag of money in the  
7 other hand, then of course the person can be  
8 stopped. But even then the law does not kick in  
9 until the officer --

10 AUDIENCE MEMBER: That's a lie.

11 CHAIRMAN CASTRO: May I ask please --

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

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

17 AUDIENCE MEMBER: Nothing affected by  
18 their civil rights.

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

21 AUDIENCE MEMBER: We were civil rights  
22 being violated. It's ashame that you invite him and  
23 him.

24 CHAIRMAN CASTRO: Can we bring order,  
25 please? Thank you.

1                   Continue. I'm sorry about the  
2 interruption.

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

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

21                   So to take a common example -- and it  
22 occurs all the time -- suppose this officer pulls  
23 them over for speeding and when he goes up to the  
24 window, he notices that several of the seats have  
25 been ripped out and that an eight-passenger van is

1 holding 16 people. Then there might be some factors  
2 that would come into play as he talks to the driver.  
3 He might first learn that no one in the vehicle has  
4 any identification whatsoever, no driver's license,  
5 no nothing. That would be factor number one.

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

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

18 AUDIENCE MEMBER: (Unintelligible).

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

21 CHAIRMAN CASTRO: Please, do not  
22 disrupt the speakers.

23 AUDIENCE MEMBER: These laws are based  
24 on hate. The only safety you want is in your  
25 pockets and your bank account. That's all the

1 truth.

2 COMMISSIONER HERIOT: Mr. Chairman, I  
3 assume that Mr. Kobach's remarks will be extended so  
4 that he actually gets the full seven minutes.

5 CHAIRMAN CASTRO: I think the time is  
6 --

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

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

11 Mr. Secretary, please, continue.

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

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

25 AUDIENCE MEMBER: (Spanish.)



1                   CHAIRMAN CASTRO: We're going to have  
2 -- we're going to have to ask you to leave if you  
3 continue to disrupt. We don't mind if you stand up  
4 and express yourself quietly. Would you handle this  
5 with security, please?

6                   AUDIENCE MEMBER: (Spanish.)

7                   CHAIRMAN CASTRO: (Spanish.)

8                   AUDIENCE MEMBER: (Unintelligible).

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

14                   Thank you.

15                   AUDIENCE MEMBER: (Spanish.)

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

19                   AUDIENCE MEMBER: (Spanish.)

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

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

25                   But as long as these folks are quiet

1 and don't interrupt, they're free to stay here. We  
2 want to be able to proceed, and we also want to have  
3 them here to hear this.

4 (Spanish.)

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

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

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

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

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

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

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

24 CHAIRMAN CASTRO: They're being  
25 escorted, sir.

1                   COMMISSIONER GAZIANO: Why don't we  
2 wait until -- the secretary has been interrupted --

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

6                   COMMISSIONER GAZIANO: They have  
7 interrupted --

8                   COMMISSIONER YAKI: And they can engage  
9 --

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

12                  CHAIRMAN CASTRO: Order, commissioners.

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

15                  CHAIRMAN CASTRO: Order, commissioners.

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

18                  COMMISSIONER GAZIANO: Yes, it is.  
19 Yes, it is.

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

23                  COMMISSIONER YAKI: Commissioner  
24 Gaziano, this is a cakewalk.

25                  CHAIRMAN CASTRO: They're being

1 peacefully removed, and they are being quiet now.

2 So I'm directing the speaker to continue.

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

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

12 COMMISSIONER GAZIANO: Thank you for  
13 your wisdom.

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

17 MR. KOBACH: Thank you, Mr. Chairman.

18 Back to where I was. I was talking about a  
19 hypothetical arrest with various indicators  
20 indicating unlawful presence.

21 Even at that stage, then the officer is  
22 not allowed to make an independent determination of  
23 whether a person's unlawfully in the country or not.  
24 I think that's very important to recognize. No  
25 officer, either in Arizona or Alabama, is allowed to

1 independently say, okay, I have concluded that the  
2 person is unlawfully present. At that point they  
3 must make a phone call to the law enforcement  
4 support center, which was created by Congress in the  
5 mid-'90s and is operated by ICE.

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

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

20 The point is the calls, the use of  
21 reasonable suspicion which leads to the phone call,  
22 is done all the time all over the country. All the  
23 Arizona law and HB 56 law do is they make it  
24 uniform. Instead of officers exercising their own  
25 discretion, indeed perhaps their own bias if they

1 have any, it makes a mandatory policy. Everybody is  
2 treated equally in all traffic stops. And I think  
3 that efficiency and that equality is one of the most  
4 important points about the -- about the laws.

5 I'm not sure if I should continue.

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

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

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

12 COMMISSIONER GAZIANO: Was he given all  
13 the --

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

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

20 MR. ENGLAND: Thank you, Mr. Chair.  
21 First, I want to say on behalf of our state, welcome  
22 to Alabama. And as you said earlier, welcome to the  
23 City of Birmingham.

24 And you mentioned earlier that you were  
25 looking for a place with some good fried chicken.

1 I'll take you to Green Acres. You won't have to  
2 have anymore, ever.

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

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

21 So, essentially, the additional  
22 pleading was preemption because they want to  
23 temporarily restrain those laws, and preemption  
24 accomplishes that. And after the supreme court,  
25 rightfully so, pretty much eliminated most of those

1 laws and left us with the traffic stop part of the  
2 Arizona law, which in its -- in their wisdom, it  
3 pretty much left that last revision on life support  
4 because they need the evidence to further suggest  
5 that civil rights can be violated of those -- the  
6 particular class of individuals. Because I believe  
7 the evidence will eventually show that and  
8 accomplish that threshold.

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

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

25 Well, once you take that and you make



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

10 Which the law itself -- yes, throughout  
11 the law it says that an individuals' race, ethnicity  
12 or nationality cannot be used in its enforcement.  
13 But, ultimately, when you're creating misdemeanor  
14 offenses out of federal offenses off of traffic  
15 stops, you're creating a situation where an officer  
16 who approaches someone on a first approach after a  
17 traffic stop is not equipped with the training  
18 necessary. And they oftentimes do not know of the  
19 800 different things that the officer -- or the  
20 federal courts have determined are reasons for --  
21 are outside of someone's race or ethnicity or  
22 nationality as a way to determine that someone's not  
23 here legally.

24 And on a misdemeanor traffic stop an  
25 officer is generally only dealing with 30 to 45

1 minutes worth of activity because their objective is  
2 not to necessarily investigate at that moment. It's  
3 to neutralize and move on to the next incident. So  
4 they are -- at that that point their whole focus is  
5 on efficiency. So most officers grab what's closest  
6 to them, and those are the obvious things that  
7 indicate to them that this person is not of -- is  
8 not an American citizen.

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

22           And I want to stress that I'm not  
23 saying that every law enforcement officer has ill  
24 intentions when they exercise the authority given to  
25 them by this law. What I'm saying is they use the

1 tools that are closest to them to operate  
2 efficiently in this manner, which leads them to use  
3 some of the same markers, the same indicators, the  
4 same things to create their reasonable suspicion  
5 that the law prohibits.

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

11 Thank you.

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

14 MR. BEASON: Thank you, Mr. Chairman.  
15 My initial response/reaction, I guess, to my time as  
16 a legislator is to have a debate with my good friend  
17 Representative England on the points that he made.

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

22 I want to start out by thanking the  
23 Commission for being willing to come to the great  
24 state of Alabama and ultimately discuss the issue of  
25 immigration and illegal immigration. This is the

1 second time I've been involved in a -- one of the  
2 civil rights commission forums. One was in  
3 Montgomery. It wasn't an official broad one. It  
4 was about eminent domain in municipalities and  
5 counties. Frankly, using what I thought was a poor  
6 U.S. Supreme Court decision to extort poor people  
7 out of the property for gain for some businesses and  
8 people who wanted to profit from that situation.

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

20 And it's easy to talk about the impact  
21 on taxpayers. I think the Commission can look at  
22 that at any time they want to and see the tremendous  
23 cost that occurs, whether it's dealing with medical  
24 coverage for illegal aliens in the state of Alabama  
25 or their family members, whether it's the cost to

1 the taxpayer in law enforcement through the judicial  
2 system. Those things are easy to find out, and I  
3 don't think really can be debated.

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

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

24           That's the story that happens everyday,  
25 and that seems to be the heart of this debate

1 because so many people let their heartstrings be  
2 pulled on this issue. The story plays out everyday.  
3 Who can blame this young person for leaving his home  
4 for a better life? Who would not want to help this  
5 young person? If this young man or woman lived in  
6 your community, wouldn't you help them? Well, the  
7 fact is this young person is your neighbor. They  
8 are your relatives.

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

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

24           He feels sure he could get a job  
25 helping with construction crews, but that's a dead

1 end. He thinks he can find a landscaping job, but  
2 no one's hiring. You see, many of the jobs he is  
3 qualified for as he tries to start out anew are not  
4 available. The chance to prove himself at the  
5 bottom ladder of the economic rung is not there.

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

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

21           A true story is when the economy began  
22 to slow down here in the state of Alabama, I had a  
23 person who ran a framing crew -- they framed houses  
24 -- call me to tell me that he could no longer  
25 compete because construction companies who were

1 willing to use an illegal workforce were able to cut  
2 his costs tremendously. He is at risk of losing his  
3 home, and so were the men and women who worked for  
4 him. I talked about that many, many, many times.  
5 Unfortunately, it never made it to the press because  
6 that story didn't seem to matter to people.

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

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

24 And that's what I'm trying to point  
25 out, and I really want to stress to the Commission.



1 As elected officials in the state of Alabama, it is  
2 our job to look out and put Alabamians first and to  
3 ensure that Alabamians have every opportunity they  
4 deserve as being born American citizens. We cannot  
5 solve the world's problems, but we can make very  
6 sure that we do not import more problems and  
7 challenges for our own people regardless of their  
8 skin tone. None of this debate has anything to do  
9 with how anyone looks. It has to do with lawful  
10 status or not. We live in a world that is extremely  
11 different than it was just a decade or so ago.

12 And if I had more time, I could talk  
13 about security risks, things that happened when  
14 people were coming through the port of Alabama  
15 currently. And then I think some people would have  
16 a little different view of what we're trying to do.

17 Thank you, Commission.

18 CHAIRMAN CASTRO: Representative  
19 Abrams, please, proceed.

20 MS. ABRAMS: Thank you to the  
21 Commission. I represent the State of Georgia,  
22 although I do not speak for all of my colleagues in  
23 the general assembly.

24 I am going to say that beyond the stark  
25 legal and fiscal implications of HB 87, which was

1 the version of this law that exists in Georgia, the  
2 human costs are what concerns me most because I  
3 think it speaks to the legitimate role of the law,  
4 particularly state legislators in federal law, a  
5 limited role as set forth by the U.S. Supreme Court  
6 in its decision on SB 1070.

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

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

19           Certainly, HB 87 and its companion  
20 bills across the country have been careful to state  
21 that no peace officer can consider race, color or  
22 national origin in implementing the requirements of  
23 the bill. Yet, as every attorney knows, it is not  
24 simply the presence of a clause but the context.  
25 While one provision of the law instructs officers

1 not to look at race, color or national origin,  
2 subsequent lines state that the violation of this  
3 provision is not a punishable offense.

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

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

19           How is this true? As evidenced by  
20 authorities as august as the FBI, a traffic stop has  
21 been historically the pretext for racial profiling  
22 because it is the most subjective of criminal  
23 actions and the hardest to disprove. There is no  
24 documentary proof required for "failure to maintain  
25 a lane" or "failure to yield". There is no --

1       there need not be a victim or even a witness. And  
2       there need only be the reasonable suspicion that  
3       this traffic crime has been committed.

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

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

25                Prior to running for office, I served

1 as Deputy City Attorney for the City of Atlanta, and  
2 in that role I was responsible for aiding the  
3 Atlanta Police Department in the development of  
4 standard operating procedures for the application of  
5 a law that was designed to address homelessness in  
6 the state of Georgia and the City of Atlanta. The  
7 difficulty we found in training officers in this  
8 very complicated issue of speech and homelessness  
9 speaks to me of the incredible difficulty that will  
10 follow if we try to implement show-me-your-papers  
11 provisions.

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

22 More than that, I believe immigration  
23 law is complex, multi-layered and very unevenly  
24 enforced, which means that it requires adequate  
25 funding for teaching our local law enforcement

1 officers. Although I cannot speak to Arizona or  
2 Alabama, I do know for a fact that Georgia failed to  
3 adequately fund or to defund at all improved  
4 training for our officers. We have simply giving  
5 them another job to do with no money to do it and no  
6 training for doing so.

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

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

24 I will end this by saying -- and I wish  
25 I had more time. I will say this. There's a great

1 deal that has been said, both on this panel and by  
2 those in the audience, and there's -- there's a  
3 legitimate debate to be had. But civil rights  
4 should not (inaudible) national origin, the terror  
5 of police detention, the discrimination in applying  
6 for housing.

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

12 Thank you.

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

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

25 I would ask have either of you read a

1 report by the National Council of La Raza of the  
2 five facts about undocumented workers in the United  
3 States, which contains studies and data that refute  
4 what you state? For example, one of the conclusions  
5 they make is that on average all immigrants will pay  
6 eighty thousand more in taxes per capita than the  
7 use in government benefits over their lifetime.

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

17 Have you had the opportunity to review  
18 these?

19 MR. BEASON: I can say I have reviewed  
20 part of what the U.S. Chamber of Commerce has said.  
21 And my personal opinion about their opinion is they  
22 represent some businesses who are more than happy to  
23 hire an illegal alien workforce at the expense of  
24 American workers. I believe that's -- some of their  
25 members' goals looks pretty slanted even if they're



1 not "liberal".

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

7           And one thing about employment is we  
8 have seen a tremendous decrease in the unemployment  
9 rate in the state of Alabama since we passed our  
10 legislation. So Alabamians have been put back to  
11 work. And I think the number is somewhere over  
12 30,000 people have gone back. We have led the  
13 country in reduction of our unemployment rate since  
14 we passed our bill.

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

25           CHAIRMAN CASTRO: Well, this one did.

1 It says -- you know, the study revealed that  
2 immigration has little or no negative impact on  
3 native-born workers, but --

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

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

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

10 CHAIRMAN CASTRO: The questions go this  
11 way, sir.

12 MR. BEASON: Okay, Mr. Chairman, So  
13 under your thinking process, we would be better off  
14 if we would just lay off the majority of Alabamians  
15 and bring in people from other countries. Because  
16 somewhere along the line you have to figure out  
17 where is that ending benefit. Is it ten percent of  
18 your population? Is it 15 percent of your  
19 population? Would half the population be an illegal  
20 workforce? Would that be even better than the ten?  
21 Your numbers would say that you should  
22 just have unfettered access into the country, and  
23 since they all produce \$80,000 each, we would better  
24 off if almost everyone was illegally present and  
25 working.

1                   CHAIRMAN CASTRO: Well, different  
2 studies indicate that immigrants, both documented  
3 and undocumented, actually create jobs in this  
4 county. Sir?

5                   MR. KOBACH: Thank you, Mr. Chairman.  
6 I believe I have looked at the La Raza website, and  
7 I did go through some of that, which I believe is  
8 looking at separate studies.

9                   CHAIRMAN CASTRO: Right.

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

19                  Let me just note three things quickly.  
20 One, the fiscal cost center Beason just mentioned.  
21 Nationally the fiscal cost has been estimated by  
22 multiple studies at about a hundred billion dollars  
23 a year of illegal immigration net. That's after you  
24 take into account any taxes paid by the unauthorized  
25 workers.

1                   The second point, Harvard and  
2 George Borjas has, I think very convincingly, hired  
3 for the United States, refuted it and said that when  
4 you have illegal labor coming in -- if you have low  
5 -- basically, when you have low skilled labor, which  
6 tends to be predominantly illegal coming into an  
7 area, you will see an eight percent short term  
8 decrease in wages and a three percent long term  
9 decrease in wages.

10                   And then my third point is in Alabama  
11 the unemployment numbers tell the story. The law  
12 was signed into effect in June of 2011. From May  
13 2011 to the next nine months, the -- yeah,  
14 nine-month period, Alabama unemployment dropped from  
15 9.3 percent to 7.5 percent. That was an  
16 unprecedented drop in unemployment. Only nine  
17 months, 1.8 percentage points. In contrast, the  
18 national unemployment rate over the same period  
19 dropped 0.7 percent, from 9.0 to 8.3.

20                   So unemployment in Alabama is dropping  
21 at approximately triple the rate of the national  
22 average. And if you look at the unemployment rates  
23 of the states surrounding Alabama, you'll see that  
24 something particularly was going on here, and that  
25 is the immigration law was encouraging people who

1 are not lawfully present in the United States to  
2 seek employment elsewhere and in some cases to  
3 return to their own country.

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

10 I will recognize Commissioner Yaki and  
11 then Commissioner Gaziano and then Commissioner  
12 Kirsanow.

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

19 And it brings me back to an issue that  
20 I think we all have to remember as Americans, and  
21 that is when we -- when we talk about the word  
22 "immigrants", we are talking about every single one  
23 of us in this room unless of course you are Indian  
24 American. We're talking about people who -- when  
25 you talk about the Irish experience in New York,

1     you're talking about people where -- where there was  
2     rampant discrimination and laws passed directed --  
3     which exclude the Irish from a number of different  
4     communities. I know that even in San Francisco you  
5     can see neighborhoods created because this group did  
6     not want that ethnic group to live with this ethnic  
7     group and so on and so forth. You see -- you see  
8     these kind of factors in many great cities in this  
9     country.

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

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

24                   MR. KOBACH: I didn't say that. I said  
25     --

1                   COMMISSIONER YAKI: In other words, you  
2 write a series of laws designed to basically make  
3 life miserable for people to such extent that you  
4 believe that they will want to leave the area, the  
5 area in which --

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

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

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

19                   MR. KOBACH: Yes.

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

25                   Is this something you subscribe to as

1 well?

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

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

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

11 MR. KOBACH: Is there a question here?

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

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

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

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

25 Well, my question is when a cop stops a



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

15 MR. KOBACH: Let me -- okay. Let me  
16 begin by noting that incorrect statement you made  
17 about the supreme court. The supreme court reviewed  
18 the conflict preemption challenge to the arrest  
19 provision. The supreme court upheld the arrest  
20 provisions on official challenge. The supreme court  
21 knocked down two other provisions, one on conflict  
22 preemption, one on field preemption. One had to do  
23 with penalizing the employee beyond (inaudible) in a  
24 work relationship. That other one had to do with  
25 mimicking the federal government's registration

1 program. The third one was very specific to  
2 Arizona.

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

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

10 MR. KOBACH: Well, I think --

11 COMMISSIONER YAKI: You think that by  
12 the supreme court stating that these -- this deal of  
13 the federal government is still --

14 MR. KOBACH: I don't know how familiar  
15 you are with field preemption, but a field  
16 preemption is a very normal doctrine. I guess this  
17 argument is before the third circuit --

18 COMMISSIONER YAKI: Well, I suppose  
19 that since we went -- both went to the same law  
20 school, we probably have the same (inaudible). You  
21 never know.

22 MR. KOBACH: Well, do you think field  
23 preemption covers all of these laws?

24 COMMISSIONER YAKI: I think that any  
25 first --

1                   MR. KOBACH: The answer is no, and  
2 everyone knows that.

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

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

9                   CHAIRMAN CASTRO: This is probably  
10 within one question.

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

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

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

20                  But to your other point, attrition  
21 through enforcement. Attrition through enforcement  
22 is nothing other than something we've also used  
23 before and described it as deterrence. It is the  
24 notion that if there is a serious law enforcement  
25 problem -- and it doesn't have to be immigration; it

1 can be anywhere -- that the best way to respond to  
2 the problem is not with 100 percent arrests or with  
3 -- and as said, ignoring the law.

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

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

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

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

24 COMMISSIONER YAKI: So you're -- you're  
25 just weighting on these laws with speeding tickets?

1 MR. KOBACH: No, I'm not.

2 COMMISSIONER YAKI: Is that what you're  
3 saying?

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

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

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

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

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

21 MR. KOBACH: Okay. Listen. A couple  
22 of points. One is you're not seeming to recognize  
23 that the police officer has identical authority --  
24 identical authority before Alabama's and Arizona's  
25 law and after Alabama and Arizona's law to ask the

1 same questions. They don't authorize the officer.  
2 All they do is they mandate that all officers go  
3 through the same protocols. So what happened --  
4 the second point --

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

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

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

10 MR. KOBACH: The answer is --

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

16 MR. KOBACH: If the officer had the  
17 same circumstances in both cars, everything the same  
18 except for his skin color, and the officer treats  
19 the Hispanic family differently, then he would be  
20 breaking the law. That is prohibited under the law.

21 And if you think that that's going to  
22 happen, then I'll respectfully suggest that your  
23 problem is not with the statute itself. Your  
24 problem is with the common police officer.

25 COMMISSIONER YAKI: Well, I --

1                   CHAIRMAN CASTRO: Commissioner Yaki,  
2 we're going to move on. I appreciate your  
3 questions. We'll, hopefully, have some time at the  
4 end. But we do have limited time. So I'm going to  
5 move to other commissioners who indicated a  
6 willingness to ask questions.

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

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

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

20                   And in that study it was shown that  
21 illegal immigration does impact on employment to  
22 this extent. Unemployment among blacks in the  
23 United States of America is an astonishing 14.4  
24 percent today. That's far below what it actually  
25 is. The appointed population ratio, which is the

1 more ethnic determination, is 52.8 percent less  
2 unemployed; that is, only one of two working age  
3 blacks in this country are employed.

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

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

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

22           MR. BEASON: All of those factors were  
23 -- played a part. And the main ones dealt with the  
24 economy, putting people back to work and then the  
25 cost to the taxpayer. But security was definitely



1 one of those things that played a part. Like I  
2 mentioned in my statement, we talked about the fact  
3 that we're in a completely different world after  
4 9-11.

5           If you talk to law enforcement across  
6 the state, especially those who deal with what goes  
7 in our southern port in Mobile, the interesting  
8 story is just a few years ago they were catching --  
9 I can't remember if it was weekly or monthly, and it  
10 really doesn't matter what the time period is -- 15  
11 to 20 people trying to come in the country on ships  
12 from Central South America.

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

19           And kind of merging that with some of  
20 the other things, we in Alabama expect that if  
21 someone is pulled over and they don't have a  
22 driver's license, we run them through our computer  
23 systems and we cannot figure out who that person is,  
24 we believe the state of Alabama has the right to  
25 figure out who that person is and why they're in our

1 state. That is a security issue, especially in the  
2 world we live in now. So all of those things did  
3 play a part, but we thought the largest, biggest  
4 factor was the economy and job creation.

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

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

19 COMMISSIONER KIRSANOW: Thank you.

20 CHAIRMAN CASTRO: Commissioner Gaziano,  
21 you have the floor.

22 COMMISSIONER GAZIANO: Sure. Thank  
23 you. And thank you all. It has been very helpful.

24 And, Secretary Kobach, since -- I'm  
25 going to ask you to help eliminate what seemed to me

1 to be a little bit of dissonance. Not a direct  
2 conflict, but a dissonance between Representative  
3 England's and Representative Abrams' testimony.  
4 Since you were a distinguished law professor before  
5 you had all of these other titles, I think you are  
6 the perfect person to help me out.

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

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

21 So here's the dissonance. I heard  
22 Representative Abrams -- and this seems consistent  
23 with a lot of the other testimony that we've  
24 received. The impact of these laws is so clear and  
25 so obviously negative she at least can see it, it

1 erases the following sort of conundrum of why  
2 Attorney General Holder and the Obama administration  
3 did not see it as so clear.

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

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

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

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

25           And that brings me to your point about

1 Senator England's question -- or his statement. It  
2 is incorrect to state the civil rights challenge on  
3 unequal treatment can't be brought at the facial  
4 stage of the law. In fact, in both Arizona and in  
5 Alabama there are multiple lawsuits. There is a  
6 U.S. Government lawsuit, but then there are multiple  
7 other plaintiffs like the ACLU and other  
8 organizations. In those facial challenges they make  
9 the racial profiling claim. They make it at facial  
10 level. They make it before the laws come into  
11 effect.

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

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

1 prosecuted for this charge.

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

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

21 And so, you know, I think her point is  
22 an interesting one. But, ultimately, it is a point  
23 that gets back to the conduct of the officer. We  
24 have to train our officers and assume our law  
25 enforcement officers uphold the law as they are

1 trained to do.

2 CHAIRMAN CASTRO: The Chair recognizes  
3 Commissioner Kladney.

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

9 MR. BEASON: Oh, yes, sir.

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

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

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

20 COMMISSIONER KLADNEY: Well, do you  
21 have an answer?

22 MR. KOBACH: Yeah, I do. I had some  
23 areas of testimony. I wanted to get to that in my  
24 original statement. And of course we all got  
25 sidetracked perhaps on the more interesting traffic

1 protocol.

2                   Yeah. The K-12 provision. What it  
3 says is that at the time of enrollment that the  
4 parents need to bring -- if they've got anything --  
5 any indicator of a person's citizenship. And of  
6 course schools all across the country often ask the  
7 incoming student if you're a U.S. citizen or not.  
8 And it does not require them to bring anything. If  
9 they don't or can't, then they -- they simply count  
10 it according to the way the law ask for the reports  
11 on the school districts.

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

19                   Let's go to Plyler. Plyler of course  
20 said in 1982 that you cannot deny a free public  
21 education to someone based on immigration status.  
22 But one of the interesting things Plyler said -- and  
23 this is why it's always so important to actually  
24 read the opinions -- when you go toward this last  
25 quarter of the Plyler decision, Plyler faults the



1 state of Texas for not collecting data before they  
2 started legislating in this area, this specific  
3 area.

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

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

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

25 MR. KOBACH: The --

1                   COMMISSIONER KLADNEY: It may mean  
2 maintenance, but -- go ahead.

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

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

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

23                   COMMISSIONER KLADNEY: Well, I'm just  
24 going according to your statement, sir, of  
25 determination.

1 MR. KOBACH: Well, actually --

2 COMMISSIONER KLADNEY: And if that was  
3 in error, that's fine.

4 MR. KOBACH: I'm sorry. Yeah. The  
5 word "determination". So the state is determining  
6 approximately how many people --

7 COMMISSIONER KLADNEY: But they  
8 speculate on what people -- they speculate on their  
9 status?

10 MR. KOBACH: Because, you know, they  
11 have to at that point, yeah.

12 COMMISSIONER KLADNEY: I have a couple  
13 of more questions, Mr. Chairman, since I didn't make  
14 a speech to ask.

15 CHAIRMAN CASTRO: Okay.

16 COMMISSIONER KLADNEY: There is no  
17 requirement in this law for metrics in the stops in  
18 determination whether someone is undocumented or  
19 not; is that correct?

20 MR. KOBACH: Yeah. The reason for that  
21 is traffic stops, you can't -- you can't get a sense  
22 of the entire population while people are driving on  
23 roads just by looking at their faces or breaking the  
24 laws, whereas you can look at the entire population  
25 of K-12 because you have the entire population

1 enrolled. And so it's a -- you can get the entire  
2 community of all students, as opposed to you can't  
3 really measure the entire community of all people  
4 driving right now in the state of Alabama

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

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

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

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

20 COMMISSIONER KLADNEY: And he did this  
21 action.

22 MR. KOBACH: What's that?

23 COMMISSIONER KLADNEY: And he  
24 potentially did this action.

25 MR. KOBACH: Yeah. And he participated

1 in this action as well. So it wasn't necessary to  
2 add additional penalties to that. But the main  
3 point for us in looking at drafting law is to make  
4 sure that no prosecution is going to proceed.

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

9 COMMISSIONER KLADNEY: You had  
10 something to say, Senator Beason?

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

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

22 COMMISSIONER KLADNEY: Thank you very  
23 much.

24 CHAIRMAN CASTRO: Before I call on  
25 Commissioner Achtenberg, I think in light of the

1 line of questioning from Mr. Kladney that I want to  
2 clarify the record as it relates to the Plyler  
3 issue.

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

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

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

1 relevant to establishing residency within the  
2 district."

3 And have you read this?

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

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

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

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

22 COMMISSIONER Achtenberg: Thank you,  
23 Mr. Chairman. And thank you to the panelists for a  
24 very informative presentation. My questions will be  
25 directed to Representative England and Senator

1 Abrams.

2           Before I ask my question, however, I  
3 want to admit my own prejudice with regard to the  
4 topic of this hearing. Not only am I a  
5 first-generation American citizen, but my own father  
6 was -- crossed the border illegally into the United  
7 States. I'm very grateful to him for having done so  
8 at great risk to himself. He, ultimately, later was  
9 able -- by virtue of marrying my mother, who herself  
10 was a naturalized American citizen, he became an  
11 American citizen the days when that was possible.

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

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

25           Could you comment on what impact,



1       therefore, you believe these laws have had on  
2       employment and unemployment, the attendance in the  
3       public schools of Alabama and the impact on crime  
4       reporting, if any, you believe there has been or  
5       will be?

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

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

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

25                   And one of the things that I've seen

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

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

18           In effect, the law that was designed to  
19 help people -- or create an environment where people  
20 self-deported, that it would be just so  
21 uncomfortable that you wouldn't want to live in  
22 Alabama anymore, that was designed to identify  
23 undocumented citizens, actually succeeded in  
24 arresting more American citizens. And initially --  
25 you talked about security and the effect of

1 protecting communities. Because of the law -- the  
2 effect law enforcement had that had a law  
3 enforcement relationship with our community.

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

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

23           When we approached those families, some  
24 would run. It didn't matter if there were Spanish  
25 speaking individuals with us. It didn't matter if

1 they were well-meaning or well-intended. Because  
2 the law was in effect, they felt like the minute  
3 they approached anyone from the federal government  
4 or state government they were going to be taken into  
5 custody.

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

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

24           COMMISSIONER Achtenberg: Thank you  
25 very much. Senator Abrams.

1                   MS. ABRAMS: Thank you. I would like  
2 to respond, first of all, by stating that I did not  
3 -- correct the record that I did not say that this  
4 -- these laws mandate racial profiling. I said that  
5 they tend to lead to racial profiling. And as a  
6 Yale-trained lawyer, I think I understand the  
7 difference.

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

19                   But by fostering discrimination, these  
20 laws create an environment that states that a  
21 certain portion of our population, irrespective of  
22 how they arrived here, are considered less than and  
23 they not entitled to civil rights that we as a  
24 nation hold as our highest goal and value. That is  
25 the trouble with these laws.

1           I represent a state that has high  
2 unemployment, that suffers from many of the say  
3 social policies that are common within Alabama. But  
4 my approach is different. I do not believe that you  
5 salvage one community by sacrificing another. And I  
6 think that is deeply unfortunate, and I will speak  
7 to that in the context of the African American  
8 unemployment rates.

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

18           Undocumented workers tend to take the  
19 lowest income jobs, and certainly we should be  
20 concerned if our citizens find themselves to only  
21 have opportunities if they are employed in the  
22 lowest income jobs. Our citizens should be  
23 encouraged and should be afforded the opportunity to  
24 achieve any level of employment that they seek. And  
25 the fact is we scapegoat a community to justify our

1 ignoring a larger social impact that we have had on  
2 African Americans.

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

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

20 Mr. Yaki referred earlier to the  
21 Chinese Exclusion Act, but that -- that was only one  
22 example. California had a raft of laws that tried  
23 their best to restrict access to people who were  
24 brought here specifically to provide work. It was  
25 in the 1970s when native Americans were finally

1 given certain rights that native Americans have  
2 taken for granted, taken for granted for centuries.  
3 The challenge with any law that states that your  
4 race can be used as a premise, whether explicitly or  
5 implicitly -- and I will -- I will credit Mr. Kobach  
6 and Mr. Beason and Mr. Ramsey in Georgia who wrote  
7 this law. These are the most carefully crafted  
8 words to state that we don't mean what we're about  
9 to do.

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

19           I do not speak to the intent of Mr.  
20 Kobach or Mr. Beason, but I will speak to the  
21 implications, and I will speak to effect. And the  
22 effect is that within the state of Georgia, we have  
23 Latino populations that are terrified. But more  
24 than that, we have Somali populations. We have  
25 Nigerian populations. We have Sudanese populations.



1 Because racial profiling is not limited to Latinos,  
2 nor is their immigration status.

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

13 They don't have the sophistication to  
14 understand that these laws don't apply to them.  
15 They get their news through the radio, through word  
16 of mouth and the worst being from telephone I have  
17 ever seen. And with that impact their ability to be  
18 --

19 COMMISSIONER Achtenberg: Thank you.

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

24 COMMISSIONER Achtenberg: Thank you.

25 CHAIRMAN CASTRO: The Chair will

1 recognize Commissioner Heriot. And after  
2 Commissioner Heriot, I will ask that last question  
3 of the panel.

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

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

19 I personally have somewhat conflicting  
20 views on immigration issues generally, but the one  
21 issue that I'm not as conflicted about is the issue  
22 of the rule of law and that it troubles me very much  
23 that the first set of laws that immigrants could  
24 come to this country see -- well, of course, there  
25 are immigration laws. That's what they're familiar

1 with. And they become -- I am convinced and suspect  
2 that these laws are a joke.

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

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

24           MR. KOBACH: I'll stick -- begin by  
25 echoing what you said about the rule of law. I

1 mean, that is what drives me in this particular  
2 area, and I believe in my own personal view of what  
3 the United States saw, the United States saw a  
4 particular group of people -- it's not about a  
5 particular geography. It's about certain concepts.  
6 We are going to be defined by our ideals, and the  
7 rule of law is at the very core of them, right next  
8 to the U.S. Constitution, right next to the Bill of  
9 Rights, right next to the equality of all persons  
10 that we see in the Declaration of Independence.

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

22           And so to break down the rule of law,  
23 immigration is important. And, you know, just to  
24 add in something that Representative Abrams just  
25 said, she said the status of persons determines

1 their value under these laws. No, not at all. A  
2 person -- in my view, a person -- every person has  
3 equal dignity in the eyes of God. But what status  
4 -- lawful status does determine is how the state  
5 protects the person. If a person comes to this  
6 country legally, they have certain rights that a  
7 person does not have if they come to the country  
8 illegally. And that's the way the rule of law  
9 works.

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

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

21 When we first passed our legislation  
22 two years ago, newspaper after newspaper published  
23 reports saying the law did things that the law  
24 simply did not do. And over time we've been able to  
25 get some of that information out to the public and

1 it's calmed a lot of things down.

2 But we should be able to have an open  
3 debate about what we disagree on, what we agree on.  
4 But at least let's talk about exactly what the law  
5 actually does and what the law actually says. But  
6 hyperrhetoric has really been ramped up on this  
7 issue. And, frankly, there's a number of groups who  
8 make a lot of money and make a good living by  
9 hyperrhetoric.

10 MR. ENGLAND: You mentioned two things  
11 specifically, and one was the response of the  
12 leadership to inform their constituency that -- the  
13 truth necessarily about statute. But we also should  
14 have responsibility to protect our constituency.

15 And one of things that was mentioned  
16 here about the rule of law, the rule of law and the  
17 constitution requires -- and it promises also -- to  
18 not just documented citizens, but also to have equal  
19 --

20 COMMISSIONER Achtenberg: Human being  
21 citizens. That's the problem. An undocumented  
22 immigrant is not a citizen.

23 MR. ENGLAND: But they are. The  
24 Constitution of the United States -- well, for the  
25 sake of discussion, we'll say person. But the

1 Fourteenth Amendment --

2 COMMISSIONER GAZIANO: There's a  
3 difference.

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

6 MR. ENGLAND: Okay. Well --

7 CHAIRMAN CASTRO: Don't interrupt him.

8 MR. ENGLAND: -- I'll grant you that.  
9 We'll say person. Human. Human.

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

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

22 So if they're misinformed about the  
23 law, yes, it is my responsibility to make sure that  
24 I change their perspective. But if I also see that  
25 that law could be used to victimize them, not just

1 -- not just undocumented humans, but also my  
2 Hispanic constituency that has seen an increase in  
3 the number of contacts they've had with law  
4 enforcement since the enactment of this law. Also,  
5 my African American constituency who saw a spike in  
6 the number of arrests because of the initial law.  
7 It is also my responsibility to protect them as  
8 well.

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

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

21           But I think to your point about those  
22 coming from other countries that do not respect the  
23 rule of law, they also come to this country with  
24 fear of law enforcement. And I think that was the  
25 question raised by this panel, about the policing.



1           The issue at hand is whether or not  
2       these laws diminish their right that they'll be  
3       accessing, the very rights they are afforded by  
4       virtue of being in this country. And if you come to  
5       this country with a fear of -- with a fear of law  
6       enforcement, there is a chilling effect on your  
7       willingness to engage law when you find it so that  
8       you then have people underreport crimes. You have  
9       people, irrespective of their illegal status, find  
10      themselves being victimized. And that should be --  
11      I think that should be deeply disturbing to any  
12      person, that we find any person on our shores who  
13      felt that they should be the subject to  
14      victimization.

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

25           Now, certainly there are certain

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

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

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

25                COMMISSIONER HERIOT:  But I feel like

1 you're not answering my question.

2 CHAIRMAN CASTRO: Commissioner Heriot,  
3 I am going to --

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

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

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

23 We are running a little behind, but I  
24 do want to close this panel by asking the final  
25 question. Secretary Kobach, you indicate in your

1 remarks -- in your bio that you helped author SB  
2 1070 and HB 56 here in Alabama. And you did make  
3 mention earlier to litigation of the ACLU involving  
4 the issue of discrimination that was not included in  
5 the Supreme Court. I don't know if you've had the  
6 opportunity to read the ACLU's brief in that case,  
7 but I want to ask you some questions regarding some  
8 of the statements in there.

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

21           And I want to ask you some questions  
22 about this. He said in these E-mails that are part  
23 of the record in this case, "I'm a racist because I  
24 don't want to be taxed to pay for a prison  
25 population comprised of mainly Hispanics, Latinos,

1       Mexicans or whatever else you wish to call them. I  
2       object to having to pay higher sales tax and  
3       property tax to build more schools for the  
4       illegitimate children of illegal aliens. I want to  
5       deny citizenship to all anchor babies born in this  
6       country pre-2006 and hereafter. I object to  
7       corporation and municipalities spending billions to  
8       translate everything in Spanish." That's a E-mail  
9       from Senator Pearce dated December 14, 2006.

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

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

14               CHAIRMAN CASTRO: I do see --

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

17               CHAIRMAN CASTRO: Don't interrupt me.

18               COMMISSIONER GAZIANO: I will interrupt  
19       you because I think this may be violating the rule.  
20       But aside from that --

21               CHAIRMAN CASTRO: Sir --

22               COMMISSIONER GAZIANO: Just hear me  
23       out. I thought this briefing that you asked us to  
24       vote for was on the implications of the law. And  
25       this is very far afield of it.

1                   CHAIRMAN CASTRO: Well, discriminatory  
2 intent of the law is at the field -- at the center  
3 of the field of this and at the center of the field  
4 of my question. So -- and this is all related to  
5 whether there is discriminatory intent by the  
6 authors --

7                   COMMISSIONER GAZIANO: If you --

8                   CHAIRMAN CASTRO: -- and there is a --

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

11                  CHAIRMAN CASTRO: I'm not defaming  
12 anybody.

13                  COMMISSIONER GAZIANO: -- that you  
14 might --

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

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

20                  CHAIRMAN CASTRO: So let me continue.

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

25                  But this is -- and this is your third

1 round of questioning when the rest of us are done  
2 when we only had one round of questioning. I submit  
3 this is improper.

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

7 COMMISSIONER GAZIANO: No, you do not,  
8 sir.

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

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

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

23 I've seen peoples' statements being  
24 taken out of context so that their opponents instead  
25 of going on the merits can just call someone a

1 horrible name. You know, nothing has hurt me more  
2 in this whole debate than when people start pointing  
3 at someone and saying you're doing this because  
4 you're a racist, you're an atheist. I think it is  
5 so -- I mean, it hurts me because I'm not. And that  
6 also goes against me, and I -- it's very troubling.

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

9 MR. KOBACH: Yeah, I know. Maybe so.  
10 But you said --

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

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

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

17 MR. KOBACH: It's not his statements.

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

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

22 By let me just say this, Mr. Chairman.  
23 If I had indication that a state legislator was  
24 coming to me for assistance had any racially biased  
25 motive, any ethically biased motive, I would refuse



1 to assist him or her. I would absolutely not -- I  
2 wouldn't even -- it would be, no, sorry, we're not  
3 talking anymore. That would be my reaction.

4 CHAIRMAN CASTRO: Okay.

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

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

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

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

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

25 We would now ask that members of panel

1 two would begin to move forward and take your seats.  
2 Before we do, I will ask our attorney to come  
3 forward and read the disclaimer paper.

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

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

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

21 MS. ELHADY: Good morning to you-all.  
22 My name is Yasmin. I am an attorney in the Office  
23 of General Counsel of the U.S. Commission on Civil  
24 Rights.

25 I just want to remind everyone present

1 that each panelist is speaking in his or her  
2 personal capacity or on behalf of the panelists'  
3 organization. The panelists' testimony and written  
4 statements are the individual's or the sponsored  
5 organization's opinions and positions. Each  
6 panelist is entitled to exercise his or her First  
7 Amendment right to freedom of speech. The  
8 testimony, statements and opinions do not reflect  
9 the position or view of the U.S. Commission on Civil  
10 Rights.

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

16 Thank you.

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

22 (Whereupon, the panelists were sworn.)

23 CHAIRMAN CASTRO: Thank you. Okay.  
24 Ms. Besherse, please, proceed.

25 MS. BESHARSE: Can you hear me?

1                   CHAIRMAN CASTRO: Yes.

2                   MS. BESHHERSE: Thank you for having me  
3 here today. My name is Tammy Beshherse, and I'm a  
4 staff attorney at South Carolina Appleseed Legal  
5 Justice Center.

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

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

20                   We have already seen issues in our  
21 state where we believe racial profiling has occurred  
22 to lawfully present immigrants and U.S. citizens.  
23 We had a case of a regular citizen of Puerto Rican  
24 descent who was held in jail for no driver's  
25 license. Even though he presented a U.S. military

1 ID, he was repeatedly told by local law enforcement  
2 that it must be fake and that he should go back to  
3 Mexico. This is becoming a common complaint that we  
4 receive in our office.

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

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

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

24 As an example, the former chief of the  
25 South Carolina Law Enforcement Division, which is

1 the highest law enforcement agency in South  
2 Carolina, indicated he worried about police budgets  
3 and manpower and lack of resources. He worried  
4 about an officer being put behind a desk and  
5 processing more paperwork than being out on the  
6 streets. He also pointed out in his testimony that  
7 it could prevent victims and witnesses from coming  
8 forward.

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

22           We know the law has made great strides  
23 in the Latino community, and he is one of the few  
24 officers in the state that has numerous officers  
25 dedicated to the Spanish-speaking community. And

1 he's -- that's one of his concerns.

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

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

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

24 Police -- state police have began  
25 confiscating valid documents of foreign nationals,

1 including passports or VISA stamps, and destroying  
2 them. This has made the headlines more than one  
3 time. We do not know if it's because state law  
4 enforcement officers are not trained clearly on all  
5 immigration documents that can be out there, or if  
6 there is a deeper cause. We do not know. But there  
7 are private lawsuits pending against these  
8 organizations.

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

17 Perhaps one of the most egregious  
18 things we've seen in our state that did make  
19 headlines were the officers in Horry County who  
20 initially received an E-mail from a Myrtle Beach  
21 police officer about a game called border patrol.  
22 The officer from Myrtle Beach had sent this E-mail  
23 to the officers in Horry County, and there was proof  
24 that they were playing this game on computers. The  
25 goal of border patrol is to kill as many Mexicans as



1 possible before they come into the United States.  
2 And people received the most points for killing  
3 pregnant women through -- in the game were termed  
4 leaders.

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

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

15           MS. BESHARSE: Thank you.

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

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

23           NumbersUSA Education and Research  
24 Foundation, with our one million members from all 50  
25 states was founded on the simple idea that the

1 numbers should be the most important factor in  
2 determining federal immigration policy. Our  
3 organization firmly believes that race and ethnicity  
4 should play no role in the establishment of  
5 immigration policy and in the enforcement thereof.

6 We were founded in 1996 to carry out recommendations  
7 set forth by the national commission chaired by  
8 civil rights champion Barbara Jordan, and we  
9 continue to advocate those recommendations today.

10 Failure of the federal government to  
11 carry out these recommendations has forced states  
12 like Alabama, Arizona and many more to take a more  
13 active role in immigration enforcement. NumbersUSA affirms two  
14 specific actions that have gained the most  
15 traction in state legislatures and they were two  
16 recommendations of that Commission. They are,  
17 number one, workplace verification; and, number two,  
18 verification of eligibility for nonemergency public  
19 benefits. Both are key to immigration enforcement  
20 and are free of any questions about discrimination  
21 since they apply to everyone.

22 During her 1994 senate testimony,  
23 Barbara Jordan identified the root cause of most  
24 illegal immigration to the United States. She said,  
25 "Employment continues to be the principal magnet

1 attracting illegal aliens to this country."  
2 Eighteen years after that statement, it's still  
3 true.

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

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

21           E-Verify is extremely popular among  
22 employers that use it. And as of March 21st, 2012,  
23 353,000 employers at 900,000 work sites nationwide  
24 are actively using the system to ensure a legal  
25 workforce.

1 Right here in Alabama HB 56 requires  
2 all businesses to use E-Verify, but the first state  
3 to pass legislation was Arizona. Both Arizona and  
4 Alabama took their legal authority from Title 8,  
5 U.S. Code, Section 1324(h)(2), which allow the  
6 states to use their inherent authority over  
7 business licensing to require businesses to comply with  
8 the E-Verify mandate in order to continue doing  
9 business in the state.

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

19 E-Verify is simple, and it is easy to  
20 use. Within three days after hire, an employer  
21 using E-Verify asks the employee to produce the identity  
22 and work authorization documents required by  
23 the I-9 Form that all employers are required to keep  
24 on file. The employer enters the employee's name,  
25 birth date and Social Security number along with the

1 alien number or other immigration number for  
2 noncitizens from the I-9 Form into the  
3 internet-based system that either confirms the  
4 employee's work eligibility immediately or returns a  
5 tentative nonconfirmation with instructions for the  
6 employee to resolve the issue.

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

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

20           During her 1994 senate testimony, Ms.  
21 Jordan said, "The Commission believes that adopting  
22 a more secure, simpler verification process for  
23 determining work authorization -- and, in  
24 particular, one where employers will no longer have  
25 to make any determination as to immigration status

1 -- is the best defense against discrimination."

2 In addition to E-Verify, there is  
3 another nondiscriminatory way that states can take  
4 immigration enforcement action, denying nonemergency  
5 public benefits to those who are not eligible for  
6 them. This provision was included in Alabama's HB  
7 56 as well as omnibus legislation passed in Georgia,  
8 Indiana and South Carolina. Stand-alone bills have  
9 also been approved in dozens of other states.

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

16 The program works the same way  
17 that E-Verify works except that access is limited to  
18 federal, state and local benefits providers and state  
19 driver's license agencies. It does not indicate  
20 whether the individual being verified  
21 is in the country legally or not. It simply tells  
22 the requesting agency whether the individual is  
23 eligible for public benefits or for a driver's  
24 license. Again, it's a nondiscriminatory approach,  
25 protects the civil rights of all individuals, but at

1 the same time prevents illegal aliens from accessing  
2 public funds that typically comprise a significant  
3 portion of state budgets.

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

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

15 NumbersUSA also is a longtime proponent  
16 of increased cooperation between federal, state and  
17 local law enforcement when it comes to the  
18 enforcement of immigration laws. Our expertise in  
19 this area comes from a federal perspective. For  
20 example, we have fought hard in Congress to maintain  
21 and strengthen the 287(g) program, 287(g) program.

22 While we do not purport to be experts  
23 on how such cooperation should work from a state or  
24 local perspective, NumbersUSA firmly agreed with  
25 Barbara Jordan when she told congress, "An effective

1 procedure for prompt and permanent removal of aliens  
2 ordered deported is an essential part of a  
3 credible immigration policy. If people unauthorized  
4 to enter believe that they can remain indefinitely  
5 once having reached the interior of the nation, they  
6 may be more likely to come."

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

18 Thank you.

19 CHAIRMAN CASTRO: Mr. Ellis, please,  
20 proceed.

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

23 Wednesday, June 2nd, 1999, started no  
24 different than any other summer day in Albertville,  
25 Alabama. People went to work, the kids slept-in



1 because school was out for summer vacation, and  
2 Marlin Strange went to work at 6:00 a.m. at  
3 Industrial Management Holders in Albertville. He  
4 ate lunch like he's done so many times before  
5 at Alder Springs Grocery, a store owned by his  
6 sister-in-law and her husband.

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

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

20 On June 2nd, 1999, Juan Carlos Martinez  
21 killed Marlin Strange with nine shots from a nine  
22 millimeter. But he did more than kill a man, a  
23 husband, a father. He threw a young family into  
24 disarray. A security blanket was removed to never  
25 be replaced.

1                   My name is Chuck Ellis. I'm an  
2                   Albertville City Councilman for the City of  
3                   Albertville, Alabama, and Marlin Keith Strange was  
4                   my brother-in-law. I tell you this brief story not  
5                   for sympathy, but to bring you a different side of  
6                   the fight, the side of the fight that enlightens  
7                   people about the affects of what can happen if and  
8                   when we allow people to come to our home without  
9                   proper verification of who they are, from where they  
10                  came and what type of citizen they were in the place  
11                  from which they came.

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

21                 If Juan Carlos Martinez would have gone  
22                 through the Nogales point-of-entry, his criminal  
23                 record in Mexico would have prevented him from  
24                 entering the U.S. He had killed before in Mexico,  
25                 and was also suspected of a death in Florida.

1                   I will not sit here and tell you that  
2 my brother-in-law would be alive today if Juan  
3 Carlos Martinez had not made illegal entry into the  
4 United States, but I will say that his death  
5 probably would not have been at the hands of Juan  
6 Carlos Martinez.

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

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

1 enforced, will make a difference.

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

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

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

23 I would be remiss if I failed to list  
24 some of the derivatives of Alabama's immigration  
25 reform law. In Marshall County, the county in which

1 Albertville is located, unemployment plummeted after  
2 House Bill 56 became law (10.1 percent in June 2011,  
3 down to 7.4 percent in June 2012).

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

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

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

24           Am I telling you that all these crashes  
25 involved a Hispanic that might be an illegal alien?

1 I am not. I'm just stating that they decreased.

2 The largest store in Albertville, the  
3 largest grocery store, showed a more than 50 percent  
4 decrease in their transactions for the social  
5 assistance WIC program. Something has changed.  
6 Before House Bill 56 became law, daily transactions  
7 averaged 160 per day. Now, it's 70. Once again,  
8 I'm not saying that the decrease is totally  
9 attributable to illegal aliens, but simply that  
10 there has been a decrease.

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

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

25 In closing, let me say this about the

1 civility of the rule of law. The rule of law was  
2 implemented to ensure equal and fair treatment and  
3 punishment across the board. The American citizenry  
4 want, and deserve for that matter, to be treated  
5 fairly. When they break the laws, our rules, they  
6 expect to be punished. And when others -- when  
7 others fail to follow the rules, they expect those  
8 persons to be punished just as they expect to be  
9 punished.

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

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

16 CHAIRMAN CASTRO: Doctor Lawrence,  
17 please, proceed.

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

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

1 -- and not even an expert at my school, but I can  
2 share what happened at our school.

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

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

18           Last night we had a meet the teacher  
19 night. It was a joy to see white children and black  
20 children and Hispanic children come together after  
21 they've been apart for all summer and loving one  
22 another. It was a thrill. It truly is a family.  
23 Our school is a trusted and safe place, and we've  
24 always welcomed all children and their families  
25 without questioning immigration status. After all,



1 we were hired to educate and love children, not to  
2 serve as immigration officers.

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

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

21           That day as my students came running  
22 off the buses in tears, it became clear to me that  
23 these children, American-born, Alabama citizens,  
24 were facing the brunt of the law. As parents came  
25 rushing to the school to withdraw their children, I

1 was ashamed of what had been done. We had 19  
2 families that came to withdraw their children that  
3 day. The next day 39 more Hispanic children were  
4 withdrawn. During the first nine days after House  
5 Bill 56 went into effect, we had 134 daily absences  
6 in our school alone. A total of 64 students  
7 withdrew from our school and moved out of state.

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

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

24           And other families had left in such a  
25 rush from fear of being separated from their

1 children that they wandered from city to city  
2 without work or support from anyone. So they  
3 returned because they all wanted to come home, to  
4 their school where their children were safe, loved  
5 and learning in spite of the fear of possibly being  
6 deported.

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

17           Yet, even after given the opportunity  
18 to correct these "unintended consequences", these  
19 consequences remain. It only leads me to believe  
20 that if there is an unwillingness to change those  
21 "unintended consequences", allow parents to be able to  
22 get their children as they are being deported, then  
23 this is an "intended consequence" to cause fear in  
24 the hearts of mothers and fathers, sons and  
25 daughters.

1                   Now, as a lifelong conservative  
2 republican, I have been surprised when I have been  
3 referred to as a bleeding heart liberal when  
4 speaking out for our families. I've heard others in  
5 rebuttal to me shout we should throw the children  
6 back over the fence. These American-born Alabama  
7 citizens are already on the right side of the fence.  
8 They deserve the benefits, rights and privileges all  
9 American children deserve. Every child, regardless  
10 of immigration status, deserves to be able to attend  
11 school free from fear, a freedom we have long fought  
12 to achieve.

13                   Thank you.

14                   CHAIRMAN CASTRO: Mr. Marshall, you may  
15 proceed.

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

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

1 federal immigration.

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

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

22 Can we ever legislate away the  
23 possibility of any civil rights violations through  
24 -- in the enforcement of criminal laws? No. Yet,  
25 by the same token, it is, likewise, improper to

1 presume that civil rights violations can be  
2 widespread just because the law has been enacted.

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

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

15           In my community the most significant  
16 criminal problem involves the sale and possession of  
17 methamphetamine. Almost without exception, law  
18 enforcement has determined that the distribution of  
19 methamphetamine is spearheaded by individuals who  
20 are in our country illegally; and, further, who are  
21 obtaining methamphetamine that is manufactured in  
22 Mexico. When we are successful in making arrests  
23 and obtaining convictions, these ringleaders are  
24 simply replaced by undocumented individuals to  
25 continue their criminal enterprise.

1                   While I do not contend that the  
2                   methamphetamine problem in our community is a direct  
3                   result of the presence of illegal immigrants, there  
4                   is no doubt that the distribution structure is led  
5                   by an illegal population and access to  
6                   methamphetamine is greatly enhanced by their  
7                   presence.

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

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

21                  Later Mr. Trejos, along with another  
22                  undocumented alien, visited my county and  
23                  subsequently shot, dismembered, burned and buried an  
24                  undocumented victim who we believe is his cousin.  
25                  After having the victim to be removed from his

1 grave, body part by body part and later argued the  
2 background of his murder, I was dismayed that this  
3 human was allowed to return to this country, never  
4 prosecuted and stayed without deportation.

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

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

22           Since the passage of the Alabama law  
23 and related amendments, I am unaware of any reports  
24 of local law enforcement in my community of  
25 complaints of racial or ethnic profiling. In



1 addition, I have not been personally informed of any  
2 investigation by any other agency, state or federal,  
3 of complaints of racial or ethnic profiling in my  
4 community.

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

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

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

25 In the public debate relating to this

1 provision, it is rarely stated in Alabama law merely  
2 restates authority previously given to state and  
3 local law enforcement by Congress. For many years,  
4 federal law has encouraged communication with state  
5 and local law enforcement regarding the immigration  
6 status of any individual and requires federal  
7 officials to respond to such inquiries. Moreover,  
8 this communication and verification has never in my  
9 tenure resulted in any claims of racial or ethnic  
10 profiling.

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

20 State and local law enforcement are at  
21 the front lines in the battle to keep our  
22 communities safe. To that end, daily these  
23 professionals have contact with many individuals  
24 from traffic stops to misdemeanor and felony  
25 arrests. By a stated policy to inquire as to

1 immigration status of certain individuals in defined  
2 circumstances, Alabama law encourages information  
3 exchange among state and federal officials and  
4 enhances the ability to identify those who are  
5 subject to deportation.

6 Thank you for the invitation to be  
7 here.

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

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

17 HICA was established in 1999 as the  
18 Hispanic community in our state began to grow,  
19 commissioned to facilitate social, civic and  
20 economic integration of immigrants in their new  
21 home. We worked to do this to accomplish our  
22 mission in many ways in helping folks become  
23 citizens, teaching English, small business  
24 development, financial literacy, assistance to  
25 victims of domestic violence and basic information

1 and referral services.

2 HICA also helps to facilitate in  
3 relation with a host community through educational  
4 workshops and seminars. We envision a fully  
5 engaged, empowered and integrated Hispanic community  
6 in Alabama that seize all the possibilities and has  
7 every opportunity to achieve their goals and  
8 aspirations.

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

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

25 The law comprised of more than 70 pages

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

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

19 The Alabama Legislature has chomped on  
20 the civil rights of not just immigrants in Alabama,  
21 but also citizens and legal permanent residents.  
22 Most immigrant families redefine the definition of  
23 what it means to be a blended family with members  
24 all across the immigration spectrum. For those  
25 families who may be undocumented, it is highly

1 likely that they will children who were born in the  
2 state and family members who are somewhere in the  
3 immigration process.

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

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

19 HICA provides comprehensive services to  
20 victims of domestic violence. While we have had our  
21 calls to our domestic violence hotline plummet, we  
22 have had the unfortunate opportunity and just this  
23 week had the opportunity to work with a teen-ager  
24 who was 15 who had been raped. In a previous  
25 experience there was nothing we can do to get a mom

1 to report the crime to police because she was too  
2 afraid that law enforcement would become more  
3 interested in the immigration issue than the pursuit  
4 of the perpetrator in the serious crime.

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

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

21           And, finally, probably the most  
22 egregious story I've heard was of a chaplain at the  
23 hospital who refused to bury a Hispanic man because  
24 he thought the he was undocumented. Now, this man  
25 didn't have any resources, his family didn't live

1 here and they didn't have resources to come. So  
2 this man and his roommate lay in the county morgue  
3 until it was actually finally determined that this  
4 man was a U.S. citizen. So at that point he was  
5 buried. But HB 56 has fueled this sort of intense  
6 hate and ill-tolerance in our community.

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

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

23           We call Alabama the beautiful, but how  
24 can we if it's a state that promotes racist,  
25 intolerant and myopic laws like HB 56. We have an



1 opportunity to embrace all people in our community.

2 Thank you for the opportunity.

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

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

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

25 Whether it was a distrust of law

1 enforcement generated historically from what may  
2 have happened previously or for reasons that were  
3 unknown to us, we have not seen that community come  
4 forward and report, especially in a matter of  
5 property. Violent crimes may be more so, but less  
6 in the area of property crimes.

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

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

24           That was long before the adoption of  
25 this new act in Alabama. These individuals simply

1 didn't want to have contact with law enforcement  
2 generally. And what we hoped through the provision  
3 to be included in the act was to be able to tell  
4 victims and witnesses that we want to provide  
5 justice and accountability, but we need you to come  
6 forward.

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

10 COMMISSIONER GAZIANO: No. That's --

11 CHAIRMAN CASTRO: How have you  
12 communicated --

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

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

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

1 contact and that information known within the  
2 community itself.

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

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

16 CHAIRMAN CASTRO: Thank you, Mr.  
17 Marshall. Commissioner Kirsanow.

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

23 (No responses.)

24 COMMISSIONER KIRSANOW: Okay. The  
25 second question. I should probably be more

1 specific. Mr. Marshall, you were talking about the  
2 fact that you haven't seen any increase in reports  
3 relating to racial profiling.

4 Are you aware of any either  
5 investigations -- strike that. Are you aware of an  
6 increase in any complaints under Sections 1981 or  
7 1993 or adjudications against any political entity  
8 in the state of Alabama based on any kind of  
9 allegation of racial profiling?

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

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

21 I work closely with Ms. Vance, a U.S.  
22 attorney here. I serve on her law enforcement  
23 committee. And thus far, we have not been informed  
24 personally of any of those type of allegations or  
25 complaints in my community.

1                   COMMISSIONER KIRSANOW: Thank you. It  
2 was just an observation. I was just struck by what  
3 this panel and the previous panel -- going to  
4 certain statements made by Mr. Lawrence and Ms.  
5 Rubio that -- what strikes me about this is the  
6 staggering misperceptions between two and  
7 miscommunication going to Commissioner Heriot was  
8 saying.

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

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

20                   COMMISSIONER Achtenberg: I would like  
21 to ask Ms. Rubio if she would share with the panel  
22 information -- was there any information adduced at  
23 the legislative hearings related to the rationale  
24 for exempting household workers as well as, you  
25 said, household construction workers, handy people

1 or that kind of thing?

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

6 MR. RUBIO: Thank you, commissioner.  
7 I'm going to keep my personal thoughts and opinions  
8 on that to myself.

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

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

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

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

25 MS. RUBIO: No.

1                   COMMISSIONER Achtenberg: The impact on  
2 employment or the impact on unemployment?

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

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

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

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

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



1 made some good points.

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

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

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

24           And it is so glaringly obvious that  
25 that is the sort of motivation that legislators

1 would have for exempting that kind of law. I'm  
2 really kind of shocked that this would be discussed  
3 in this manner. This is not a question of hate.  
4 This is a question of legitimate debate about  
5 immigration policy.

6 If any of you would like to comment on  
7 that, I would love to hear it.

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

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

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

1 say, hey, I want that American dream.

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

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

21 CHAIRMAN CASTRO: Ms. Rubio.

22 MS. RUBIO: Thank you, Commissioner for  
23 your comments. Two quick points. It's my  
24 recollection that over the past 18 to 20 years,  
25 there have been several nominees for high level

1 cabinet positions in government positions that have,  
2 you know, on background checks found that they  
3 didn't do what's required by having, you know, their  
4 employees complete an I-9. So we know that not all  
5 people -- you know, if they're hiring nannies or  
6 domestic help, go through that process.

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

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

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

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

24 And the radio talk show host said,  
25 well, you know, what do you think we should do about

1 all of these illegals in our community? And the  
2 caller said, well, let's just shoot them all. And  
3 so a week or two after that, there was a militia  
4 group -- I'm not sure if it was in Blount County;  
5 it's generally to the northeast of here -- where  
6 they found a small group of people who were  
7 stockpiling weapons with the intent to use them on  
8 the illegal community.

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

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

20 CHAIRMAN CASTRO: Well, you can ask  
21 that of panel three.

22 COMMISSIONER HERIOT: -- we had a  
23 problem of someone shooting in Washington, D.C. at  
24 the Family Research Council, a perfectly innocent  
25 organization --

1                   CHAIRMAN CASTRO: Commissioner --

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

9                   CHAIRMAN CASTRO: Commissioner Yaki.

10                  COMMISSIONER YAKI: Mr. Chairman, I'm  
11 not going to ask a question. I just wanted to  
12 respond to her statement that there is hate. And  
13 let's just get it out now rather than a later time  
14 in -- later on in the day, which is that she is  
15 referring to the executive director of the Family  
16 Research Council in Washington, D.C., a conservative  
17 think tank. I can say that without describing it as  
18 anything -- with any pejorative description.

19                  The executive director was blaming the  
20 Southern Poverty Law Center for identifying it as a  
21 hate group, and somehow that triggered that  
22 individual who went -- took a gun to its place of  
23 business.

24                  And I am just going to say this in  
25 response to that, is when -- Bill O'Reilly was

1 branding George Tiller of being a killer in Kansas  
2 before he was shot by someone who had ill motives.  
3 There was no -- there was no similar advance issued  
4 by the Family Research Center. In fact, they gave  
5 Bill O'Reilly an award for it as it relates that  
6 terrible man.

7 CHAIRMAN CASTRO: The Chair recognizes  
8 Commissioner Kladney.

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

12 MR. ELLIS: Thank you, sir.

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

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

23 So we wouldn't have any particular data  
24 that would tell us one way or the other if there  
25 been any change before or after the act was passed.

1                   COMMISSIONER KLADNEY: Oh, okay. Then  
2 I'm asking about after the act. It's just -- you  
3 know, somebody testified in the last panel that 60  
4 people were stopped, 45 were brought in and checked  
5 with the system. Forty-five were American citizens  
6 or something like that.

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

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

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

24                   COMMISSIONER KLADNEY: So then you have  
25 no -- no plans to keep that data?



1                   MR. MARSHALL: We're not -- the court  
2                   system is -- the person that actually keeps that  
3                   data itself or the institute that would keep that  
4                   data -- one thing that we do track, and I'll give  
5                   you an example -- and I talked about that --  
6                   methamphetamine for us. The trafficking of  
7                   methamphetamine in Alabama means you have 28 grams  
8                   of methamphetamine or more. Over 80 percent of our  
9                   methamphetamine trafficking charges are for  
10                  individuals who are undocumented in this country.

11                  COMMISSIONER KLADNEY: How many did you  
12                  say? I'm sorry.

13                  MR. MARSHALL: Over 80 percent of those  
14                  cases.

15                  COMMISSIONER KLADNEY: Thank you.

16                  CHAIRMAN CASTRO: The Chair recognizes  
17                  Commissioner Gaziano.

18                  COMMISSIONER GAZIANO: Thank you. And  
19                  thank you all.

20                  This panel is held to elucidate some of  
21                  the arguable cost and benefits of this law, some of  
22                  the potential benefits, reducing methamphetamine,  
23                  preventing those who have a criminal history in our  
24                  communities, unemployment. Now, some of the -- one  
25                  of the most interesting, though potential, costs is

1 the one I want to focus on, and that is the arguable  
2 tendency to increase racial profiling by police.

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

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

23 And the argument, it seems to me, on  
24 the sort of cost side is that this law will tend to  
25 give cover for the bad cops. They will have a freer

1 hand at doing these -- playing horrible video games  
2 and engaging in racial profiling. And I hear that  
3 it might slightly increase, to be honest, corruption  
4 among the honest cops because they'll be tempted to  
5 take bribes. Now, I'm not sure. I think that  
6 that's very unlikely. Or to me that seems possible.  
7 Good cops are now going to be tempted by a new law  
8 like this.

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

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

23           So even with regard to this arguable  
24 negative, isn't it at least possible, or in your  
25 view likely -- that's what I'm asking you -- that

1 this will lead to better training post-enactment of  
2 HB 56 and a reduction in racial profiling?

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

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

24 I can only speak from personal  
25 experience of what we've seen thus far, and that is

1 such reports have not come in. In my community  
2 prior to becoming district attorney, both state and  
3 federal officials actively investigated a case in  
4 which civil rights violations occurred against the  
5 Hispanic community involving law enforcement. Those  
6 officers went to federal prison. We will continue  
7 to be diligent. We will continue to enforce those  
8 violations when we see them. And there's no  
9 difference in that approach before the act and  
10 pursuant to the act now.

11 CHAIRMAN CASTRO: I have a comment by a  
12 panelist.

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

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

22 And unless you've stood at that vehicle  
23 of a 12-year-old, whatever type vehicle, at 2:30,  
24 3:00 o'clock in the morning on a dark country road,  
25 it's really hard to characterize what you would do

1 and what you wouldn't do because in a split second  
2 an officer has an opportunity to make life and death  
3 decisions that can possibly save his life and save  
4 the peoples' lives that he's talking to. Whenever a  
5 person comes over to a vehicle with a knife, that  
6 officer has that split second to determine that.

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

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

22           CHAIRMAN CASTRO: I have a question  
23 that I want to direct to three panelists. Ms.  
24 Rubio, you mentioned in your earlier remarks about  
25 some bullying situations. And our Commission did a

1 very important statutory enforcement report last  
2 year on bullying based on national origin, race,  
3 disability, religion, sexual orientation.

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

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

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

25 CHAIRMAN CASTRO: And the school did

1 that, the officials in the school separated them?

2 MS. RUBIO: Yes. The principal.

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

5 COMMISSIONER HERIOT: What school is  
6 that?

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

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

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

20 MS. BESHARSE: We do receive complaints  
21 from families, particularly children, about being  
22 bullied by other classmates, particularly other  
23 classmates calling them what we would consider  
24 derogatory names, accusing all of them of being  
25 Mexican when they're not, accusing all of them of



1 not being citizens.

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

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

15 CHAIRMAN CASTRO: Do you keep records  
16 of those --

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

22 And once we -- if we start getting  
23 those complaints again -- we got those toward the  
24 end of year, unfortunately, when school was getting  
25 out. But if we start getting those now that school

1 is getting back in, we will definitely follow-up.

2 CHAIRMAN CASTRO: Thank you. Doctor  
3 Lawrence.

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

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

18 In regards to the question about the  
19 eight, we don't know where they went. But they  
20 never -- we never -- I don't have a clue. I can  
21 tell you that since the law went into effect back in  
22 September, we have not had one child to register at  
23 our school that has had a birth certificate, United  
24 States certificate, immunization and a Social  
25 Security card.

1                   We believe that there are children in  
2                   our children that are out there, and we can't find  
3                   them. And we've had that general discussion once  
4                   with principals, that there -- we feel like there  
5                   are children out there who are not coming to school.  
6                   We can't prove that. We just believe it. I can say  
7                   we haven't had a single child enroll without those  
8                   credentials.

9                   CHAIRMAN CASTRO: And prior to the law  
10                  you did?

11                  MR. LAWRENCE: Yes.

12                  CHAIRMAN CASTRO: Are there any other  
13                  questions from commissioners?

14                                 (No response.)

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

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

22                                 (Whereupon, the proceedings were  
23                  recessed from approximately 12:20 p.m. to  
24                  approximately 1:00 p.m., after which the following  
25                  proceedings were had and done:)

1                   CHAIRMAN CASTRO: Calling the afternoon  
2 session to order. It is now 1:04 p.m. And prior to  
3 the beginning the third panel of the day, I would  
4 like to have our counsel from the Office Of General  
5 Counsel come forward and provide the disclaimer.  
6 Ms. Eisemann.

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

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

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

1 slander.

2 Thank you.

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

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

14 So let me briefly introduce the  
15 panelists in the order in which they will speak.  
16 Our first panelist is Doris Marie Provine, Professor  
17 at Arizona State University. Our second panelist,  
18 who is here somewhere because I saw her today, this  
19 morning, Carol Swain, Professor at Vanderbilt  
20 University. When she arrives she'll take that seat.  
21 And she's on her way. The third panelist is Mark  
22 Krikorian, director, Center for Immigration Studies.  
23 Our fourth panelist is Michele Waslin, the American  
24 Immigration Council. And our fifth panelist is Dan  
25 Stein, President of the Federation for American

1 Immigration Reform. Our sixth panelist is Victor  
2 Viramontes from the Mexican American Legal Defense  
3 and Educational Fund. And our seventh panelist is  
4 Mary Bauer with the Southern Poverty Law Center.

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

11 (Whereupon, the panelists were sworn.)

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

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

16 I'm going to focus today on civil  
17 rights in particular. And the -- two of the  
18 questions on the floor that you've presented us: Is  
19 there danger of increased racial profiling with  
20 police, with state laws like SB 1070 and Alabama's  
21 1372? And what is the impact on  
22 public safety and community policing? And I'm going  
23 to talk from the point of view of evidence that we  
24 have from Arizona and from a national survey that  
25 three colleagues and I have conducted.

1           I see Arizona as really a test case for  
2 the consideration that is going on today. We have  
3 had a human smuggling law since 2005. We have had  
4 an employer sanctions law since 2008 in Arizona.  
5 And we've had an overactive sheriff with 287(g)  
6 authority named Joe Arpaio. He and his deputies  
7 have succeeded in getting 45,000 deportations  
8 initiated from that office. So what -can we learn from this? Your  
9 concern is particularly with the impact on citizens  
10 and legal permanent residence of these kinds of  
11 state laws.

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

21           The study that I'm a part of as a  
22 principal investigator is an NSF-funded study, but  
23 these are my opinions, not the National Science  
24 Foundation's. We have found that -- what we did was  
25 we interviewed police chiefs in large cities, small

1 cities and sheriffs across the nation. So this is  
2 not an Arizona study. This is a national study, and  
3 we've had over a 50 percent response rate with each  
4 of those groups.

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

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

25           Another thing our study found is that



1 police departments and sheriffs departments have a  
2 very strong commitment to community policing. We  
3 asked them a lot of specific questions about patrols  
4 and community meetings and things like that. They  
5 scored very high on that issue.

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

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

25 This whole issue of community policing

1 being endangered by this attrition through  
2 enforcement approach, of course, has been discussed  
3 on the national level by police chiefs. In their  
4 own statements, they are opposed to being involved  
5 in immigration enforcement for that very reason.

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

15           Arizona has prohibited racial profiling  
16 for many years. It's not as if it's not against the  
17 law in Arizona. And we don't tolerate legally on  
18 the books pretextual stops in order to achieve other  
19 ends. We also have an  
20 open courthouse door for all of these violations.  
21 But, we, nevertheless have a terrible record of  
22 abuses here. The same thing is going to be true  
23 when Section 2(b) is in effect, which it isn't yet  
24 of course. So we're going on the basis of other  
25 evidence here.

1           I think if we looked just more broadly  
2     at the history of racial profiling, we see that when  
3     there's no behavioral indicator that would tell the  
4     police it's time to step in, that is, this is a person that  
5     you should be concerned with; when that is lacking,  
6     that's a real opening for racial profiling and for  
7     pretextual stops. And we know that. That's from  
8     academic studies on driving while black. Someone  
9     mentioned on the Commission here today the situation  
10    in New York City where this past year there were 680  
11    stops of people for -- maybe being suspicious, 80  
12    percent of whom were Black or Latino. And all these  
13    were not productive.

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

24           And so what we have is a situation that

1 we can anticipate will endanger civil rights. And the impact on Latinos  
2 is clear.

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

8 Thank you.

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

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

19 Since 2007, over 2,000 laws and  
20 regulations pertaining to some aspect of immigration  
21 have been introduced or passed by state or federal  
22 or local government. This is known as federalism.  
23 Federalism refers to shared power between sovereign  
24 states and the national government. It gets its

1 authority from our constitution.

2 States are at a disadvantage when they  
3 encounter an administration that fails to adequately  
4 enforce the laws of the land. I contend that the  
5 Arizona and Alabama laws, and many of the laws  
6 passed around the country, are a legitimate response  
7 to the failure of the U.S. Government to take  
8 responsibility in this important area.

9 The rule of law is essential for  
10 civilized nations. This morning we witnessed a  
11 disruptive, staged outburst by illegal aliens who  
12 are not cowering in fear. The infringement, they  
13 infringed on the rights on the rest of us to  
14 peaceably assemble.

15 The rule of law is what separates  
16 civilized nations from oppressive regimes like the  
17 ones that many of the illegal aliens fled. The rule  
18 of law embodies the idea that nations need  
19 predictable and enforceable rules and regulations.  
20 No one is above the law.

21 The President, members of Congress and  
22 political appointees like this Commission take an  
23 oath to uphold the laws of the land against foreign  
24 and domestic threats. Sovereign nations are defined  
25 by specific geographical boundaries. Political

1 appointees and elected officials, again, they take  
2 the oath to uphold the laws of the land. They  
3 should not be governed by the emotionalism. They  
4 should be looking at what benefits the "We the  
5 People". Their first responsibilities should be to  
6 American citizens.

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

16           It has created an environment where  
17 people who profess here vocally point that the  
18 legality for daring law enforcement officials to do  
19 something about it. In some states sanctuary  
20 cities become crime-ridden because of the lack of  
21 policing. Non-enforcement of the laws is not the  
22 solution to America's immigration nightmare.  
23 Instead, we must organize and insist that Congress  
24 take immediate action to address all aspects of the  
25 problem.

1                   Until that happens, people who are in  
2                   this country illegally, in my opinion, should be  
3                   required to register their presence, and they should  
4                   be detained whenever they're disruptive. If I were  
5                   the Czar and made all the rules, I would have gotten  
6                   all of the information on those people that  
7                   disrupted this hearing, and they would have to check  
8                   in. They would -- you would have had those people  
9                   on record. After all, they are uninvited guests in  
10                  a sovereign nation that has laws that govern entry  
11                  and exit. It is an insult to every American when  
12                  their protest actions include open defiance of our  
13                  national laws.

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

19                  Thank you.

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

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

25                  Any discussion of the immigration issue

1 should start with an observation by Father Theodore  
2 Hesburgh, who was a member of this very body for 15  
3 years and was Chairman of the U.S. Commission on  
4 Civil Rights until he was dismissed by President  
5 Nixon in 1972. Father Hesburgh was later selected  
6 by President Carter to be chairman of a select  
7 commission on immigration and refugee policy, many  
8 of whose recommendations were incorporated into the  
9 1986 law.

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

18           Whatever our immigration law, it must  
19 be enforced for the rule of law and for national  
20 sovereignty to have any meaning whatsoever. State  
21 and local cooperation with federal immigration  
22 authorities is an essential part of keeping that  
23 back door closed. In fact, the enforcement of  
24 federal immigration law is not possible without the  
25 cooperation of the 700,000 state and local, tribal



1 and other law enforcement officers serving as force  
2 multipliers for federal authorities.

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

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

25           Now, it is certainly possible that such

1 laws could have an impact on civil rights of some  
2 Americans. Given that the overwhelming majority of  
3 illegal immigrants are from Latin America, poorly  
4 drafted or poorly implemented laws might conceivably  
5 lead to American citizens of similar backgrounds  
6 receiving unwarranted attention from the  
7 authorities.

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

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

24           But to rebut this floor, we don't need  
25 to actually wait and implement these laws and see

1     how it's working out. We have extensive evidence  
2     from the already existing state and local  
3     cooperation on immigration enforcement, such as  
4     287(g) and Secure Communities. And what that  
5     demonstrates is that profiling has not -- systematic  
6     profiling has not been a significant problem and  
7     that our law enforcement officers do in fact conduct  
8     themselves as professionals rather than as outlaws,  
9     as some of the opponents of immigration, of course,  
10    would have us believe.

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

25                 Likewise, in Virginia County in

1 suburban Washington an independent analysis of the  
2 county's immigration enforcement initiative  
3 concluded, "We found no evidence of overzealous or  
4 inappropriate immigration enforcement actions by  
5 police".

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

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

21           Just to give one example, the report  
22 claimed the share of Black American citizens  
23 arrested and screened through Secure Communities was  
24 greater than their share of all illegal population.  
25 And in fact that was not true precisely because the

1 authors did not take into account the universe of  
2 people who were included in the statements. In  
3 fact, the proportion -- let me read this one quote  
4 from our study. "The presumed ethnic profile of the  
5 cases in database very closely matches the ethnic  
6 profile of the population of criminal aliens  
7 nationwide and also in the states where most of the  
8 the Secure Communities arrest took place."

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

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

20 Thank you.

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

24 MS. WASLIN: Good afternoon. And I  
25 thank you for this opportunity to present the

1 American Immigration Council's views on the impact  
2 of state immigration and control laws on civil  
3 rights.

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

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

21           It has long been established, and the  
22 supreme court recently confirms, that states have no  
23 power under the constitution to admit or deport  
24 noncitizens. Consequently, many state efforts at  
25 immigration control focus on creating inhospitable

1 environments for immigrants, particularly  
2 undocumented immigrants.

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

8 In 1994, Proposition 187 in California  
9 would deny basic services in education to  
10 unauthorized immigrants and would have required  
11 health care workers, state agency personnel and  
12 others to report suspected unauthorized immigrants  
13 to the federal government. Beginning in the early  
14 2000s, laws denying driver's licenses to  
15 unauthorized immigrants were intended to make it  
16 difficult to complete everyday tasks that require  
17 driving or showing identification.

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

25 And this creates direct and indirect

1 consequences for the civil rights of all residents  
2 in those states. This approach has to come to be  
3 known as attrition through enforcement, a political  
4 strategy that's premised on the notion that if the  
5 federal government and states make living conditions  
6 difficult enough by targeting known these  
7 nonimmigration aspects of daily lives, it will  
8 increase the incentives for unauthorized immigrants  
9 to self-deport. There is significant evidence that  
10 state immigration laws like those in Arizona and  
11 Alabama institutionalize a climate that is ripe for  
12 discrimination abuse and civil rights violations.

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



1 taking individuals' race or ethnicity into account.

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

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

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

1 economic fallout of these laws.

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

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

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

25           While racial and ethnic profiling is

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

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

22 The American Immigration Council  
23 believes that with honest and thoughtful dialogue  
24 about the consequences of restrictive state laws is  
25 the first step in reversing the tide and moving back

1 toward a rational discussion of America's  
2 immigration laws and immigration's role in America's  
3 future.

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

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

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

25 Nevertheless, we do believe that an

1 underlying element of the immigration data must be  
2 retaining respect and civility. We have to keep the  
3 civilness at wraps. No one doubts the immigration  
4 issue is a volatile emotional issue. No one  
5 understands it more than I. In the 30 years that  
6 I've worked on the issue I see the general  
7 deterioration of civility and inability of the two  
8 sides of this issue to discuss in responsible and  
9 professional ways. There are, ultimately,  
10 differences in the policy.

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

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

24 I was sitting in the supreme court  
25 chambers when I heard the majority opinion read in

1 Plyler versus Doe. I remember thinking to myself,  
2 you know, the supreme court really hasn't addressed  
3 the broader questions of: How taxpayers are going  
4 to be able to pay? What are the negative effects of  
5 requiring the states to provide public education to  
6 children here illegally?

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

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

21           They expect fairness, and they expect  
22 domestic equity, which means that their civil rights  
23 to only pay for services for people who are in the  
24 country legally, that that should be respected.  
25 They want to be able to go out and look for a job

1 without competing in an unfair illegal market.

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

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

17 The NAACP used to be a strong proponent  
18 of immigration controls. Back in the 1990s, we  
19 worked closely with them on it, and certainly in the  
20 1980s (inaudible). That has changed, and they no  
21 longer are an organization that seems to care about  
22 the need to limit immigration.

23 However, the vast majority of the  
24 American people support HB 56 and its provisions.  
25 We salute Senator Beason and the governor for the

1 bold steps to exercise national leadership on this  
2 issue. The President's recent decision to  
3 essentially suspend all immigration enforcement,  
4 except to function in a criminal -- criminal  
5 punishment, if you would, for national security  
6 threats poses the question whether or not we're  
7 going to have a functioning immigration control  
8 apparatus.

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

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



1 fashion these efforts.

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

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

23 And so we're all in this together.  
24 We're all Americans. We have to come to terms with  
25 the reality that immigration deterrence is a

1 challenging thing. It's morally and ethically  
2 difficult and challenging issue. So we should stop  
3 the name-calling, stop the (inaudible) and work  
4 through common solutions.

5 Thank you very much.

6 CHAIRMAN CASTRO: Thank you, Mr. Stein.  
7 Mr. Viramontes.

8 MR. VIRAMONTES: Thank you,  
9 commissioners, for having me here this afternoon.  
10 My name is Victor Viramontes, and I'm with MALDEF's  
11 national senior counsel.

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

21 And for what purpose when they see that  
22 ultimately these laws destroy the fabric of our  
23 society by undermining public trust in local law  
24 enforcement and degrading local law enforcement for  
25 doing the very things that they should be doing.

1                   And, first, I wanted to address what I  
2 think is the fundamental fairness of these laws, is  
3 that they mandate racial profiling. Now, I, as a  
4 civil rights attorney do this professionally, but  
5 it's the declarations of Chief Gascon and Chief  
6 Villasenor that I think are most noteworthy. What  
7 they said -- one a former police chief in Arizona,  
8 another the current police chief in Arizona -- is  
9 that SB 1070 cannot be integrated -- and like it's  
10 copycat in Arizona, HB 56 -- that these laws can't  
11 be implemented without engaging in racial profiling.

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

24                   And there is another fundamental  
25 problem with these laws. The assumption there is

1 that some skin tones, some surnames, that some names  
2 will receive a presumption of being American while  
3 others will not.

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

13 Now, a failing specific to Alabama, is  
14 this. This Alabama Legislature actually wrote in SB  
15 1070 and said we're not violating enough rights.  
16 Let's be more aggressive. And what they've done is  
17 to chill children and the parents of children from  
18 enrolling and coming to school at the schoolhouse  
19 steps. They've also attempted to bar any  
20 undocumented or any dreamer from attending a public  
21 university in Alabama.

22 Both of those are absolutely wrong,  
23 wrong mandated policies because they be shooting  
24 themselves in the foot. We have these educated  
25 individuals, these gifted individuals, trying to go

1 to college, trying to improve and improve their lott  
2 in life. And our society as a whole and Alabama and  
3 other places are barring them. And when -- again,  
4 you're trying to achieve these antisocietic rules.  
5 I have no choice but to ask what's really -- what's  
6 really motivating this?

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

15 So if person were to block traffic  
16 because just because they wanted to, say, you know,  
17 the Alabama football won on Saturday. No problem.  
18 The same person who does to try to feed their  
19 family, that's a criminal offense. In Alabama  
20 they've also made it illegal for documents  
21 immigrants to enforce contracts, and they made  
22 illegal for undocumented immigrants to try to rent a  
23 house. So you're looking at preventing people from  
24 feeding themselves and their family, preventing them  
25 from having a shelter and a roof over their head.

1 These are not legitimate legislative goals.

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

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

16 And another one the problems with these  
17 laws is that immigration law is very complicated.  
18 You've got to work with scalpels and make very, very  
19 distinct delineations. And what these laws do is  
20 they (inaudible) on mixed-status families. So  
21 instead of having particular immigration  
22 consequences on individuals, these create  
23 immigration consequences on mixed-status families.  
24 So, for example, an undocumented father trying to  
25 enter into a lease agreement with four citizen

1 children would be unable to under an Alabama law.

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

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

14 Thank you.

15 CHAIRMAN CASTRO: Thank you, Mr.

16 Viramontes. Ms. Bauer.

17 MS. BAUER: Thank you so much for the  
18 opportunity to speak today about the devastating  
19 effect that Alabama's extreme anti-immigrant law, SB  
20 56, has had on our state.

21 My name is Mary Bauer. I'm the legal  
22 director of Southern Poverty Law Center. We are  
23 based in Montgomery, Alabama, and we are under  
24 service of the plaintiffs in legal challenges to  
25 anti-immigrant laws in Alabama, Georgia and South

1 Carolina.

2 My remarks today will focus on the  
3 effects in Alabama since it has the most extreme  
4 anti-immigrant law, and it's the only state where  
5 such a law has been allowed to (inaudible).

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

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

23 In fact, HB 56 has devastated the  
24 Latino and immigrant community in Alabama. It would  
25 be hard for me to overstate the human tragedy that



1 has been been unleashed on the state by HB 56. It  
2 has turned a significant class of people effectively  
3 into legal nonpersons, subjecting them to a kind of  
4 legal exiling because it has destroyed lives, ripped  
5 apart families, and devastated communities.

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

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

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

25           A judge advised a lawyer that the

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

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

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

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

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

24 By the first Monday after HB 56 was  
25 allowed to take effect, 2,285 Latino children were

1 absent from schools across this state, representing  
2 seven percent of the total Latino school population.  
3 Public schools in Montgomery asked already enrolled  
4 Latino students questions about their immigration  
5 status and that of their parents.

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

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

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

21 A husband calls to report that his  
22 wife, nine months pregnant, and was too afraid to go  
23 to a hospital in Alabama to give birth and he wanted  
24 to try to decide whether she should give birth at  
25 home or go to a hospital in Florida.

1           A Latino man was arrested and detained.  
2       While in jail he was told he could not use the  
3       telephone to call his attorney cause because the use  
4       of the phone would be the business transactions by  
5       limited by HB 56.

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

19           Southern Poverty Law Center is  
20      delighted that you are having this hearing about the  
21      effects of this law on the people of Alabama. The  
22      law has devastated our state in many ways. There  
23      are many stories to be told. Unfortunately, we do  
24      have some concerns that the hearing speakers are not  
25      designed to completely bring out those stories.

1                   While there are a few affected  
2           community members testifying, we have to call to  
3           task some of the groups testifying here on a number  
4           of bases. And I'll just share with you some of our  
5           concerns about some of the individual groups that  
6           have been allowed to testify.

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

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

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

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

25                   MR. GAZIANO: I've seen her written

1 statement. It's -- it's both on the kind of  
2 conclusionary allegations where you string various  
3 boards together based on supposedly a grant that was  
4 provided 20 years ago by a group that had a very  
5 admirable justice but also had a founder who  
6 supposedly --

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

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

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

19 CHAIRMAN CASTRO: Certainly as --

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

22 CHAIRMAN CASTRO: Certainly as --

23 COMMISSIONER HERIOT: May I --

24 MR. GAZIANO: No. We need to discuss  
25 the motion.

1                   CHAIRMAN CASTRO:  You're out of order,  
2   Commissioner Gaziano.  Let me speak.

3                   MR. GAZIANO:  Are you speaking to --

4                   CHAIRMAN CASTRO:  Let me speak.

5                   MR. GAZIANO:  Are you speaking to my  
6   motion?

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

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

17                  CHAIRMAN CASTRO:  Let her speak.

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

20                  MS. BAUER:  Sir --

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

25                  CHAIRMAN CASTRO:  Calm down.  Calm

1 down.

2 MS. BAUER: I'm just going to speak  
3 about something if that's okay.

4 CHAIRMAN CASTRO: Go ahead.

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

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

10 CHAIRMAN CASTRO: Start the clock,  
11 please.

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

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

25 CHAIRMAN CASTRO: Thank you.



1                   MS. BAUER: I thank you for listening  
2 to me today.

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

6                   COMMISSIONER KLADNEY: None, sir.

7                   CHAIRMAN CASTRO: Commissioner  
8 Kirsanow.

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

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

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

21                   First of all, we believe that there are  
22 problems in the databases, that there are many  
23 inaccuracies that exists in these databases that  
24 have not been fixed. We also have significant  
25 evidence that employers have misused to E-Verify

1 system.

2 But, most importantly, I think that the  
3 E-Verify system, alone without being in the context  
4 of a more comprehensive immigration reform, is not  
5 as effective. It is not a solution for one very  
6 important reason. Employers who want to knowingly,  
7 willingly hire an authorized immigrant are simply  
8 not going to run them through the system. So this  
9 is not a silver bullet. This is not a solution to  
10 the problem.

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

14 COMMISSIONER KIRSANOW: Mr. Viramontes.

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

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

25 And so those are the fundamental

1 problems that refute E-Verify and the reasons that  
2 we don't support its mandatory application.

3 CHAIRMAN CASTRO: Thank you.

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

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

15 COMMISSIONER KIRSANOW: An accuracy --

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

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

1 that's too many.

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

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

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

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

22 MR. KIRSANOW: My second question is --  
23 goes to disparate treatment. It strikes me that we  
24 have been talking about civil right implications of  
25 immigrants, but what we haven't done is properly

1 decided yet between illegal immigrants and legal  
2 immigrants.

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

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

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

25 Is there a potential of cause of action

1       there?  Anybody?  Anybody?

2                   CHAIRMAN CASTRO:  You've got no takers.

3       Oh, Ms. Bauer.

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

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

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

22                   CHAIRMAN CASTRO:  Let me - I'm sorry.

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

25                   CHAIRMAN CASTRO:  Go ahead.

1           MR. KRIKORIAN: -- in response that for  
2           the several past years we have taken 1.1 million  
3           legal immigrants a year. This is more than -- more  
4           immigrants for permanent regular immigration status  
5           than all of the other countries of the world  
6           combined.

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

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

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

22          But it's my understanding, based on  
23          these materials I have reviewed from the briefing  
24          paper that I referred to earlier and the records  
25          from the ACLU in some litigation, that the documents

1 that parents produced or a portion that they  
2 produced on the alleged cost of undocumented  
3 immigrants to Arizona, including the cost of local  
4 taxpayers or illegal aliens and the cost of illegal  
5 immigration to Arizona, indicates that you actually  
6 mixed both the cost associated with citizen children  
7 as well as undocumented immigrants in that cost.

8 Is that true or not?

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

11 CHAIRMAN CASTRO: How is that?

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

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

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

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

23 MR. STEIN: Not at all, sir.

24 CHAIRMAN CASTRO: Really?

25 MR. STEIN: No.



1                   CHAIRMAN CASTRO: Okay. That's  
2 interesting. I will then move on to Commissioner  
3 Heriot.

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

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

23                   Even under the laws we already have  
24 that were being enforced, a lot of the racial  
25 profiling issues, if it were the federal immigration

1 officers doing it, you know, there would be similar  
2 accusations. And, yet, I assume -- I don't want to  
3 go so far as to say the United States of America  
4 cannot have immigration policy if that's enforced.

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

8           The other question I have has to do  
9 with children generally because I think we can all  
10 agree that all legislators have a special duty to  
11 make sure that the laws that they pass are for the  
12 children, all children.

13           But I think we're mixing some issues  
14 that are more serious with less serious issues. The  
15 bullying issue. Sure. There's worries about all  
16 children being bullied on account of their racial  
17 background, on account of a perceived racial  
18 background or a perceived immigrant status.

19           But I started writing down how many  
20 times I got beat up in elementary school. I got beat  
21 up for being a Russian spy. I got beat up for being  
22 Chinese. I am neither Russian nor Chinese. I got  
23 beat up for being a vampire. I got beat up -- and  
24 this one hurts the most. I got beat up for being  
25 good at math. This happens. So I think we need to

1     avoid getting too carried away with the issue unless  
2     there's real evidence here of something that's  
3     special.

4             On the other hand, the issue that  
5     children are not enrolling in schools is a very,  
6     very serious one, and one that I think this  
7     Commission needs to take very seriously. But even  
8     that issue has to be put into perspective.

9             And, by the way, anybody out there who  
10    has some information on that, I would -- I would  
11    love to hear from you from you. You can get my  
12    E-mail from members of staff or from me.

13            But it's also important to remember  
14    that children's lives are often disrupted because of  
15    the wrong doing of their parents. And coming across  
16    the border in an illegal matter is illegal, just as  
17    there are some children who are disadvantaged by the  
18    fact that their parents commit other crimes and go  
19    to prison. So we need keep that in perspective as  
20    well.

21            But with that, I would like -- I would  
22    love to any comments from any member of the panel.

23            MS. PROVINE: Well, I won't say  
24    anything about the math or the vampire part. But  
25    going back to our first --

1                   COMMISSIONER HERIOT: Not too much  
2 then.

3                   MS. PROVINE: But I think you made a  
4 really good point about federal immigration  
5 enforcement. There are instances of abuse of powers  
6 and poor use of judgment of questioning people  
7 without warrants. And that's unfortunate.

8                   And I also think more broadly that the  
9 federal government's policy really is attrition  
10 through enforcement. So in that sense, you know, a  
11 state like Arizona isn't in another ball park.  
12 There is an important difference, though. Arizona,  
13 at the state and local level, local police do have  
14 their social workers really. They have a  
15 responsibility to have the trust of their community  
16 to be -- so the community would be the eyes and the  
17 ears of local law enforcement. So it's kind of a  
18 different kettle of fish.

19                   And I think it's really important to  
20 factor in this community policing in part.  
21 Community policing is not only about kind of being  
22 protected if you are a victim of domestic violence,  
23 there's a prosecution. It's about being able to  
24 talk with police officers. It's about having a  
25 sense that these are people you could consult about

1 what the law is. And that's really what's being  
2 lost by state laws like Arizona's and Alabama's.

3 In Arizona, if the police don't enforce  
4 -- if they don't put immigration at the very top of  
5 the list, they're -- they're liable to assist and  
6 suit to make them do that. And so it's really  
7 pushing it all out of proportion with a police force  
8 that has a different function than the federal  
9 police.

10 So I'm would agree with you. There are  
11 problems at the federal level as well.

12 COMMISSIONER HERIOT: But a probation  
13 violation, I would think, you know, applies just as  
14 much to the federal government. But it's -- you  
15 can't just say, hey, let's just go (inaudible)  
16 that's involved here. We can't do any of this.  
17 What we've got to do is come up with the best  
18 procedures that we can to enforce the laws that we  
19 have. And if we need different laws, let's get  
20 different laws.

21 But, you know, I fear that we're  
22 talking ourselves under a corner here to where you  
23 just can't have immigration policy. And if that's  
24 where we are, we need to --

25 MS. PROVINE: I don't think --

1 MS. SWAIN: Exactly right. Exactly  
2 right.

3 MS. PROVINE: I don't think it's a  
4 corner, but I think careful thought -- the devil  
5 really is in the details when it comes to law  
6 enforcement, and that's both true at the federal  
7 level and the local level.

8 CHAIRMAN CASTRO: I'm going to move on  
9 to another commissioner. Commissioner Achtenberg.

10 COMMISSIONER HERIOT: I think that Ms.  
11 Swain had something to say here.

12 CHAIRMAN CASTRO: Oh.

13 MS. SWAIN: Well, I speak as someone  
14 that was born and raised in rural poverty, and I  
15 grew up being teased and taunted because of my  
16 clothes and then later because of my southern accent  
17 in different parts of country.

18 And so I think we need to -- to help  
19 people understand that they -- that other people  
20 have free speech, that bullying takes place in all  
21 sorts of contexts and that you can't protect them  
22 from having hurt feelings all the time, that people  
23 need thick skins. And so I think that's important.

24 What I also find, it's very offensive  
25 when people walk around with shirts or vehicles that

1 have on the outside that I'm undocumented, I have no  
2 fear. I mean, that is a slap in the face of every  
3 American, and it doesn't help their cause. It  
4 doesn't help their cause, and I don't believe that  
5 the people advising them are doing them a service by  
6 encouraging that kind of behavior.

7 CHAIRMAN CASTRO: That sounds like free  
8 speech. But, you know, we sent you a copy of our  
9 bullying report and maybe later on you can read  
10 that.

11 COMMISSIONER HERIOT: Mr. Chairman --

12 CHAIRMAN CASTRO: Commissioner  
13 Achtenberg.

14 COMMISSIONER HERIOT: Wait.

15 CHAIRMAN CASTRO: Commissioner  
16 Achtenberg.

17 COMMISSIONER HERIOT: I just wanted to  
18 say the person who beat me up for being a Russian  
19 spy became my best friend.

20 CHAIRMAN CASTRO: That's good. Ms.  
21 Achtenberg, please, proceed.

22 COMMISSIONER Achtenberg: Thank you,  
23 Mr. Chairman.

24 I would like to, first, say that I have  
25 had for decades enormous respect for the Southern

1 Poverty Law Center because of the quality of their  
2 legal work. The analogies that they have provided  
3 public interest lawyers from across the country is  
4 without fear. And I am often persuaded by the facts  
5 that they adduce in their litigation, the legal  
6 arguments that they make that have prevailed often  
7 in -- in courts that one might imagine would have  
8 been at least initially hostile to the theories  
9 being propounded and the arguments being made.

10 I'm wondering, Ms. Bauer, if you would  
11 articulate, really for my benefit as a commissioner,  
12 on what basis -- the Southern Poverty Law Center  
13 criticizes certain organizations and groups.

14 You don't need to name names, but I'd  
15 like to understand particularly the criteria that  
16 the organization uses, and specifically if any of  
17 those the criteria related to the kinds of  
18 conclusions that were -- that were authored by the  
19 court in the opinion that you cited in your previous  
20 testimony.

21 I'd like to understand the relationship  
22 between those two factors.

23 MS. BAUER: I mean, I think that the --  
24 the designation that we make in naming hate groups  
25 is that we designate groups thus when they denigrate



1 an entire class of individuals. Largely in poor  
2 community you have this. Now, there's a lot more  
3 detail that can provided on a particular level. I  
4 mean, obviously, we don't need to have just one  
5 individual member. It has to be fairly consistent  
6 at the managerial level.

7           And, you know, I'm not suggesting that  
8 the individual legislators who Judge Thompson cited  
9 as having made racially insensitive comments on the  
10 legislative floor -- and this opinion is replete  
11 with comments about Mexicans that were -- that came  
12 about on the legislative floor, which many of us  
13 were present. I'm not suggesting members of the  
14 legislature are necessarily members of a hate group,  
15 but there is no doubt in our mind that blaming  
16 problems on Mexicans was part of a legislative  
17 debate in the state house. That was a part of the  
18 story.

19           And could I just respond on a related  
20 note to the issue about the children being bullied?  
21 You know, it's so far beyond an individual case of  
22 being bullied. One of the articles that we -- that  
23 I quoted in my testify refers to -- an Education  
24 Weekly article that said that at a particular school  
25 in Alabama the administration was promoting Latino

1 kids -- holding them back at four times the rate  
2 they had been held back in previous years.

3 And they attributed this to the  
4 devastating effects of HB 56. When kids are hearing  
5 everyday that they not wanted in the state and they  
6 do not want them, how can someone learn in this  
7 environment? And the devastating effect.

8 (Applause from audience.)

9 MS. BAUER: And they're U.S. citizens  
10 who are not getting education that they are  
11 constitutionally and morally entitled to.

12 CHAIRMAN CASTRO: We'd ask --

13 (Applause from audience.)

14 CHAIRMAN CASTRO: We'd asked the  
15 audience to please reserve you applause. We know  
16 that you'd like to, but we want to continue. Ms.  
17 Swain.

18 MS. SWAIN: I would like to speak to my  
19 own experience with the Southern Poverty Law Center.  
20 I'm a professor of political science and law at  
21 Vanderbilt University, and I often teach courses  
22 that relate to race and immigration.

23 I reviewed a film that was titled "A"  
24 Conversation About Race", and I had someone from the  
25 Southern Poverty Law Center characterize me -- well,

1 call me an apologist for white supremacy. And I  
2 ended up with my face on the front page of  
3 newspapers across the state. It went viral in the  
4 black community, and I was harassed. And it didn't  
5 end until one of the editors at the Wall Street  
6 Journal wrote an article in defense of me.

7 And so I -- as a private individual,  
8 I'm not such a public figure that I could defend  
9 myself. I was maligned by them. I was threatened,  
10 and I was put at a disadvantage of exercising my  
11 freedom of speech. I recommended the film for  
12 classroom use.

13 And so, I mean, this is an organization  
14 that sees itself a paragon of virtue.

15 CHAIRMAN CASTRO: Commissioner Kirsanow  
16 and Commissioner Yaki and Commissioner Gaziano.

17 MR. GAZIANO: I lost my Italian temper.  
18 I am going to tell you -- tell the Italian story.

19 But before I do so, I believe that, Ms.  
20 Bauer, I have -- I've shown restraint. Given the --  
21 I should have given a little bit of latitude at  
22 least to the witnesses who are really invited to  
23 testify. THEY should be given latitude in  
24 discussing statements by the legislative sponsors.

25 But we really have to be strict with

1 our rules with regard to witnesses who we have  
2 invited who should be treated with respect.

3 But this is my question. Several of  
4 the panelists on this panel and others talked about  
5 the climate of fear and the climate of the culture  
6 that -- you know, I suppose the climate of fear is  
7 best summary of at least two of you on this panel.

8 That it instills generally, I think you  
9 said, in immigrant communities. And I'm not sure  
10 that's accurate. We've had some discussions in  
11 previous panels and in this one that to the extent  
12 that there is a climate of fear, a lot of it is stoked  
13 by misrepresentation, stoked by groups that maybe  
14 accidentally or have an incentive to exaggerate  
15 hyperbole. But I want to set something else aside,  
16 and that is I suppose they do instill a little bit  
17 of fear, whether intended or not into those who are  
18 illegal immigrants.

19 By my grandfather -- both of my  
20 grandparents on my father's came from Sicily. And  
21 my father told us a story when we were young of the  
22 mafia bosses who came from Chicago to West Virginia  
23 who knew them from the old country and tried to  
24 pressure him into engaging in illegal gambling. He  
25 was made to understand that if he reported this to

1 the police, they knew his family, and that his  
2 family would be hurt. This went on for some period  
3 of time. Now, the good part of the story is my  
4 grandfather stood up to them, and they thought he  
5 may have been a small enough fry that they didn't  
6 need to threaten him anymore.

7 But when anti-mafia laws were started  
8 and anti-mafia task forces were started and funding  
9 was put in to stopping the mafia in the United  
10 States, I tell you, it was not a climate of fear for  
11 Sicilian Americans who were lawfully here. It was  
12 relief. My grandfather and his family were greatly  
13 relieved that the laws were being taken seriously.

14 And so I suppose -- what inspired the  
15 question really was Professor Swain talking about  
16 the importance of the rule of law. And I wonder if  
17 you could elaborate on what kind of lessons it sends  
18 if we don't have these kind of laws.

19 MS. SWAIN: First of all, I love young  
20 people, and I think it's very important for us as a  
21 nation. We have a responsibility to teach them, you  
22 know, about this great nation. And civility is  
23 important. And when we bring young people to this  
24 country and we tell them that the U.S, you know, is  
25 --

1                   In the situation of mixed-status  
2 families, the message is being sent regularly that  
3 the U.S. Government breaks up families. The message  
4 is not sent that the parents themselves made a  
5 decision to create a mixed-status family and that  
6 the U.S. Government -- as a consequence, that  
7 complicates the situation.

8                   I think it's important for them to  
9 understand the laws because the laws are not being  
10 enforced in this country across the board. We have  
11 youth gangs to walk into malls, they snatch  
12 merchandise off the shelves and just walk out. We  
13 have increasing violence in this country that comes  
14 from youth. And I believe it's because we adults  
15 are sending the wrong message. We're sending a  
16 message that laws are not to be obeyed and might  
17 makes right.

18                   CHAIRMAN CASTRO: Professor Provine.

19                   MS. PROVINE: I really have a -- I  
20 really have to object to the analogy of mafia  
21 criminals to undocumented.

22                   (Applause from audience.)

23                   MS. PROVINE: I think that's totally  
24 inappropriate. And this illusion that my colleague,  
25 Carol Swain, just made about criminality among, I

1 think, it's undocumented immigrants --

2 MS. SWAIN: Young people.

3 MS. PROVINE: Young people. Okay.

4 Young people in general.

5 What we do know is that unauthorized  
6 immigrants are among the lowest criminal violators  
7 in this country. It's living here for generations  
8 that gets people to be more criminal.

9 You know, think about it. If you're in  
10 fear of deportation, the last thing you're going to  
11 do is criminal activity. So I think this is kind of  
12 that we really should stop.

13 CHAIRMAN CASTRO: Thank you.

14 (Applause from audience.)

15 MR. GAZIANO: I wanted to clarify. And  
16 it's certainly -- and it's helpful probably to you.  
17 To the apparent analogy, I didn't mean in any sense  
18 to compare the kind of criminal activity that the  
19 mafia, by definition, were engaging in to unlawful  
20 aliens who's only offense may be that they're here  
21 unlawfully. In no way was I meaning to compare  
22 them.

23 The only difference is that -- that I  
24 don't understand why it would create -- and there  
25 doesn't seem to be any evidence -- a climate of fear

1 for immigrant communities who are here lawfully.  
2 And some of those people are victimized by some  
3 small numbers of the illegal aliens with criminal  
4 records because --

5 I certainly would suspect in last panel  
6 on methamphetamine discrimination in Marshall  
7 County, Alabama suggested that those who evade a  
8 lawful entry may tend to be engaged in more of the  
9 gang and other -- other activities. So what -- it  
10 doesn't -- I don't understand that it is -- that  
11 these kind of laws, which just create protocols for  
12 the enforcement of the laws would necessarily  
13 create fear across all immigrant communities  
14 without hyperbole, without the misrepresentation,  
15 without the -- that some people are engaging in.

16 MS. PROVINE: And I appreciate --

17 CHAIRMAN CASTRO: Did you want to  
18 respond or --

19 MS. PROVINE: I just want to say I  
20 appreciate that clarification. And, you know, it is  
21 a question of the law in action not being --  
22 sometimes creating that climate of fear. It is a  
23 complicated situation.

24 I just want to say I work with  
25 naturalization workshops. We're talking about



1     legally permitted residents who do become citizens.  
2     And the reason they most often cite for doing this,  
3     which is kind of an onerous process, is our sheriff.  
4     I mean, he's a poster child for having more  
5     naturalized citizens in Arizona, which tells you  
6     something about the law in action with people who  
7     have every right to be here.

8                   CHAIRMAN CASTRO:  Mr. Viramontes.  And  
9     then we're going to go to Commissioner Yaki.

10                   MR. VIRAMONTES:  In my testimony I  
11     identified one of the true issues of community  
12     policing, that police officers should be spending  
13     their time to actual criminal matters rather than  
14     stopping parents and mothers and children going to  
15     school.

16                   But a corollary, I think, goes to  
17     Commissioner Gaziano.  And that is that we want  
18     individuals in all immigration statuses to come and  
19     report crimes and be witnesses to crimes.  So if a  
20     person's walking down the street and is mugged and  
21     an immigrant sees that crime, we want that person to  
22     feel safe going to law enforcement, to feel safe  
23     coming forward to report the crime.  Because we want  
24     to make the community safe for everyone.

25                   And we have some -- I'm not speaking

1       anecdotally. We have some the records -- and this  
2       is the case in Los Angeles. There is a clear  
3       delineation between immigration enforcement and  
4       local law enforcement. And we've seen criminal rate  
5       drops, we've seen communities become stronger and  
6       we've seen the streets become safer.

7                   And with these kind of laws that really  
8       destroy the community, it's very difficult to piece  
9       it back together again and rebuild it up again and  
10      build these bridges that have been broken by local  
11      law enforcement. And I just want to recognize the  
12      civil rights fighters that are here because they're  
13      the ones who are going to be doing that rebuilding  
14      and putting this back together.

15                   CHAIRMAN CASTRO: Thank you.  
16      Commissioner Yaki. And then there will be  
17      Commissioner Kirsanow and Commissioner Kladney.

18                   COMMISSIONER YAKI: Thank you very  
19      much, Mr. Chair.

20                   It really -- when it comes to a climate  
21      of fear and intimidation, I'm going tell you  
22      firsthand -- well, probably not firsthand. I'll  
23      talk instead about my father. My father was born in  
24      this country of Japanese American parents, an  
25      American citizen, his whole family. And then after

1 the Japanese bombed Pearl Harbor, a few months later  
2 they were given 48 hours to get their stuff  
3 together, one suitcase, one pillow, and report to a  
4 train station to be deported to Arizona.

5           There was no distinction between legal  
6 and illegal. There was no distinction between  
7 documented/undocumented, citizen/noncitizen. If you  
8 had had a drop of Japanese blood in you, you were  
9 sent away.

10           There is a supreme court case on books,  
11 called Lachu v. United States. It still is on the  
12 books. The idea -- and I just have to say this with  
13 all great sincerity. The idea that these carefully  
14 crafted laws, smartly crafted laws, they go out of  
15 their way to say things like we're not into racial  
16 profiling. We're not into getting any single ethnic  
17 group. But everyone knows. Everyone knows who it's  
18 against and what its intent is to do.

19           And its intent is to create a climate  
20 of fear and intimidation on the daily lives of  
21 people who are working, scratching to make a living  
22 and trying to fulfill the American dream in this  
23 country. And it doesn't differentiate between  
24 whether you're documented or undocumented in its effect.  
25 Because when you're looking to enforce it, you're

1 really only looking at one thing, and that is what's  
2 the color of your skin, what's their accent, what is  
3 that I think about them makes them different and in  
4 that category.

5 I want to apologize -- take a few  
6 minutes, first, and apologize to my colleagues for  
7 stepping outside for a few minutes the way I did.  
8 But I was told that there were a number of people  
9 who wanted to come inside but were being prevented  
10 by what had gone from a few security people to a  
11 full-blown sheriffs and police complement outside.  
12 And if -- if they would just indulge me. All of  
13 those people who were outside, please, stand up  
14 stand up.

15 (Audience complies.)

16 COMMISSIONER YAKI: These are people  
17 who were out there doing what Americans do best,  
18 which is exercising their First Amendment rights.

19 With all due respect to you, Professor  
20 Swain, when you talk about the rule of law, with all  
21 due respect to Commissioner Gaziano and Commissioner  
22 Heriot -- she talked about the rule of law -- I  
23 think it's about the inspired words of a man nearly  
24 almost 50 years ago, 49 years ago, in jail here in  
25 Birmingham, who when he was asked by the local

1 church to just work things out and be quite and  
2 don't -- don't stir things up.

3 So I'm here in Birmingham today because  
4 there is an injustice here, and we are going to do  
5 things here to prevent injustice. So the idea --  
6 and this is about the rule of law at the time it was  
7 Jim Crow, the rule of the law at the it Plessy  
8 versus Ferguson. Well, it was just after that.

9 But we're separate but equal was the  
10 "rule of law". People like Doctor King do not stand  
11 for that. People like Fred Shuttlesworth, for whom  
12 the airport was named, do not stand for that. Cesar  
13 Chavez did not stand for that. These are people who  
14 said just because what the law says does not mean  
15 that the law is right. And nonviolent, peaceful  
16 protests is a perfect, legitimate way to express  
17 oneself against a law that is clearly unjust.

18 So the idea that we would -- we would  
19 do anything to denigrate what these young people,  
20 old people and middle-aged people, people, are here  
21 doing is not consistent with the highest rule of  
22 law, which is to obey -- obey, I think God's  
23 (inaudible), which is do unto others as you would  
24 them do unto you. It's to treat others as you would  
25 like to be treated. And the constitution talks

1 about, you know, the right to be free and equal.

2 That's what they're doing.

3 Thank you very much.

4 (Applause from audience.)

5 COMMISSIONER YAKI: And I would like to  
6 say on the count of three the morales of my great --  
7 someone who my mentor trained under.

8 So we'll all say it on the count of  
9 three. One, two, three.

10 (Spanish from audience.)

11 MR. YAKI: I would like to ask Victor  
12 and Mary if they would comment on the fact that you  
13 can't -- you cannot separate these laws from the  
14 practical effect. You know, the wording of these  
15 words from a practical real word impact of how it  
16 affects communities, especially the Latino community  
17 in the America.

18 (Applause from audience.)

19 MS. SWAIN: I would like --

20 CHAIRMAN CASTRO: You'll have an  
21 opportunity. Let them answer his question. I know  
22 you want to respond on a statement what Commissioner  
23 Yaki said.

24 So Mr. Viramontes, Ms. Bauer and then  
25 Professor Swain.

1                   MR. VIRAMONTES: It is impossible to  
2 separate justification for the law from it's effect  
3 on the community. The people in the community  
4 perceives these laws to be a direct attack on them,  
5 a direct attack on their families and a direct  
6 attack on every -- every being that they are. And  
7 that is part of the reason the law is so damaging.

8                   On top of that, because these laws are  
9 plainly intended to attack -- blame might be best  
10 word -- a whole host of problems we heard today  
11 during the Commission, blame them for the fact that  
12 the United States has become a (inaudible) nation.  
13 These sort of kind of broad claims are just highly  
14 destructive pieces of these laws and part of why  
15 these laws are being challenged on an equal  
16 protection basis.

17                   And I just want to also tell the  
18 Commission that there's been some assumption that  
19 this Section 2(b) in Arizona has copycats across the  
20 country and are going to be inevitably implemented.  
21 But it's currently being challenged before the law  
22 can be -- on its face. We're asking the court of  
23 Arizona to prevent it in part because of its racial  
24 discriminatory effect and it's racially  
25 discriminatory intent.

1                   So not only is this debate going to  
2                   play out politically and on a policy level. It's  
3                   also going to be happening in the courts.

4                   MS. BAUER: If I could just follow-up  
5                   briefly. I would say just in -- from my personal  
6                   answering of our hotline, many of the people calling  
7                   us were U.S. citizens -- are U.S. citizens who are  
8                   suffering discrimination, who are suffering illegal  
9                   contact who are asked for IDs in inappropriate ways.  
10                  People born in Puerto Rico were told they can't get  
11                  services because people don't seem to understand  
12                  that Puerto Rico is a part of the United States.

13                  Children, U.S. citizen kids, who are  
14                  denied food stamps because of this law. The impact  
15                  of this law drove an estimated tens of thousands of  
16                  people from this state. Many of them were U.S.  
17                  citizens.

18                  And I would say these are not people  
19                  who went back to Mexico as some people announced.  
20                  They went to Georgia and Arizona and Texas. And  
21                  they enrolled their children in school in the middle  
22                  of the year, most disruptive to that school system,  
23                  to the Alabama school system and to those children.

24                  We accomplished nothing in terms of  
25                  causing people to self-deport, but we destroyed a



1 lot of childrens' education during the process. And  
2 those are U.S. citizens.

3 CHAIRMAN CASTRO: Ms. Swain.

4 MS. SWAIN: America is a country where  
5 78 percent of the people profess to be Christians,  
6 and many of the immigrants are Christians. And for  
7 that reason, I would like to share Romans 13:1-4.  
8 This is in the Bible for those that don't know.

9 Let every person be subject to the  
10 governing authorities, for there is no authority  
11 except from God, and those that exist have been  
12 instituted by God. Therefore whoever resists the  
13 authorities resists what God has appointed, and  
14 those who resist will incur judgment. For rulers  
15 are not a terror to good conduct, but to bad. Would  
16 you have no fear of the one who is in authority?  
17 Then do what is good, and you will receive his  
18 approval, for he is God's servant for your good.  
19 But if you do wrong, be afraid, for he does not bear  
20 the sword in vain. For he is the servant of God, an  
21 avenger who carries out God's wrath on the  
22 wrongdoer.

23 So people who consider themselves  
24 Christians really should consider this scripture  
25 when they take their position on the immigration.

1 As for the atheists and secular humanists, it's not  
2 for you. I'm speaking to Christians.

3 Thank you.

4 CHAIRMAN CASTRO: I have to -- I have  
5 two commissioners who want to speak, and I have five  
6 minutes left and I have -- so I'm going to have to  
7 ask --

8 Commissioner Kirsanow and then  
9 Commissioner Kladney. And then we will wrap up the  
10 panel.

11 COMMISSIONER KIRSANOW: I guess this is  
12 going to go to Mr. Krikorian. If the -- can you  
13 hear me now?

14 I'm talking about state enforcement of  
15 immigration laws, new state immigration laws. If  
16 the federal government put in force the immigration  
17 law on the books, will there be any type of need for  
18 state laws in the country?

19 MR. KRIKORIAN: Probably, yes, because  
20 there's really no way that the federal government on  
21 its own can enforce immigration laws alone. The  
22 federal government can obviously police the borders.  
23 The federal government is in charge of, you know,  
24 work site enforcement, what have you.

25 But especially with 11 million illegal

1       aliens in the United States, there's really no way  
2       that the states on -- the federal government on its  
3       own, without cooperation and partnership with states  
4       and localities, can successfully enforce immigration  
5       laws.

6                   And we've seen repeatedly instances of  
7       how that works. For instance, two of the 9-11  
8       highjackers were actually stopped for speeding  
9       before the attacks. One of them had had an earlier  
10      Visa overstay, earlier immigration violation. Three  
11      of the six were Dix plotters who were plotting  
12      American soldiers at Fort Dixon, New Jersey. Three  
13      of them had been stopped dozens and dozens of times  
14      by local and state authorities for traffic  
15      violations, for drug violations, for public peace  
16      violations.

17                   Because there was no interaction with  
18      the federal immigration authorities those -- those  
19      people were never found. And the only reason that  
20      plot was uncovered was because a Circuit City clerk  
21      somehow recorded them. I forget the exact chain of  
22      events. But the police didn't know because police  
23      -- those local police weren't in partnership with  
24      the federal government.

25                   So the short answer is no. Without

1 state and local police partnership with the feds,  
2 immigration law cannot be enforced effectively.

3 CHAIRMAN CASTRO: Ms. Provine and then  
4 quickly Mr. Stein. And then I'm going to turn it  
5 over to Commissioner Kladney.

6 MS. PROVINE: I just want to make a  
7 quick clarification from Mark's remarks. Based on  
8 our three studies nationally, what he found is that  
9 police do -- they have been cooperating with ICE  
10 authorities. What their -- their perspective is  
11 more nuance. So whether it's a loitering violation,  
12 whether or not calling ICE. But if it's a  
13 significant violation, they are. It's quite a  
14 spectrum like that.

15 What these state laws are doing is  
16 pushing the matter, escalating the matter, and  
17 saying immigration is on top of everything else. So  
18 we really have a system in which local police, and  
19 they have for decades, had a cooperative  
20 relationship with federal authorities. And, of  
21 course, it's much stronger now than in some of the  
22 cases Mark was talking about.

23 But I wouldn't want you be misled by my  
24 testimony or his that there's no relationship  
25 without laws I guess because that would -- that be

1 incorrect.

2 CHAIRMAN CASTRO: Mr. Stein. And then  
3 Commissioner Kladney.

4 MR. STEIN: And it's certainly true.  
5 If you examine the legislative history, you'll read  
6 legislative enactment from Congress since certainly  
7 1996 forward. And certainly after 9-11 it has been  
8 to encourage state and local cooperation, the  
9 assumption being, at a minimum, state taxpayers need  
10 to know how much they're paying for the cost.  
11 Nothing much sense if states aren't actually  
12 verifying status at every possible opportunity.

13 I would like to -- and I did want to --  
14 I want to reserve under Title 45, Section 700 of CFR  
15 to object to the inclusion of certain paragraphs in  
16 the SPLC today as violating rules and that we didn't  
17 receive proper notice as being defamatory and  
18 inaccurate.

19 CHAIRMAN CASTRO: All right.  
20 Commissioner Kladney, you have the floor on the last  
21 question of this panel.

22 COMMISSIONER KLADNEY: Thank you.  
23 Since everybody else has given their opinions before  
24 they asked their question, I have a short comment.  
25 First of all, I don't think there are 11 million

1 meth dealers and undocumented people in the United  
2 States.

3 Second of all, I'd like to apologize  
4 for the outbursts of some of my colleagues up here  
5 today. I didn't think it was professional.

6 And I my question is -- it's a  
7 hypothetical, and I would like a few of you on the  
8 panel to answer if you think you know the answer.

9 If a child is in the third grade and a  
10 U.S. citizen and his parents are not citizens, while  
11 at the school the parents are say picked up by ICE  
12 and held, what happens to the child here in Alabama?

13 Yes, ma'am?

14 MS. BAUER: I would be delighted the  
15 answer that question. Our experience is that that  
16 child is taken over by the state. Most of the DHS  
17 offices that we have dealt with, the policy of not  
18 placing children with a documented family member.  
19 There really has been a number of cases with a  
20 devastating effect on family as the child is placed  
21 in foster care. Sometimes, you know, deep  
22 attachments formed by foster parents even when there  
23 are available undocumented relatives who would be  
24 willing to take the child and would be known to the  
25 child.

1                   So there's certainly a profound cross  
2                   in the Alabama budget. The analysis done of HB 56  
3                   anticipated that there would additional foster care  
4                   costs associated with HB 56, and we have seen that  
5                   in the real word. We have seen families torn apart.

6                   COMMISSIONER KLADNEY: Do those have --  
7                   do those parental rights ever get terminated?

8                   MS. BAUER: We have seen parental  
9                   rights terminated after deportation. It's also  
10                  caused a number of DHS offices to refuse to attempt  
11                  reentry once the parents have been removed from the  
12                  United States. So it is incumbent on the parent to  
13                  figure out a way to lawfully get back to the United  
14                  States to fight for their parental rights, something  
15                  which is often unachievable.

16                  So it really has devastating  
17                  consequences to a family, particularly in the  
18                  context of very young children where foster parents,  
19                  you know, very reasonably get very, very attached to  
20                  children and want to keep them.

21                  COMMISSIONER KLADNEY: And do young  
22                  students in this situation understand that that  
23                  could happen at any time?

24                  MS. BAUER: Oh, sure. That's exactly,  
25                  I think, what children are worried when they hear

1 the story is not only being told that you don't  
2 belong here, but it's very likely my mommy might not  
3 be home when I get there.

4 COMMISSIONER KLADNEY: Yes, ma'am?

5 MS. SWAIN: Well, I mean, someone can  
6 refute this. But it was my understanding that in  
7 those types of the situation that the parents have  
8 the option -- the parents have the option of taking  
9 their minor children with them, and their children  
10 retain their U.S. citizenship status and that they  
11 government doesn't force the parents to leave the  
12 child behind.

13 COMMISSIONER KLADNEY: And how do you  
14 understand that option?

15 MS. SWAIN: I'm asking. I mean, if  
16 that's not true, then I would like someone on the  
17 panel refute it.

18 MR. STEIN: The parents don't lose  
19 their parental rights. The parents don't lose their  
20 parental rights. IF they're deported, the children  
21 -- the parents have an obligation to take their  
22 children home with them. When a parent loses legal  
23 custody of a child, it is because of abandonment.

24 MS. BAUER: The definition of  
25 abandonment includes a parent who is incarcerated in



1 an immigration facility. And the children are --

2 MR. STEIN: Is there a --

3 CHAIRMAN CASTRO: Let her finish.

4 We're speaking one at a time, sir.

5 MS. BAUER: There is a report by that  
6 Miami Research Council that there are thousands of  
7 children across the country that are effectively  
8 deprived of their parents as a result of these --

9 COMMISSIONER KLADNEY: When you say  
10 deprived, do you mean permanently?

11 MS. BAUER: Yes.

12 COMMISSIONER KLADNEY: Can you submit  
13 that report to us, please?

14 MS. BAUER: Yes. And we have  
15 personally in our office dealt with these cases.  
16 It's true. It's (inaudible) revocation of parental  
17 rights. The child is placed outside the family if  
18 the parent is actually removed as a result of the  
19 process to done by -- by this. The parent is not  
20 always given custody of the child. We have seen  
21 that happen where the child is then in the custody  
22 of the state. Some of the DHS offices make every  
23 effort to make sure those families are reunited, but  
24 not all do.

25 And we have seen parents removed

1 without their United States citizenship.

2 COMMISSIONER KLADNEY: So would  
3 everyone the panel agree that there might be a  
4 legislation done in federal way that would at least  
5 allow the children to go with the parents? Would  
6 that be satisfactory with everybody?

7 MS. SWAIN: Well, I --

8 COMMISSIONER KLADNEY: Or would you  
9 object to that?

10 MS. SWAIN: No, I would object to it.  
11 But I believe that they -- they already have that  
12 option. And parents that lose their rights, they're  
13 in the same situation as U.S. citizen children when  
14 they're parents are incarcerated. The state makes a  
15 determination about what to do with those children  
16 if the parents are not there to provide for them.

17 So I think the situations are  
18 comparable. I would be in favor in cases where  
19 parents are being deported of the U.S. Government  
20 providing a subsidy for the American citizen  
21 children to make it easier to do this transition.

22 COMMISSIONER KLADNEY: So you think  
23 that undocumented parents are detained in the United  
24 States and --

25 MS. SWAIN: No. That --

1                   COMMISSIONER KLADNEY: And when the  
2     parental rights are terminated -- if they're  
3     detained and deported and the parental rights are  
4     terminated, do you think that's akin to committing a  
5     crime of going to prison and not --

6                   MS. SWAIN: No. No, no. That's not  
7     what I said. And, please, don't distort what I  
8     said.

9                   I said I think under existing law that  
10    the person deported still has parental rights. And  
11    when they lose those parental rights, it's based on  
12    something else about that individual.

13                  I said I would be in favor in  
14    situations where parents are being deported and they  
15    want to take that children with them, because they  
16    have the option of taking their children or  
17    leaving them with relatives, that we make that  
18    transition easier by providing them with financial  
19    subsidy.

20                  COMMISSIONER KLADNEY: Well, Professor  
21    Swain, you asked if anybody on the panel knew  
22    different than what you were just --

23                  MS. SWAIN: Well, she --

24                  COMMISSIONER KLADNEY: Let me finish,  
25    please. I didn't interrupt you.

1 MS. SWAIN: Thank you.

2 COMMISSIONER KLADNEY: And Ms. Bauer  
3 supplied me with an answer and said she has access  
4 to cases where that's happened?

5 MS. SWAIN: She didn't provide an  
6 answer that addresses what I raised directly. But,  
7 I mean, it's something that I objected to, and I  
8 will talk with her privately about it. But

9 CHAIRMAN CASTRO: We have now exceeded  
10 the panel time. So I'm going to have to wrap this  
11 very interesting conversation up and thank each and  
12 every one of you for participating. It was a lively  
13 panel. And I thank you for appearing here with us  
14 today.

15 As you exit, I will ask that the fourth  
16 and final panel to begin to get ready to move up to  
17 the table.

18 (Brief recess.)

19 CHAIRMAN CASTRO: You may or you may  
20 not have heard earlier that we were trying to ask  
21 folks not to clap or applaud. We understand, you  
22 know, you want to show support. We're just trying  
23 to keep the proceeding moving along as quickly as  
24 possible.

25 (Spanish.)

1                   CHAIRMAN CASTRO: So we'll get started.  
2                   We have most of the commissioners up here. The  
3                   others will be arriving in a minute or two. Well,  
4                   Commissioner Kladney may be late.

5                   This is our fourth and final of the  
6                   day. Now, before we start the panel, one of our  
7                   attorneys from the office of general counsel will  
8                   give our standard disclaimer.

9                   MS. ELHADY: Hi, good afternoon to you  
10                  all. My name is Yasmin Elhady. I'm an attorney in  
11                  the Office of General Counsel of the U.S. Commission  
12                  on Civil Rights.

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

24                 Also, I would like to remind, both the  
25                 commissioners and the panelists, that they are

1 subject to the laws of Alabama and of the United  
2 States, including the laws of defamation, libel and  
3 slander.

4 Thank you.

5 CHAIRMAN CASTRO: Thank you. Let me  
6 introduce the panelist in the record that they will  
7 speak.

8 Our first panelist is Joseph  
9 Knippenberg from the Georgia State Advisory  
10 Committee of the U.S. Civil Rights Commission, and  
11 he's also at professor at Oglethorpe University.  
12 Our second panelist is Jerry Gonzalez, also a member  
13 of the Georgia State Advisory Committee to the U.S.  
14 Commission on Civil Rights, and he is also Executive  
15 Director of the Georgia Association of Latino  
16 Elected Officials. Our third panelist is Joanne  
17 Milner from the Utah Advisory Commission.

18 I'm sorry. Let me repeat myself. Our  
19 third panelist is Joanne Milner, Chair of the Utah  
20 State Advisory Committee and from the Office of the  
21 Mayor, Salt Lake City Utah.

22 And let me just -- it's more of a  
23 personal purpose -- say that when I was the chair of  
24 the Illinois State Advisory Committee, Chairman  
25 Milner and I became to a briefing -- actually, a

1 conference that was held by the commissioners. And  
2 at that meeting we talked about working on an  
3 immigration issue. So I'm very glad to see it's  
4 kind of come full circle and that you're here today  
5 with us. So thank you.

6 Please, beginning with Mr. Knippenberg.

7 MR. KNIPPENBERG: Thank you for  
8 inviting me. And will begin with the disclaimer  
9 added to the ones already offered and that's I'm  
10 speaking only for myself, not the advice of me, nor  
11 my employer. My areas of expertise -- my areas of  
12 expertise are political philosophy and  
13 constitutional law. Above all, religion and  
14 politics and liberty. I have no scholarly expertise  
15 in immigration law or policy. My contribution will  
16 be in line with the expertise I have.

17 I also want to apologize in advance  
18 that I have very strong obligation to my wife. I  
19 have to be back in Atlanta at 7:00. So I may have  
20 to leave this briefing early to drive back to  
21 Atlanta.

22 As I said, I believe that I am best  
23 suited to contribute to our discussion today by  
24 referring to first principles, the understanding of  
25 natural or human rights that serves as the ground of

1 any and every government's fundamental  
2 responsibility to its citizens and other human  
3 being. For our purposes, the clearest statement of  
4 these first principles can be found in the U.S.  
5 Declaration of Independence, and I quote?

6           "We hold these truths to be  
7 self-evident, that all men are created equal, that  
8 they are endowed by their Creator with certain  
9 unalienable Rights, that among these are Life,  
10 Liberty and the pursuit of happiness...That to  
11 secure these rights, Governments are instituted  
12 among Men, deriving their just powers from the  
13 concept of the government..."

14           Government exists above all to secure  
15 the rights of the individuals who joined together to  
16 constitute it. Its principal responsibility is to  
17 those who are, so to speak, on the inside, the  
18 members of the community, the participants in the  
19 social contract. In other words, every legitimate  
20 government distinguishes between citizens and  
21 noncitizens, between those who are parties to the  
22 social contract and those who are not.

23           Further, it is the right and  
24 responsibility of the government, on behalf of those  
25 who are parties to the social contract, to decide



1     who, if anyone, shall be permitted to join the  
2     community. I cannot legitimately be governed  
3     without my consent, but that most emphatically does  
4     not imply that I have a right to join, or even  
5     reside in, any community I please.

6             To state it again, those who are inside  
7     are entitled to exclude those who are outside, to  
8     decide what precisely shall be the conditions of  
9     membership in the political community. This is, as  
10    Justice Scalia puts it, one of the attributes of  
11    sovereignty.

12            Another consideration is implicit in  
13    this first one. Because government is meant to  
14    secure rights, it is reasonable to ask how best  
15    those rights can be secured. Most of those who have  
16    thought seriously about the subject will tell you  
17    that one of the absolute prerequisites of this  
18    security is the rule of law, enacted by legislators  
19    who are answerable to the electorate; or, if you  
20    will, to the citizenry, and administered impartially  
21    by an independent executive.

22            I have to be able to know the  
23    consequences of my actions. Those who are  
24    responsible for arranging those consequences have to  
25    have an incentive to put themselves in my shoes.

1 And those responsible for enforcing the laws should  
2 not be able to play favorites. If they did, the  
3 entire framework of legislative responsibility and  
4 the consent of the governed would fall apart.

5 Having thus sketched very briefly, all  
6 too briefly, the results of more than 300 years of  
7 serious and profound thinking on this subject, let  
8 me draw out a few implications for our topic today.  
9 The first is that when discussing civil rights and  
10 immigration law and policy, we should not focus too  
11 narrowly. Anytime any law is enacted and enforced  
12 everyone's civil rights are at stake. I do not mean  
13 by this only that one set of victims could succeed  
14 another or that one set of abuses could give birth  
15 to it.

16 In Federalist #84, Alexander Hamilton  
17 said that "the Constitution is itself, in every  
18 rational sense, and to every useful purpose, a bill  
19 of rights". What he meant by this is what I mean  
20 today, that laws enacted in accordance with the  
21 constitutional structure are meant to protect  
22 everyone's right, those of the majority as well as  
23 those of the minority. Thus, we must always ask not  
24 only after the effect of the law on some without  
25 also inquiring after how the law is intended to

1 secure the rights and liberties of all.

2           To take one not altogether trivial  
3 example: I would be more secure driving on the  
4 streets and highways of my home county in metro  
5 Atlanta if all the drivers had jumped through the  
6 hoops necessary to obtain driver's licenses. That  
7 this is at present not necessarily the case was, so  
8 to speak, driven home to me by an evening spent  
9 sitting with my teen-age son in traffic court. The  
10 most frequent citation brought before the judge that  
11 evening was driving without a license.

12           I can make my next point by continuing  
13 the consideration of this example. That the law  
14 rightly requires that every operator of a motor  
15 vehicle have the requisite license and that the  
16 public safety is promoted when this is the case does  
17 not mean that all our enforcement resources should  
18 be devoted to ascertaining whether every driver has  
19 a license. There is, and indeed must be room for,  
20 executive discretion in how the limited available  
21 resources are to be deployed.

22           I expect that most license checks are  
23 conducted when drivers are stopped for other  
24 apparent violations and that -- it goes without  
25 saying -- that not all of our public safety

1 resources are devoted to traffic enforcement. The  
2 responsible officials decide where their resources  
3 are most needed and deploy them accordingly.

4           If they make errors egregious enough to  
5 be noticed by the voters, they will not be  
6 reelected. So they have at least some incentive to  
7 get it right. I take it for granted, of course,  
8 that reasonable people can disagree about what a  
9 community's enforcement ought to be and that errors  
10 in judgment are simply part of the human condition.

11           At the same time, such discretion can  
12 be abused, either by the politically responsible  
13 executives by their subordinates. Through racial or  
14 ethnic bias, inordinate zeal, or personal pique, an  
15 executive could use his or her discretion in such a  
16 way as to harm those whose protection is his or her  
17 responsibility. Fortunately, our system contains a  
18 remedy for such abuse, as it does regarding the  
19 states.

20           First of all, we separate law  
21 enforcement from adjudication so that those who lay  
22 charges and gather evidence have to make a case  
23 before an impartial judge and jury. Second, there  
24 are at least two other checks on the executive, the  
25 oversight of those who make the laws and the

1 judgments of the voters. A third check follows from  
2 different levels of government in our system.

3 So I have in my statement a lot of  
4 material about the Georgia law, and I'm just going  
5 going to draw one conclusion, and that is:

6 With the insistence that the purpose of  
7 government is to protect the rights of all, which  
8 includes maintaining the integrity of the rules of  
9 entry into the community. Concern with civil rights  
10 places a presumption on behalf of the right and  
11 responsibility of a government to control its  
12 borders and admit into its jurisdiction only those  
13 at wishes to admit. Its first responsibility is to  
14 its citizens in other words. To secure these  
15 rights, to make government live up to its  
16 responsibilities, certain sorts of institutions and  
17 institutional mechanisms have to be created;  
18 separation of powers, checks and balances, frequent  
19 elections and so forth. These are the principal  
20 means by which our civil rights are to be protected.  
21 Making certain that they remain vital should be our  
22 foremost concern.

23 Thank you.

24 CHAIRMAN CASTRO: Thanks. Chairman  
25 Gonzalez, it's always a pleasure to see you. You

1 may proceed.

2 MR. GONZALEZ: Chairman, thank you.

3 It is an honor to be here. My name is  
4 Jerry Gonzalez. I am executive director of GALEO,  
5 the Georgia Association of Latino Elected Officials.  
6 Founded in 2003, GALEO is a nonprofit and  
7 nonpartisan organization dedicated towards enhancing  
8 civic engagement and leadership development of the  
9 Latino community in Georgia.

10 I'm also the new member of the Georgia  
11 State Advisory Committee of the U.S. Commission on  
12 Civil Rights. And my testimony here today is on  
13 behalf of GALEO, and I am not speaking on behalf of  
14 the State Advisory Committee. GALEO has been the  
15 leading voice of a recent United States order in  
16 U.S. Congress for a broken immigration system by  
17 urging the passage of comprehensive immigration  
18 reform, and we have been one of the leading voices  
19 in our state opposing any efforts to attempt to have  
20 state or local laws enforcing or regulating  
21 immigration.

22 To begin with, I want to provide  
23 examples of hostile, anti-Latino, anti-immigrant  
24 environments that have been created in Georgia. I  
25 would like to cite some examples of racial profiling

1 and diminished public safety for are communities  
2 across the state. And, lastly, I wanted to touch  
3 upon the racial undertones surrounding the origins  
4 of such laws and bring them to the forefront of this  
5 part of the battle for consideration.

6 Georgia is a hostile state against  
7 Latinos because of these type of laws. What does  
8 hostile environment look like? I'll begin with a  
9 story with from a teacher. Overzealous immigration  
10 enforcement of some law enforcement communities in  
11 this state have led to children internalizing  
12 anti-immigrant sentiment. This has had an impact on  
13 the childrens' mental health and their ability to  
14 learn in school. The teacher indicated that the new  
15 students felt out of place and felt like they didn't  
16 belong and weren't suppose to be here. The educator  
17 also had concerns of hopelessness, depression, as  
18 well as an increased risk of suicide.

19 There is a story a good friend, a state  
20 court judge took. His children were playing in a --  
21 I guess this is his children were playing in a park.  
22 They were speaking Spanish to each other. These  
23 teen-age boys came up to them, slapped them and told  
24 them, speak English. This is America.

25 More recently there was a debate

1 between school board candidates in Troup County.

2 One of the incumbent candidates said, we have a lot  
3 of discipline problems because we have Mexican  
4 children. We have Asian children that cannot speak  
5 English. They have a hard time communicating with  
6 their teacher. So, therefore, the teacher has to  
7 send these children to the counselor. And the  
8 counselor has the reprimand these children for not  
9 speaking English. It was Troup County School Board,  
10 District Two, Diane Matthews that said that in the  
11 debate.

12 In the heated debate of HB 87, Georgia  
13 State Senator, Renee Unterman, embarrassed herself  
14 and embarrassed her state by demoting the geographic  
15 changes in her county. She was proud of the sheriff  
16 and the 287(g) agreement that they had because there  
17 weren't as many foreigners around because they've  
18 scattered. She highlighted the fact that this  
19 sheriff was purposely arresting people to check  
20 their immigration status. Again, this means that  
21 this state senator was condoning the practice of  
22 racial profiling.

23 The examples highlighted are not  
24 isolated incidents. For these reasons, we believe  
25 that the state of Georgia has become extremely



1 hostile towards Latinos and immigrants. The open  
2 hostility for Latinos and immigrants is across  
3 sectors and experiences and makes Georgia prone to  
4 civil rights abuses in all areas.

5 I'd also like to say with regards to  
6 public safety there's numerous reports of public  
7 safety concerns and diminished public safety. I get  
8 calls when a crime is committed. Rather than 911  
9 being called, I get a call saying, should we call  
10 the cops? In all honesty, I can't tell community  
11 members, yes, you will be protected if you call the  
12 cops. There have been instances where victims of  
13 crimes or victims of car accidents have been  
14 deported. So they can't trust the police. There  
15 has been a situation where a victim of domestic  
16 violence was was under a new VISA. She was trying  
17 the be forced to sign an voluntary deportation  
18 order.

19 What these type of stories reach the  
20 community, it undermines public safety for all. And  
21 this is what's happening across the state of  
22 Georgia, across the states where they are  
23 perpetuating these types of immigrant policies.

24 Last, I would like to comment on the  
25 issue of race and racism, that it does exist within

1 the debate HB 87 and the people who worked for its  
2 passage. Not talking about the inherent racial  
3 undertones of the issue of immigration is like not  
4 talking about the racial undertones back in civil  
5 rights movement. It exists. Southerners don't like  
6 to talk about it. We still have a lingering  
7 problem.

8           Unfortunately, unscrupulous politicians  
9 have used that tension to target a new group, and  
10 that is Latinos. These demographic changes have  
11 happened quickly in the south, and they've caused a  
12 lot of tension.

13           I do want to emphasize the fact -- and  
14 it is my opinion -- that I have to object to the  
15 inclusion of some of the groups that were present  
16 earlier. And I've revised my statements not to  
17 appease to some of the concern that was raised, but  
18 I do believe that some of the groups represented  
19 hate groups and did represent the view that is  
20 counter to the inclusion of this great country.

21           Legislators pushing these types of laws  
22 talk about the rule of law. I would push back on  
23 that notion. Clearly, given the ruling of the U.S.  
24 Supreme Court, there are boundaries in which states  
25 can and cannot cross in immigration enforcement.

1 Secondly, the rule of law is -- we can't use the  
2 rule of law to further discriminate against a  
3 segment of the population.

4           Additionally, just because it is the  
5 law does not make it moral, nor does it make it  
6 right. I don't need to remind this audience that it  
7 used to come the rule of law that we could own  
8 people. It used to be the rule of law that women  
9 did not have a voice in our democracy. It used to  
10 be the rule of law that blacks and whites were to  
11 remain segregated. Our nation is better than this.  
12 Our nation should be better than this I think we  
13 need to rise above it, repeal these types of  
14 anti-immigrant laws that are clearly purposely  
15 passed for division and hate. And we need to focus  
16 on the real prize, the prize of reforming our  
17 immigration laws to ensure that we can all move  
18 forward together rather than spending our time on  
19 these types of anti-immigrant, anti-Latino laws.

20           It is personal because I am Latino, and  
21 I have been subjected to many of these hateful  
22 threats that our community gets. These are just an  
23 example of what we see in Georgia. And I look  
24 forward to working with the Commission to further  
25 look into these civil rights abuses that are

1 occurring in Georgia, occurring in Alabama and in  
2 other places as well.

3 Thank you.

4 CHAIRMAN CASTRO: Thank you, Mr.  
5 Gonzalez. Chairman Milner.

6 MS. MILNER: Thanks, Mr. Chair and  
7 commissioners. You can smile. I'm your last  
8 speaker.

9 That being said, Utah, not unlike other  
10 states, has been confronted by negative legislation  
11 regarding immigration, primarily targeting  
12 Hispanic/Latino populations, especially those from  
13 Mexico. Ironically, Utah along with other  
14 southwestern states was originally part of Mexico.  
15 The United States, building on the momentum of  
16 Manifest Destiny, surged into war with Mexico in  
17 1846 in order to capture a tract of land that would  
18 expand U.S. territory from coast to coast.

19 In 1847, Mormon pioneers fled westward  
20 from persecution in the United States. I'd like to  
21 say that Brigham Young was a definite person in  
22 Mexico.

23 That being said, the battleground -- of  
24 course, we know that the Mexican-American war took  
25 place, but the battleground at that time was over

1 land acquisition. Now, the battleground was over  
2 civil rights, and there has been a lot of caustic  
3 debate over this issue. The Utah Compact has  
4 emerged from this, and it's a declaration of five  
5 principles to reaffirm American core values and  
6 guide Utah's immigration discussion in a rational  
7 and reasonable manner.

8           And just to give you an idea of the  
9 catalyst cause for this Compact, following the  
10 Arizona -- the signing the of the Arizona bill in  
11 July 2010, the -- I should say, cowardly and rogue  
12 state employees compiled and submitted a list of  
13 1,300 undocumented people in our community with a  
14 complete list of their addresses information,  
15 including the due dates for pregnant women, to  
16 Homeland Security, law enforcement and media. This  
17 was just part of the caustic contentious debate that  
18 was taking place by supposed concerned citizens at  
19 that time.

20           However, the irony is this produced a  
21 counterproductive response. They crossed the lines  
22 of civil rights. And rather than inciting, it  
23 united people, particularly courageous community  
24 leaders led by a conservative think tank. The  
25 Conservative Sutherland Institute, one of the many

1 sources in the community, compiled symposiums and  
2 wanted to engage in civil dialogue and civil  
3 conversation to address the issue of comprehensive  
4 immigration reform.

5 A convening of communication  
6 professionals from very conservative groups;  
7 politicians, business leaders, religious groups as  
8 well as community advocates, assembled themselves  
9 together and formed a coalition for consensus  
10 building. The purpose of this is complementary  
11 allies which could create a very clear and concise  
12 statement of 213 words. They were done for a period  
13 of time, and I believe that if you should have a  
14 copy of that before you in the PowerPoint  
15 presentation that we have prepared.

16 And these guidelines simply state;  
17 number one that immigration is a federal issue, and  
18 -- it's a federal policy issue, and the states don't  
19 necessarily need to be engaged in battling with  
20 other countries about that.

21 Secondary is law enforcement. And that  
22 is we respect the rule of law and support law  
23 enforcement's professional discretion. However,  
24 local law enforcement believe sources should focus  
25 on criminal activities, not civil violations or

1 federal code.

2           One of the most important fundamental  
3 aspects is our families. Strong families are the  
4 foundation of successful communities. We can oppose  
5 policies that unnecessarily -- we can oppose  
6 policies that unnecessarily separate families. We  
7 champion policies that support families that approve  
8 the health, education and well-being of all  
9 children.

10           The economy. Utah is best served by a  
11 free-minded philosophy that maximizes individual  
12 freedom and opportunity. We acknowledge the  
13 economic growth where it it's workers and taxpayers.  
14 Utah's immigration policies must reaffirm our global  
15 reputation as a welcoming and business-friendly  
16 state.

17           And, last, the fifth -- if you were to  
18 look at the hand -- is a free society. Immigrants  
19 are integrated into communities across Utah. We  
20 must adopt a humane approach into this reality  
21 reflecting our unique culture, history and the  
22 spirit of inclusion. The way we treat immigrants  
23 will say more about us as a knee society and less  
24 about our immigrant neighbors. Utah should always  
25 be a place that welcomes people of goodwill.

1           In the assemblage of this coalition,  
2       there was a dramatic shift in the debate. It became  
3       very civil. There was more of a dialogue,  
4       conversation. Statesmen and women attending a  
5       ceremonial signing of a Compact. And this was led  
6       by two former Republican daughters, the current  
7       governor, republican senators as well a very  
8       conservative legislators, business people, as well  
9       as representatives from the -- I should say the  
10      dominant church in Utah, the Mormon church, the LDS  
11      Church and the Catholic Diocese.

12           It changed the whole conversation and  
13      created coalition building and a national story from  
14      that, a very pragmatist approach in search of  
15      solutions to initiate a reform movement that  
16      actually can be replicated across the nation.

17           The purpose of this Compact is to send  
18      a message for a clear call to Congress and states,  
19      and that is in the course of discussion and debate  
20      that there needs to be a model created to address  
21      these very complex issues and that they need to be  
22      customized based on the core values of a state and  
23      community, not a cookie-cutter approach. In order  
24      to create constitutional legislation, that there  
25      needs to be a very proactive and a very



1 comprehensive civil dialogue.

2 Thank you.

3 CHAIRMAN CASTRO: Thank you, Madam  
4 Chair. At this point, I will open up to questions  
5 from commissioners. Do I have -- Commissioner  
6 Gaziano.

7 COMMISSIONER GAZIANO: I have a special  
8 place in my heart for the Virginia State Advisory  
9 Committee. So I want to thank all three of you, for  
10 serving us on the Commission. Oh, I'm sorry. I was  
11 going to ask Mr. Knippenberg -- but that's fine. If  
12 you need to go to your wife, that's a much higher  
13 obligation than listening to me.

14 COMMISSIONER HERIOT: Thanks for  
15 joining us.

16 COMMISSIONER GAZIANO: Thank you.

17 CHAIRMAN CASTRO: Thank you very much.

18 COMMISSIONER GAZIANO: I especially  
19 wanted to thank Mr. Gonzalez for tempering your  
20 written remarks. I know that wasn't your -- your  
21 first choice, but our rule of law here are our  
22 rules. And I'm not sure that your revised statement  
23 quite satisfies it, but that's something that we can  
24 talk about later and amongst ourselves and be in  
25 touch with. I thank you in your oral statement from

1 staying almost on the rule since I have determined  
2 that very close.

3 I certainly agree this is an emotional  
4 issue, and the stories you were telling should  
5 bother -- should bother anyone. But especially  
6 because of those troubling stories and especially  
7 because we care about the civil rights implications,  
8 we also have to be careful to be accurate about the  
9 facts and not let the ends as we all, I think,  
10 agree, you know, justify loose facts.

11 In your written testimony you said with  
12 the passage of HB 87 and shortage of migrant farm  
13 workers, Georgia suffered a \$140 million in direct  
14 agricultural losses in 2011 with rotting crops in  
15 the fields. Those losses also accounted for a total  
16 yearly economic impact of approximately \$391  
17 million. You may still stand by that. That's  
18 essentially my question.

19 But the Georgia Department of  
20 Agriculture released a study finding that for that  
21 that there were \$10 million worth of losses, a tiny,  
22 tiny fraction. But -- and they also found that  
23 almost all of those losses were attributed to the  
24 poor economy and drought conditions. In other  
25 words, virtually none of it, none of the \$10

1 million, or a tiny, tiny fraction, was related to HB  
2 87.

3           And so was the department of  
4 agriculture's study so -- so widely wrong in your  
5 own predictions so -- and if you believe yours are  
6 more accurate, please, tell me what the basis of  
7 yours.

8           MR. GONZALEZ: Let me clarify. The  
9 Georgia Department of Agriculture did a very sloppy  
10 job of doing a survey, which had very little  
11 participation from the farmers impacted. They did  
12 reach out to stakeholders in the process of doing  
13 the survey that they did. So the survey is, by no  
14 stretch of the imagination, a sloppy job that I  
15 would say the Georgia Department of Agriculture did.

16           That being said, the sources that I  
17 cite in my statement with regard to the numbers that  
18 are indicated where are not fabricated by my  
19 conjecture. They were fabricated the Georgia Fruit  
20 and Vegetable Producers in the spring of 2011. They  
21 did a data analysis associated with the crops  
22 losses. Now, they surveyed their members of the  
23 crop losses that did suffer real harm.

24           You would go all across south Georgia  
25 and see crops rotting in the fields. We have a high

1 unemployment rate. The governor made an effort to  
2 try to meet that need with parolees. That failed  
3 miserably. The crops rotted in the fields. And it  
4 was because of HB 87.

5 Ask any Georgia farmer. Clearly what  
6 led to this crop lossage, it was not because of the  
7 lack of workers that weren't there just because they  
8 weren't there. It was because workers bypassed  
9 Georgia during peak picking season, and the rotted  
10 in the field because those workers weren't there and  
11 there weren't enough workers to do the job that was  
12 necessary to keep the number one industry in Georgia  
13 alive for that process.

14 COMMISSIONER GAZIANO: That tells us --  
15 that gives us a basis to look further into -- which  
16 of these studies might be more accurate?

17 MR. GONZALEZ: Let me -- let me just  
18 add that -- several years ago during raiding of  
19 Vidalia Onion Farms, republican congressional  
20 members stood in the face of immigration and the  
21 stopped the immigration raids that were happening to  
22 Vidalia onion farms because they knew it would take  
23 the crops. Otherwise, the crops would rot in the  
24 fields as well.

25 A Republican congressional delegation

1 stood in the way of immigration enforcing it because  
2 we needed -- we had an economic need to be met at  
3 that time.

4 CHAIRMAN CASTRO: Thank you.  
5 Commissioner Yaki.

6 COMMISSIONER YAKI: Yeah. I just  
7 wanted to put into the record that this -- t he  
8 evidence about the crops rotting in the fields was  
9 sworn testimony by the agricultural chief of Georgia  
10 to a Washington congressional committee. So that's  
11 let's make sure we understand that.

12 Number two, Forbes Magazine has  
13 reported that the Georgia Department of Corrections  
14 is now sending prisoners out to the fields to help  
15 pick the crops because there's no one -- no one to  
16 do it. And so, you know, we can sit here and place,  
17 you know, got you, on one of the factors. There  
18 would be sworn testimony by the Georgia agricultural  
19 chief to a congressional panel. And then we have  
20 the Forbes Magazine story that in fact Georgia  
21 officials are now sending prisoners out to the  
22 fields to pick the crop because some people that  
23 used to be there are no longer there.

24 MR. GONZALEZ: Let he add to that that  
25 many farmers in Georgia, also because of the

1       uncertainty of the labor market, scaled back their  
2       efforts in planting crops. Georgia's agricultural  
3       industry, the number one industry for the state, is  
4       responsible for \$68 billion for state.

5                   The cost associated with the reasons  
6       they passed HB 87 on the face value, I disagree with  
7       them, but they are \$250 million. So with \$250  
8       million in potential costs that supposed folks have  
9       highlighted. Compared to \$68 billion, I think the  
10      state is making out an bandit in this regard.

11                   So people talk about costs all the  
12      time, but we respect the labor that immigrant  
13      workers bring to our state and fuel our number one  
14      industry, and we respect and value of that because  
15      at real dollars and cents that impacts, not just the  
16      immigrant community, but impacts the vitality and  
17      the economic viability of the entire state of  
18      Georgia.

19                   COMMISSIONER YAKI: Well, I don't know  
20      about you, but I'm not too keen on the economy and  
21      labor so.

22                   CHAIRMAN CASTRO: Any other  
23      commissioners?

24                   (No responses.)

25                   CHAIRMAN CASTRO: Let's me ask Ms.

1 Milner. You talked about a very conservative and  
2 also a very diverse coalition that came together in  
3 Utah. I wonder if you could talk a little bit about  
4 how that how that was accomplished versus how  
5 apparently in some other states -- although, in  
6 Georgia it sounds like there is some support on the  
7 conservative side.

8           You know, are there some lessons to be  
9 learned that can be replicated perhaps in places  
10 like Alabama and Arizona?

11           MS. MILNER: Thank you, Mr. Chair. In  
12 fact, the Utah Compact and the neighbor received a  
13 Compact is because it was signed on the very day  
14 that the Mayflower Compact had been signed, too, as  
15 a means for governing of people.

16           But it has been replicated in numerous  
17 states. Seventeen other states. And it's under  
18 consideration in many others. The purpose of it is  
19 to -- to to perhaps minimize the rancor, the  
20 rhetoric, some of the heightened emotions that we  
21 see and the extreme opinions and see if there's  
22 central ground that we can convene to be able to  
23 address.

24           And so it's a very simplistic -- very  
25 simple sample, but it's very substantive as well.

1 And it really sets a decorum. It just changes the  
2 tone of discussion. As was mentioned, Utah was  
3 headed in the very same light that Arizona was in their  
4 legislation. We had copycat legislation that was  
5 being introduced, and it was creating all types of  
6 tension and not unlike what has been shared here her  
7 by other states, Georgia and many others.

8 We had populations that were being  
9 frightened, terrorized. We had raids on families  
10 that were being split up and disrupted, and it was  
11 causing all types of consternation in our community.  
12 And realizing that there needed to be a means to be  
13 able to address some of those concerns in a very  
14 civilized manner, thus convening. And it was the  
15 coalition that came together.

16 Some very diametrically opposed groups  
17 that irony about it, came together and found common  
18 ground and found a means whereby we can establish  
19 core principles and values based -- that all of us  
20 share, that we are all benefiting from. And then  
21 from that be able to implement and use that as a  
22 guide for any legislation that's being crafted on a  
23 state level.

24 More importantly, I think the emphasis  
25 here is that this is a federal issue, and it's not



1 up to the states to be deputizing law enforcement to  
2 go after, you know, civil matters. It's just --  
3 that's where the cost comes in. It's very  
4 pragmatic. It's practical.

5           We're talking about 11 million people.  
6 And to hear some who expressed the idea of rounding  
7 up and chipping back, Utah's economy -- successful  
8 economy -- and Forbes has been mentioned Utah to be  
9 be a very prospective up and coming economy. The  
10 reason that it's working is because of the workers  
11 that we have. We benefited from the Olympics on the  
12 backs of -- it was push-pull. We pulled in many  
13 undocumented persons to put their labor to test, to  
14 build the roads, to build the infrastructure to  
15 benefit Utah and the nation or the world. And then  
16 after that --

17           I'm running out of time here. So I'm  
18 going on with that. But, yes, there is a a civil  
19 approach. When I say simple I just mean simplistic  
20 in the number of words. But I believe what it does,  
21 is it gets back to very basic ground. And that is,  
22 again, that it is a federal issue. We want to  
23 protect the rule of law, that we know that law  
24 enforcement -- we want that to be focused on  
25 criminal activity.

1                   More importantly, families. How can  
2     you split up -- we talked about the fabric of  
3     society and the rule of law that was expressed  
4     earlier. I tend to disagree that it's the rule of  
5     law. The fabric of society is families. And when  
6     we break up families, we break up any civilization  
7     as we know.

8                   So in order to ensure families are  
9     staying together and that parents aren't separated  
10    from the children and you have questioning as who  
11    has parental rights and children are put in foster  
12    homes, that is what erode our nation more than  
13    anything else. The economy. We know that we're  
14    attendant upon the services that are rendered.

15                  And I appreciate Commissioner Gaziano  
16    and his personal testimony about his family. I,  
17    too, am of Italian descent. And my grandparents'  
18    experiences with the same challenges of what's been  
19    expressed. And we know that's what happens.

20                  But I think that, you know, this  
21    conversation and our assemblage here today will be a  
22    moot point in years to come and we'll look back at  
23    this conversation in the same way that we come to a  
24    reckoning of the civil right issues. As we see -- I  
25    mean, I can't help but just be overwhelmed by the

1 presence of where we're at and the conversation  
2 that's taking place today.

3           So, anyway, my encouragement to you is  
4 that to be listening to other states and trying to  
5 model legislation. The purposes here, take a look  
6 at those family core principles in your own state  
7 and then come together in a very -- to build upon  
8 the basis of shared values and not to have the  
9 sparring that is taking place. I think that there  
10 is a plan here. It is not just the Utah solution  
11 because of all the places the people wouldn't look  
12 to Utah for a solution. But, it doesn't matter where  
13 it comes from or whether it emerges. Common sense  
14 plays out.

15           CHAIRMAN CASTRO: Commissioner Heriot.

16           COMMISSIONER HERIOT: I just wanted to  
17 put something on the record on the agricultural  
18 labor issue again. It's not that I disagree with  
19 anything that somebody said here, but I think we  
20 might have been oversimplifying things a little bit.

21           I mean, sure, it's true that when have  
22 got in some parts of the state -- well, just about  
23 every state I assume -- a significant amount of  
24 agricultural activity, you have a group of people  
25 who are providing the labor for that. And you'll

1 the income levels when other people stop doing that,  
2 for whatever reason, that that's going to cause an  
3 immediate problem. Crops have to be harvested in  
4 the way crops are harvested. And it's always  
5 possible that we will lose part of the harvest if  
6 people aren't available to do the work.

7 But I think it's important that we also  
8 recognize for the record here that those are  
9 temporary dislocations, that the economy -- you've  
10 got the supply/demand not just, you know,  
11 agricultural labor. There are substitutes for that  
12 labor. What is going to happen is because not too  
13 many people are going to do to work, the wages would  
14 go up. That's going to attract a different group of  
15 people into the labor market, and it's going to  
16 cause farmers to engage in different kind of  
17 technologies, perhaps be more mechanized.

18 But it doesn't mean what the crops are  
19 going to rot for now on. What is means is that  
20 they're going to create some temporary dislocations,  
21 and eventually the economy will adjust to that,  
22 whether that's adjusting in the direction of  
23 bringing more unskilled laborers or fewer. It will  
24 always adjust.

25 CHAIRMAN CASTRO: Thank you. You want

1 the --

2 MR. GONZALEZ: If I could react to  
3 that. First and foremost, I think, commissioner,  
4 you may have a misunderstanding of how agriculture  
5 works, and particularly in Georgia. I'm not an  
6 expert in agriculture. I'll admit that.

7 However, over the discourse that we've  
8 been in for the last several years, I've become  
9 quite knowledgeable about our agricultural industry.  
10 Prices did go up for the enticement of additional  
11 workers to come to the fields in south Georgia  
12 because they wanted to make sure that the crops were  
13 harvested. So the market did react associated with  
14 that, and still there was no labor to be found.

15 Secondly, you made a point about  
16 advancement technology catching up and being other  
17 ways to harvest the crops. A Vidalia onion cannot  
18 be harvested by machine. A peach cannot harvested  
19 by machine. A tomato, raspberries, blueberries  
20 blackberries --

21 COMMISSIONER HERIOT: So it would be a  
22 challenge for an engineer to me.

23 MR. GONZALEZ: Well, I don't think an  
24 engineer -- I'm an engineer by training. So I  
25 understand the challenges associated with that. But

1 if we were to have a machine pick our peaches, I  
2 don't think that you would be eating the peaches.  
3 So the mechanism of crop harvesting is not where we  
4 need to be.

5 Now, the other solution is to outsource  
6 our food production in this country. What national  
7 security ramifications does that bring to the  
8 forefront if we were to outsource our food  
9 production in this country because we don't have the  
10 labor necessary to meet our food production needs in  
11 country? We do bring in a significant amount of  
12 food, food produced in other places, into our  
13 country, but we cannot afford to lose our food  
14 production in this country.

15 And, lastly, agriculture is the number  
16 one industry in Georgia and to simply to say, oh,  
17 just increase prices or mechanize it, that's a clear  
18 misunderstanding of the way agriculture works in  
19 Georgia. And I just wanted to make sure that I  
20 mentioned that.

21 CHAIRMAN CASTRO: Commissioner Yaki.

22 COMMISSIONER YAKI: My father's family,  
23 they were interned with farmers in farm fields and  
24 the produce business. That's a long story but  
25 (inaudible).

1                   But he -- Jerry's absolutely right.  
2       There is some -- you cannot mechanize -- there is no  
3       -- there is no collagen for a peach. There is no  
4       collagen for grapes. There is no collagen for  
5       apples. There are people out there making sure that  
6       stuff does not look like it got beat to a pulp. No  
7       pun intended. We have to have it on our tables  
8       everyday.

9                   Jerry, would you comment, though. One  
10      of the solutions that people were talking about --  
11      and it's rather ironic -- is simply opening the  
12      floodgates to temporary desk worker programs, which  
13      is, what, just bringing in a lot of -- well, anyway,  
14      why don't you comment on that.

15                  MR. GONZALEZ: I think what's being  
16      proposed and what's being talked about just solving  
17      the problem by bringing in temporary workers. And  
18      that's -- that's you're missing the boat. You're  
19      only looking at that solution.

20                  Picking raspberries, blueberries,  
21      peaches, Vidalia onions may seem like unskilled  
22      labor, but it is not. Talk to any farmer. And the  
23      parolee example that Georgia put in place was a  
24      perfect example. You had one group of group of  
25      workers picking onions -- or I think it was

1 cucumbers. One group picking cucumbers, immigrant  
2 workers, Latino workers, another group that were  
3 parolees picking the same crop in the same day. The  
4 immigrant workers picked ten truckloads. The  
5 parolees picked one truckload.

6           So it is -- the notion of just  
7 importing labor to get up to speed and pick the  
8 crops that are necessary is just missing the boats  
9 entirely. Our farmers need the labor -- the skilled  
10 labor that they have, and they need it to keep them.  
11 They need a way to make them legal. It's estimated  
12 about 75 percent of the nation's agricultural  
13 workforce is undocumented. And that comes from the  
14 U.S. senator -- Republican U.S. Senator, Saxby  
15 Chambliss. That's his estimate.

16           So this is serious business for our  
17 nation's food supply. We need to make sure that we  
18 keep that in mind. We talked about mechanized  
19 crops. We talked about crops that are picked by  
20 land.

21           Let's talk about economics about that.  
22 Dollar wise, the estimate for a mechanized crop.  
23 Per acre, you may yield about \$800 for peanuts.  
24 Peanuts can be mechanized and has been mechanized.  
25 It will yield about \$800. For the sweet Georgia



1 Vidalia onions, you make about \$3,000. So are we  
2 going to tell your farmers to grow more peanuts,  
3 flood the market with more peanuts and make a lot  
4 less for the same acre? I think that is a serious  
5 mistake, in this -- in this discussion.

6 We need to address the real needs of  
7 the farmers. We need to address the real needs of  
8 our economy. We need to address the real needs of  
9 making sure that immigration law reflects our values  
10 and keep families together as well.

11 COMMISSIONER YAKI: And we're not not  
12 even talking about the conditions under which they  
13 work, which is still ashame 50 years after CBS first  
14 started reporting about.

15 MR. GONZALEZ: Exactly.

16 CHAIRMAN CASTRO: I don't know that we  
17 have additional questions. However, let me -- as  
18 you know from the original concept paper, I wanted  
19 to have a documented person come in and testify and  
20 the various groups were not able to locate one.

21 However, we do have someone that's  
22 indicated a willfulness to speak, and I'm going to  
23 ask her to come here and give us a couple of  
24 comments. Ms. Ramirez, would you, please, come  
25 forward?

1 (Applause from audience.)

2 MS. RAMIREZ: Well, hi. My name is  
3 Leticia Ramirez. I'm undocumented. I have been  
4 living in the United States for 18 years. I'm the  
5 mother of three kids that are in elementary school.  
6 It's been hard living and so now I'm  
7 (unintelligible).

8 For me, it was just the stupidest thing  
9 for gentlemen to sign knowing that a lot of  
10 Hispanics and a lot of other communities were going  
11 to be devastated by this law. A lot of people in my  
12 community are being separated. I've been seeing a  
13 lot of mothers being separated from their kids, and  
14 I don't want that to happen to me. That's why I  
15 come to Alabama, to tell you, to tell other people  
16 who are making those laws to stop doing that. Look  
17 -- look to us from the community. And another thing  
18 is that we're not illegals. We are human beings  
19 like you are.

20 And one more thing. I would like to --  
21 one of the community from here would like to speak  
22 to what she's went through here in Alabama.

23 MS. NIHAL: Thank you. My name is Hina  
24 Nihal.

25 And, first of all, I don't like -- you

1 know, what fancy words can you say like? But I'm  
2 going to speak. I don't know. It's weird to hear  
3 people like you talking so rude because you are  
4 supposed to defend civil rights.

5           And it's hard, you know, to hear you  
6 say things like Ms. -- her just saying that you've  
7 been bullied because you were -- you were Russian or  
8 whatever, at that time to say that it was okay.  
9 It's not okay. I'm sorry that you've been bullied,  
10 but it's not okay. You were trying to say like it  
11 was okay. It's never okay to be bullied.

12           I came to United States when I was 16  
13 years old. I came from extreme poverty. My dad died  
14 from cancer when I was eight years old. My mother  
15 have to work a lot. And when I was 16 years old, my  
16 mother got sick because she work so much. And I --  
17 at that point I decided I couldn't take it anymore,  
18 and I have to do whatever it takes to support my  
19 family, because it was my turn.

20           They offered me to come to United  
21 States, and I (unintelligible) and I risked my life.  
22 It was a tremendous fear. It was -- we run out  
23 water, we run out of food and I thought I was going  
24 to die. I never wanted to come here illegally. I  
25 promise you. None of the people that was there

1 wanted to come here illegally. None of us looked  
2 for it -- looked for it. We're like a people -- it  
3 was a group of 20 people. And I was the only woman,  
4 16 years old. I was terrified.

5 And, you know, my thoughts were my mom  
6 and my sister in Mexico. And I was willing to give  
7 my life for them. I came to United States. And God  
8 he gave me the strength to come here. I came here  
9 right after high school. That's why I came here.  
10 Lot of immigrants came here to work hard.

11 And I don't know about the one percent  
12 that you described it, but I'm -- I'm sure that 99  
13 percent of undocumented are like me because they  
14 don't know anybody that is not here for a good  
15 reason and because we're not with their loved ones.

16 I graduate from high school, and I am  
17 at college. I'm trying to get my bachelor degree.  
18 And it's all -- it's all (unintelligible) that's  
19 trying to punish people like me. I don't know. And  
20 the tone of you, like you supervising all the staff,  
21 I think you have heart, you can have compassion and  
22 think. Like I can't understand why you want to  
23 punish people like me, put them in jail, put me in  
24 jail or put me everywhere or take me away from  
25 working because I never -- I never got tuition for

1 free.

2 I work every -- three jobs sometimes.

3 I have to support myself and support my family in  
4 Mexico. And Alabama, Marshall County, there's a lot  
5 of Hispanic people. I don't know whether you heard  
6 about -- there's not exaggeration about fear. You  
7 should go to -- I live in a Hispanic neighborhood.  
8 And I don't know where you get the idea that it's  
9 just exaggeration because it's not. You should go  
10 there, and you should ask people. And then after  
11 that, you should say, oh, they're not -- they're not  
12 afraid. You should go there if you think to say  
13 it's just an exaggeration. It's just an insult  
14 saying it's a exaggeration.

15 When I was -- when the law first start,  
16 I was scared. But I was like, well, I think there's  
17 nothing we can do. We have no rights. And then I  
18 stop. Like my whole street was Hispanic, and the  
19 bus empty. None of the kids wanted to go to school  
20 because they were scared that their parents were --  
21 when they came back, their parents won't be there.

22 I saw this like 12-year-old running to  
23 the bus because she got a test that day. And the  
24 mother went back running after her crying saying you  
25 cannot go to school. She wasn't scared. And I -- I

1 was in the window looking at this -- the scene. And  
2 I couldn't -- they started crying. And she said, I  
3 want to go to school, mom. And she said, no, you  
4 can't. They can take you. And they start crying,  
5 and I start crying, too.

6 And I -- at that point I was like this  
7 cannot be happening. People with good heart, with  
8 sense of justice could see that this is not right.  
9 People -- there's some other case in Blount County  
10 when this family was stranded. But this guy of the  
11 middle of the night, they called the sheriff. They  
12 have three U.S. citizens. This guy was wanting to  
13 fight with the father. They called the police. And  
14 the police, the first thing they asked is if you're  
15 illegal. They say, yes. And they say, well, if  
16 you're illegal, we cannot file a report. You  
17 understand that conflict and you lie. I can call  
18 ICE right now and they can come and pick you up.

19 And they say, yeah, I think you can do  
20 that. They didn't know. They were like frustrated  
21 because they call for help. And that's what they  
22 got. They should have left and they call me.

23 You cannot sit down and pretend that is  
24 -- that is okay. You can also ask the farmers of  
25 Steele in the mountains of Alabama if they'll --

1 like you said you can adjust. It's not like that.  
2 Someone will go bankrupt. I don't think they can  
3 adjust. Or maybe they can adjust a hundred more  
4 years, next generation.

5 But I think you should invite the  
6 farmers so they can firsthand tell you what the  
7 impact, if they can recover or adjust like you said.  
8 And also in Blount County -- I don't know how you --  
9 how you -- it's nonsense. They like chicken plants  
10 where like hundreds and hundreds of people were laid  
11 off. Them working there for 20 years, they were  
12 laid off who have -- like U.S. citizen, 19 and 18  
13 years old. They were laid off.

14 And, you know, for what? They bring  
15 people from island -- they bring people from island  
16 to take the place of those undocumented people who  
17 have U.S. citizen children who need the job. And I  
18 don't know what the point of -- you don't -- you  
19 don't want -- you import people and you take away  
20 the job the people that are already here and have  
21 attachments and have all this -- have U.S. citizen  
22 children and take away their jobs so they can go to  
23 food stamps. It doesn't make any sense.

24 My nephew said, what are we going to  
25 do? What you going to do? What everybody is going

1 to do? Okay. Mexico they're going to kill us. And  
2 here they don't want us.

3 The lady on -- I don't know her name.  
4 She was talking about the Bible and all that. In  
5 the Bible -- I don't know if you can go into  
6 compassion, but I think Christian will see that we  
7 are here and we hardworking people. We just begging  
8 for the opportunity to be legal.

9 We need to do whatever it takes to be  
10 legal. Let's work together. Let's find a way to be  
11 legal. Because if we need to pay, that's what we  
12 have to pay, fines or whatever. Because if that --  
13 when you have a ticket, you pay your fine. Right?  
14 It's not like you're a criminal because you break a  
15 law when you speed. It's the same. We came here,  
16 and crime is to risk our lives to provide for our  
17 families.

18 Let's -- we just need to work together.  
19 We need an opportunity for the people that we don't  
20 commit a crime that we good people, that we work,  
21 that we study. And we just need an opportunity.  
22 And we're willing and we're desperate to be legal  
23 and we can work for the economy of the country  
24 because we're already here and we love this country.

25 CHAIRMAN CASTRO: Thank you.



1 MS. NIHAL: Thank you.

2 CHAIRMAN CASTRO: We really appreciate  
3 it.

4 (Applause from audience.)

5 CHAIRMAN CASTRO: That brings us to the  
6 conclusion of the panel and the program. I want to  
7 of course thank all the panelists. I want to thank  
8 our two late editions there for their very moving of  
9 hearts. I also want to personally thank the  
10 Commission staff for the efforts that they've made  
11 in the last couple of months to pull this briefing  
12 together.

13 And I want to, in advance, thank the  
14 staff that's going to instill all this information  
15 and present a briefing report to us. I'm also  
16 grateful for the work that Pam Dunston and her team  
17 here for what we see here on the ground here and the  
18 logistics of the event here today.

19 And I also want to thank our attorneys  
20 from the Office of General Counsel, Vanessa Eisemann  
21 and Yasmin Elhady, for all the great work they do  
22 leading up to today and till now.

23 Lastly, the record for this briefing  
24 report shall remain open for the next 30 days. If  
25 panelists or members of the public would like to

1 submit materials, they can mail them to the U.S.  
2 Commission on Civil Rights, Office of General  
3 Counsel, at 624-9th Street, Northwest, Washington,  
4 D.C. 20424, or you can submit public comments to the  
5 e-mail at immigration2012@usccr.gov.

6 It is now 3:54, and this briefing of  
7 the U.S. Commission on Civil Rights is now  
8 adjourned. Thank you.

9 END OF PROCEEDINGS

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## C E R T I F I C A T E

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

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My Commission Expires:

September 1, 2013