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CALIFORNIA ADVISORY COMMITTEE TO
THE UNITED STATES COMMISSION ON CIVIL RIGHTS

* * * * *
Open Meeting on:
The Immigration and Naturalization
Service's policies and practices
in the State of California, and
the civil rights effects of the
Carter administration's proposed
immigration legislation.
* * * * *

VOLUME I

The Roman Room
Biltmore Hotel
Los Angeles, California

Thursday, June 15, 1978

The Advisory Committee met, pursuant to notice, at 9:02
a.m., Southern Vice-Chair Nadine I. Hata, Chairperson presiding.
Members present: Jane Fonda, Blanche Gomez, Karen Hilborn,
Delbert Spurlock, Michael Stern.

Also present: Richard Baca, General Counsel, U.S. Commi-
sion on Civil Rights; Laurie Campbell, Deborah Miron, Phillip
Montez, N. Dimas, Sally James, Staff of the Commission.

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P R O C E E D I N G S

(9:02 a.m.)

CHAIRPERSON NADINE I. HATA: Good morning. I apologize for our late start this morning. This is the California State Advisory Committee's Open Meeting on the Immigration and Naturalization Service's policies and practices in the State of California, and the civil rights effects of the Carter administration's proposed immigration legislation.

This meeting will now come to order.

I am Nadine Hata, Southern Vice-chair pursuant of the California Advisory Committee to the United States Commission on Civil Rights. One of the functions of advisory committees is to advise and make recommendations to the United States Commission on Civil Rights, on matters which the Committee or any of its Subcommittees have studied.

The other members of the Advisory Committee who are in attendance or who will be in attendance for this meeting are Grace Davis, Mervyn Dymally, Patricia Phillippini, Jane Fonda, Frankie Gillette, Blanche Gomez, Allen Haddon, Karen Hilborn, J. William Martinez, Robert Smith, Delbert Spurlock, Michael Stern, and Alexander Tobin.

Members of the hearing body will rotate as we review the separate subtopics which we will focus on. Also with us today from the Western Regional Office of the United States Commission on Civil Rights are: Phillip Montez, Sally James,

1 Laurie Campbell, Thomas Pilla, Arthur Palacios, Jeffrey Wallace,
2 and Grace Diaz.

3 From the Commission's Office of General Counsel in
4 Washington, D.C., are Richard Baca, General Counsel, Nicosia
5 Dvinas, Deborah Miron, Reita Pendry, and from other Regional
6 Offices are Jacques Wilmore from New York City, Patricia Stell
7 and Fred Kaplan from Seattle.

8 This Open Meeting is being held pursuant to rules
9 applicable to state advisory committees and other requirements
10 promulgated by the United States Commission on Civil Rights.
11 The Commission on Civil Rights is an independent agency of the
12 United States Government, established by Congress in 1957, and
13 authorized by the Civil Rights Act of 1957, 1960, 1964, and
14 1973, to do the following:

15 1) Investigate complaints alleging that citizens
16 are being deprived of the right to vote by reason of their race,
17 color, religion, national origin, or sex.

18 2) Study and collect information concerning legal
19 developments which constitute a denial of equal protection of
20 the laws under the Constitution.

21 3) Appraise Federal laws and policies with respect
22 to equal protection of the laws.

23 4) Serve as a national clearinghouse for civil
24 rights information and;

25 5) Investigate allegations of voter fraud.

1 I would like to emphasize at this time that this is
2 an open meeting, and not an adversary type of proceeding.
3 Individuals have been invited to come and share with the
4 Committee information relating to the subject of today's inqui-
5 ry. Each person who will participate has voluntarily agreed
6 to meet with the Committee. Every effort has been made to
7 invite persons who are knowledgeable about the problems and
8 the progress in the area to be dealt with here today and
9 tomorrow.

10 In our attempt to get a well-balanced picture of the
11 immigration situation in California, we have invited represen-
12 tatives of the Immigration and Naturalization Service, other
13 government officials, immigration lawyers, and representatives
14 of alien support groups, private sector employers and union
15 officials, and concerned community representatives.

16 Since this is an open meeting, the press, radio,
17 television stations, as well as individuals are welcome. Any
18 person discussing a matter with the Committee, however, may
19 specifically request that they not be televised. In this case,
20 it will be necessary for me to comply with their wishes.

21 We are very concerned that we get all of the informa-
22 tion relating to the matter under investigation. We are, how-
23 ever, equally concerned that no individual be the victim of
24 slander or libellous statements. As a precaution against such
25 a happening, persons making a statement here or answering

1 questions have been interviewed prior to this meeting. However,
2 in the unlikely event that such a situation should develop, it
3 will be necessary for me to call this to the attention of the
4 persons making the statement, and request that they desist in
5 their action.

6 If the testimony a person is offering, however, is of
7 sufficient importance it may be necessary for the Committee to
8 hear the information at a closed session. The person against
9 whom the allegations are being made will have ample opportunity
10 to make a statement in closed session before the Committee, if
11 he or she desires.

12 In any event, prior to the time that the Committee
13 submits its report to the Commission, every effort will be extend
14 ed to get a complete picture of the situation as it exists.

15 We are concerned that no individual be the victim of
16 retaliation for any statements made at this Open Meeting. Wit-
17 nesses are protected by the provisions of 18 U.S. Code 1505,
18 which provide, "Whoever, by threats or force or by any threat-
19 ening letter or communication, endeavors to intimidate, influence
20 or impede any witness in any proceeding pending before any
21 department or agency of the United States, or in connection with
22 any inquiry or investigation being held by either House, or any
23 Committee of either House, or whoever injures any party or wit-
24 ness in his or her person or property, on account of his or her
25 attending or having attended such a proceeding, inquiry or

1 investigation or on account of his or her testifying or having
2 testified to any matter pending therein, shall be fined not
3 more than \$5,000 or imprisoned not more than 5 years, or both."

4 In the event that any person testifying before this
5 Committee considers any adverse action taken against him or her
6 to be the result of having testified, he or she should immedi-
7 tely contact the Western Regional Office of the United States
8 Commission on Civil Rights. At the conclusion of the scheduled
9 meeting, should anyone else wish to appear in open session
10 before the Committee, they should notify a Western Regional
11 Officer Staff before the end of today's session.

12 Is the representative from the Mayor's office here?
13 Well, I guess not. I suppose he has been detained, and I would
14 like to turn the meeting over, then, to Mr. Montez from the
15 Western Regional Office. Phil?

16 MR. MONTEZ: Chair and Committee members, because of
17 the complexity of the discussions we are having the next two
18 days, we will have different staff people do the questioning of
19 the witnesses, because of the involvement with varying staff
20 people, as relates to the agenda, so I would like to start the
21 meeting by asking Ms. James to begin the questioning with the
22 first witnesses, please?

23 MS. JAMES: Yes. If we could have Pedro Lamdagen,
24 Darry Lee, George Lee, and Pok Than, if you could come up here
25 and sit at these two tables, please?

1 The larger mike is the one that you will be passing
2 back and forth. Right. Okay, since the mike is there, if we
3 could start at that table and if you would each introduce your-
4 selves and your occupations as they relate to the issue of
5 immigration. Mr. Lee?

6 MR. DARRY LEE: My name is Darry Lee. I am the
7 Executive Director of Korean Community Service, which is a
8 multi-service agency in the Korean Community. We offer a lot
9 of services, but one of the services that we are primarily
10 interested in is immigration services to Korean immigrants
11 primarily. We average roughly about 600 cases per year.

12 MS. JAMES: Okay.

13 MR. GEORGE LEE: My name is George Lee, a private
14 practitioner, President of the Southern California Chinese
15 Lawyer Association. Within the Association, we have many
16 attorneys who are practicing in immigration service. I myself
17 have practiced before the immigration service for 25 years. I
18 am also a member of the Minority Bar Association, which consists
19 of a loosely-knit coalition of Japanese, Chinese, Philippino,
20 Korean, Cubans, and we have immigration problems within our
21 Minority Bar Association also, and I have in the audience also,
22 Mr. Bill Tang who is also representing the Minority Bar as
23 well as the Southern California Chinese Lawyer Association with
24 me today.

25 MS. JAMES: Thank you.

1 MR. THAN: My name is Pok Than. I am the Vice-Presi-
2 dent of the United Cambodian Community, and also working with
3 the Asian Community Civic Center in Los Angeles.

4 MR. LAMDAGEN: My name is Pedro F. Lamdagen, and I am
5 an attorney and Phillipino by nationality and have been intimat-
6 ely aware with the problems of the Phillipino community in this
7 area of Los Angeles County.

8 MS. JAMES: Mr. Lamdagen, since you have the mike, we
9 will try and cut down on the passing back and forth. If you
10 could start just briefly from summarizing some of the kinds of
11 problems that your clients confront when seeking information
12 from the INS, as it relates to the Phillipine community.

13 MR. LAMDAGEN: Well, the initial contact usually made
14 by most Phillipinos is generally at the information desk at
15 the Federal Building where the Immigration Office is, and aside
16 from the usual problem of the waiting period to get a reply from
17 the Immigration Officers there, there is generally, from my own
18 experience of speaking with clients and other Phillipinos, per-
19 haps an insensitivity to the needs and the possible alternative
20 solutions or answers to the problems of a Phillipino seeking to
21 assist the immigration of relatives or friends, and although
22 a Phillipino generally speaking is bilingual, he can speak his
23 own native dialect and English as well, there are problems very
24 often in being summarily dismissed or really brusquely given an
25 answer to a problem, and this sometimes results in a need to

1 refile again, which means a loss of time in terms of priority,
2 and also a failure to submit the needed documents initially,
3 which would certainly speed and assist in a prompt filing of
4 applications and petitions.

5 And to my experience, there hasn't been any outreach
6 to the Phillipino community as far as changes in the immigration
7 law and the backlog problem encountered by most Phillipino
8 Americans because of the quota system which is oversubscribed
9 and the preference categories, and by reason of this, this has
10 resulted in a shift in the kinds of applications and petitions
11 that must be submitted by Phillipinos that seek to immigrate to
12 the United States, but generally those are my observations in
13 that respect.

14 MS. JAMES: Slightly related to that, are you aware of
15 Phillipinos working for the INS in professional positions?

16 MR. LAMDAGEN: I am aware of a few Phillipinos that
17 have recently, to my observation at the local office of INS,
18 been employed by the Immigration Service. I know one Inspector
19 in Travel Control, and I know of a few clerks with the Immigra-
20 tion Service, but to the extent of having much-needed public
21 contact with inquiries and applicants, I have not seen much of
22 that, no.

23 MS. JAMES: Okay, Mr. Pok, could you add anything if
24 there are problems facing Cambodians dealing with INS that are
25 perhaps different than those that Mr. Lamdagen has mentioned?

1 MR. THAN: I think the problem that the Cambodians
2 are facing in immigration are about the same, similar to those
3 that the Phillipinos are facing with immigration. We are like --

4 MS. JAMES: Could you speak a little closer to the
5 mike?

6 MR. THAN: I have been in Immigration 9 times since
7 '73 to '78, four times for personal reasons and five times
8 asking a paper, and I have been, you see, bothered by the long
9 line of waiting. You had to wait about four to five hours to
10 be served, or one to two to three hours just to get simple
11 information. I think this is a tremendous lot of waste of time,
12 and also at Immigration, there is not someone who could speak
13 the language.

14 I have been asked by the community that came just to
15 come to Immigration just to have them to communicate with
16 Immigration, so we waste a lot of time to help people which we
17 don't have -- immigrating from, or that is overseas.

18 And also, I was bothered by the relation between the
19 employee and the client. See, about two times, I did not have
20 an agency or good relation with the employee, you know. I just
21 didn't get enough information. They came up to us and they
22 just -- they don't work. I think that they are the kind of not
23 really good understanding between the employee and Los Angeles
24 civic services.

25 MS. JAMES: Okay. As a result of some of these delays,

1 when the Cambodians are getting delays in getting their docu-
2 mentation from INS, has this created any problems in terms of
3 in getting employment for the Cambodian community?

4 MR. THAN: Yes, this is very true. We have about
5 nine people who had thought that that they applied for perman-
6 ent residence, but none of them get it yet, you know, and we
7 was surprised, like in the same family, there has some get
8 their papers, the card, some did not, and ask them, most of
9 them who applied with the job, we were passed up with the job,
10 you know, they couldn't get the job because they don't have
11 that green card, that permanent card, so about 9 of them were
12 refused jobs because they did not have a card, and all of them
13 have quite a while already.

14 MS. JAMES: Mr. George Lee, could you sort of give us
15 an idea, give the Advisory Committee an idea of what some of
16 the problems particularly within the Chinese community of
17 people trying to bring their relatives over, what are some of
18 the things they are confronting dealing with INS in bringing
19 relatives either from Hong Kong or mainland China?

20 MR. GEORGE LEE: Well, the first thing is that in the
21 Chinese immigration, when they apply to bring a relative, a
22 close relative, even, there must be a certain amount of docu-
23 mentary evidence. Some of these evidence are not available to
24 the petitioner because, as you all know, that China itself is
25 in Communist hands. It is really difficult to get documentary

1 evidence, and in many cases where there are marriages in the
2 rural district in China, there are no marriage certificates or
3 registry, so to speak, so therefore you must rely on secondary
4 evidence, and these secondary evidences are usually affidavits,
5 people giving sworn statements, even Hong Kong or here.

6 For an example, let us say the petitioner is trying
7 to bring his son over, and the boy was born in a rural district
8 of China. First of all, he has to establish that he was
9 married to his wife, and there is no marriage certificate, so
10 you use secondary evidence to establish that a marriage cere-
11 mony did take place, and that is usually with a certain amount
12 of ceremony that they have a sedan chair that was bringing the
13 lady to the village, and then at birth, the villager usually
14 know who was born to what family and when, and that.

15 Now, it is very recently the INS requires that the
16 petitioner make an effort or at least write back to the inter-
17 ior China, red China, to seek the documentation. In some in-
18 stances it has come through, but very sparsely, as far as my
19 own experience is concerned, in many cases I do not get any
20 response at all. However, I am able to get witnesses that are
21 here that are citizens of the United States, or who already
22 received permanent residence, to give affidavits indicating
23 that they lived in the next door or that they were in the next
24 village, or they were in the same school, and that they know
25 Mr. and Mrs. so-and-so to be married, and that the child on such

1 a date was born to this family. Now this is unique among the
2 Chinese cases, because they require strong documentary evidence
3 Now, it would seem that even in a criminal prosecution, where
4 the burden of proof has to be very strong, a witness, two wit-
5 nesses, can send a man to jail or take his life away, and yet
6 you can have two witnesses, making a sworn statement, or who
7 are ready, willing, and able to appear for the Service to give
8 such a statement that so-and-so and so-and-so in fact were
9 married, and he may even have attended the marriage ceremony,
10 and he attended the one-month party of the issuing of such a
11 marriage, they will still require documentary evidence from --
12 at least an effort had to be made from then, and then a decision
13 was made.

14 Also, I may be wrong in this case, but in Chinese
15 cases, it is very unique, in that if a father or a mother is
16 petitioning for their child, they have to take a blood test,
17 and I do not know of any other ethnic group that is required
18 to take a blood test.

19 MS. JAMES: It is your understanding that that is the
20 only group?

21 MR. GEORGE LEE: It is my -- that is my understanding,
22 although they may have the right to do so, but I think it is
23 only required of the Chinese group, and I think that there is
24 only one port to come into the United States from Red China,
25 and that is through Hong Kong, and in many cases, many cases,

1 people flee to Hong Kong, in the winter of 1949, when the
2 Communists took over in China, and they escaped to Hong Kong,
3 and when they got to Hong Kong, they had children. The fact
4 that they were born in Hong Kong, that puts them in a different
5 category, and they are only allowing 200 a year, for those
6 people that are coming that were born in Hong Kong.

7 An example of this is, let us say that a person
8 coming to visit to the United States, and that person meets
9 another person, and they marry here in the United States, who
10 is a permanent resident. Technically, even though they are
11 married to a permanent resident of the United States, techni-
12 cally, the Immigration and Naturalization Service can require
13 that person who was born in Hong Kong to go back to Hong Kong
14 and wait for their respective time to come in, and the date of
15 this hearing goes back to June the 8th, 1975, if he or she
16 applied for their respective spouse to come over, then they
17 have a three-year waiting period in which the family can be
18 separated for such a time.

19 MS. JAMES: Thank you. Excuse me. Can I ask a clar-
20 ification here. The 200 quota is for those coming from Hong
21 Kong or mainland China?

22 MR. GEORGE LEE: 600 per year. This is from the
23 born in Hong Kong.

24 MS. JAMES: Born in Hong Kong.

25 MR. GEORGE LEE: Right.

1 MS. JAMES: Okay. Right. And you are saying some
2 of the wives that are born here have to go back and wait for
3 up to or a little over three years?

4 MR. GEORGE LEE: Yeah, or if they can't they are
5 required to do so. If you --

6 MS. JAMES: They are required.

7 MR. GEORGE LEE: -- went over to Hong Kong and you
8 are a permanent resident here and you went to Hong Kong, and
9 you met someone and you get married --

10 MS. JAMES: Right.

11 MR. GEORGE LEE: -- and you come over here and you
12 petition for that --

13 MS. JAMES: Take it up to three years.

14 MR. GEORGE LEE: -- it is a long wait, a three-year
15 wait.

16 MS. JAMES: Right.

17 MR. GEORGE LEE: You are keeping your separation up,
18 husband and wife, for three years.

19 MS. JAMES: Can I back up a little bit on the second-
20 ary documentation thing? Are you aware of any professionals
21 of Chinese heritage that work now in the L.A. office of INS?

22 MR. GEORGE LEE: There is an interpreter, and that
23 interpreter is only used at the time when you have a hearing.
24 There are no -- there are just one lady clerk, but she is not
25 meeting the public in the room where the Chinese people go in

1 there is no --

2 MS. JAMES: Is there anyone who makes decisions about
3 accepting the documentation, that might be familiar with main-
4 land China?

5 MR. GEORGE LEE: None whatsoever.

6 MS. JAMES: Village situation, things like that?

7 MR. GEORGE LEE: None whatsoever, and this is one of
8 the problems that they have. I think that the local Immigration
9 Office has this one problem that is very, very unique of any
10 government office I ever have been into, and that is you file
11 an application, you have to have the right change.

12 MS. JAMES: They do not provide change. If the fee
13 is three dollars --

14 MR. GEORGE LEE: You better have three dollars.

15 MS. JAMES: If you have a five dollar bill can you
16 give them the five dollar bill?

17 MR. GEORGE LEE: No. Unless you want to -- well, I
18 don't think they would even accept it, because you can't even
19 tip them, obviously.

20 CHAIRPERSON HATA: Sally?

21 MS. JAMES: Yes.

22 CHAIRPERSON HATA: I have one clarification of Mr.
23 Lee. Mr. Lee, you have been talking about secondary evidence,
24 and it is secondary evidence that was peculiar to the Chinese
25 in the sense that it was applicable or asked only of the _

1 Chinese. To your knowledge, is the same kind of secondary
2 evidence --

3 MR. GEORGE LEE: Well, I didn't say that. I said
4 that the only thing that is only uniquely to the Chinese is
5 of the blood test. I think that every ethnic group is required
6 to make an effort to get secondary evidence, to get documenta-
7 tions, but with the Chinese people, they do not have birth
8 certificate, a marriage certificate, and they are writing back
9 to a country that is adverse to us and can put a lot of heat,
10 so to speak, on the relatives, and some of the officials may
11 not like the people ran out of the country to go to Hong Kong.

12 I had a case where two brothers are applying for
13 documentation from the government itself, one applying for an
14 exit visa, and obtained it. The other one did not get the exit
15 visa, and he swam the river and he got to Hong Kong, so when
16 I applied to get documentation of birth, I got the one that got
17 the exit visa, but the other one, they just ignored me. They
18 did not reply to my request, and also kept my \$15 that I sent
19 to them.

20 MS. JAMES: I hate to move on so fast, but Mr. Lee,
21 could you briefly share with the Committee some of the problems
22 facing the Korean community in terms of bringing their relatives
23 and /or visitors who are related to them over on visitor's
24 visas or permanent residence from Korea?

25 MR. DARRY LEE: Yeah. I just want to say something.

1 There is what we call the spectre of INS in the Korean communi-
2 ty, so that affects a lot of our relationships in terms of
3 getting social services into the community, and our community
4 requires that we have certain relative supports, because we, as
5 a lot of immigrant communities are struggling to make it, hav-
6 ing two parents, or they need their mother. It is more tradi-
7 tional to have a Korean mother into the country to take care of
8 the child, initial birth and et cetera.

9 Except the key now is, whether or not you are a U.S.
10 citizen or you are a permanent resident. If you are a perman-
11 ent resident, your chances of getting your mother in is next
12 to impossible. You might as well climb the mountain. But once
13 you come up and become a U.S. citizen, then you are home free,
14 except there is a kind of a catch 22. Sometimes, if you want
15 to become a U.S. citizen, because a lot of our people have come
16 under a work preference. In other words, they came here for a
17 particular skill.

18 Due to inequities in the rationing requirements,
19 most of them have not been able to practice their particular
20 profession.

21 MS. JAMES: Excuse me. You are referring to certain
22 professions. Could you just mention a couple of those for
23 clarification?

24 MR. DARRY LEE: Pharmacists, nurses, doctors, all
25 those professions. They are primarily professional professions

1 that have been declared by the Department of Labor to be in
2 need in the United States, so if you are a pharmacist coming
3 into the United States, you are expected to practice pharmacy
4 in whatever locality, except if you reside in California, you
5 are in trouble, because California law requires an extensive
6 retraining.

7 Unfortunately, most of these pharomicists have fami-
8 lies and they have to eat. So if they go on and they take
9 survival jobs, they throw in jeopardy their chances of becoming
10 a U.S. citizen. The rationale, as I have heard it explained
11 is that there is a possibility that they enter the country
12 under fraudulent purposes, which is not the case. It just
13 happened -- they just happened to want to eat.

14 So, there is this fear if they go in and apply for
15 citizenship that the next step for them would be deportation.
16 I am not too sure if that is the case, but that is the particu-
17 lar dominant fear, so they are in a quandary of how to get
18 their mothers over.

19 A particular problem with getting relatives over also
20 relies in the State Department. The State Department issues
21 the entry visa into the United States. There is a certain lack
22 of quality in Korea for the State Department. It seems that if
23 you come in there with a particular hair style, you get accepted.
24 If you don't, you get denied, or it is if the person woke up on
25 the wrong side of the bed, you get denied, or gets on the right

1 side of the bed, I mean, these inequalities are what we have
2 documented in our office. We send a lot of letters to Korea
3 explaining why, and why has this permit not been issued, and
4 generally after they yell and scream a couple times, they do
5 issue the visa, but this kind of thing takes a long time. It
6 takes at least six months to a year just to get to the point
7 that they can get exit, and there are others things beyond our
8 control within that framework of State Department and in INS.

9 There needs to be some kind of coordination of get-
10 ting the relatives over.

11 MS. JAMES: Okay, related to that, Mr. Pok, when I
12 have talked with you earlier, you mentioned the question that
13 some of the refugees themselves are having difficulty getting
14 their relatives who might have gone to another country after
15 leaving Indochina. Is that still a problem within the Cambodian
16 and Indochinese community?

17 MR. THAN: I didn't --

18 MS. JAMES: The problem of getting relatives to
19 come to the United States who might have left^{of} Indochina and
20 gone to another country first. Have you had problems with
21 INS in those terms?

22 MR. THAN: Yeah. We still have that problem,
23 because like I have it from a personal acquaintance that a lady,
24 she came here a refugee, but she had a niece who lived in
25 France for a number of years, I think two years before the

1 fall of the country, and that girl has no relative in France,
2 but she would like to come and stay with her auntie in the
3 United States, but there is no way that she could get her here
4 to live because they say that she is maybe a refugee in France.
5 and one refugee could not be a refugee two times in their lives,
6 so they want them to stay separately for that problem, and I
7 understand that that problem, this is now between the Vietnam-
8 ese, Laotian, and Cambodian refugees, many more have had that
9 kind of problem, because they were split by the time they
10 evacuated.

11 Some went to France. Some went to Australia, some
12 went to -- some came here, and they could not, you see, come
13 because they had to have very close relations, like a parent
14 or even -- yeah, they had to be a parent.

15 MS. JAMES: Mr. Lamdagen, Mr. Lee mentioned the prob-
16 lem of some discretionary powers of INS. I wonder if you
17 might tell us in what ways discretionary powers could help
18 and /or hinder your clients.

19 MR. LAMDAGEN: Okay. Before I respond to that
20 question, I think Mr. Darry Lee brought up something I just
21 want to add to.

22 MS. JAMES: Okay.

23 MR. LAMDAGEN: Whenever I make a critical opinion
24 about something, I hope to at least in the back of my mind
25 come up with some kind of constructive suggestion, but I have

1 always considered the Immigration and Naturalization Service as
2 a service and enforcement agency, and when you are dealing with
3 a populus that is basically alien, perhaps unfamiliar with the
4 social and legal aspects of this country and its laws, I believe
5 very often that if the full extent of the complexity of the
6 complexity of the law were simplified for the benefit of the
7 applicants and petitioners, through perhaps outreach organiza-
8 tions or service agencies for local minority groups, I think it
9 would certainly resolve a lot of the difficulties and time-
10 consuming waste of energy to get papers and petitions done
11 correctly.

12 As Mr. Lee has pointed out, and the other speakers
13 here, I think if the applicant were fully aware of what had to
14 be done, the ABC's, and the consequences of if they tried to
15 fraudulently forge some documents or not reveal their full
16 intentions in entering the United States, I think the resources
17 of Immigration Service could be more economically directed
18 toward those serious problems that it faces, in view of the fact
19 of its limited budget and personnel, so I have always felt that
20 in my own experience in dealing with the Phillipino community,
21 the best source of information is from someone else who got the
22 green card, not with someone who is an experienced attorney in
23 immigration law, or the Immigration Service itself, and I feel
24 there is a lot of misunderstanding about the law and the conse-
25 quences of the law, that is in the minds of a lot of aliens, and

1 they are reluctant to go to Immigration because, hey, am I
2 going to be sent downstairs to the basement if I ask this
3 question, which really is a hypothetical but in fact pertains
4 to my own situation.

5 And I think the truth has to come out to these people
6 and they have to be made aware of the rights they have, and the
7 consequences they face in terms of the enforcement of the laws.

8 CHAIRPERSON HATA: Mr. Lamdagen, what does downstairs
9 in the basement mean?

10 MR. LAMDAGEN: Well, it is not where we store a lot
11 of used items, but it is basically an area where persons who
12 are out of status are detained and held until bond is posted
13 or a hearing is scheduled for them upstairs.

14 CHAIRPERSON HATA: The detention center, then.

15 MR. STERN: Is it a jail type facility?

16 MR. LAMDAGEN: Well, that is correct. I haven't been
17 there myself personally, but I have talked to people that have
18 experienced this thing overnight, and it is a frightening
19 experience to to those people, but essentially, they are being
20 detained there. They are not freely allowed to leave until
21 arrangements have been made to assure their reappearance at the
22 necessary hearing.

23 CHAIRPERSON HATA: Thank you. Sally?

24 MS. JAMES: Yeah, just the discretionary powers
25 question.

1 MR. LAMDAGEN: Okay.

2 MS. JAMES: Help and hinder the claimants.

3 MR. LAMDAGEN: Okay. Throughout the immigration law,
4 by reason of the fact of the benefits made available and the
5 requirements and eligibility that have to be met, a certain
6 amount of discretion is placed to the Immigration Officer, that
7 reviews and considers these applications and petitions.

8 I don't want to go too much at length on specific
9 cases, but it has been my observation that in some situations,
10 the use of discretion, surprisingly, is made to the benefit of
11 the applicant, and in those situations where I feel that the
12 violation is minor if -- but for the fact that the person is
13 not fully aware of the time requirements or the law itself in
14 terms of maintaining their valid status, the consequences are
15 severe, simply because there is a clear-cut violation, but in
16 my opinion it is rather a minor violation, and if the person is
17 willing to correct the situation and normalize their status,
18 being fully aware of the law and its consequences, I think the
19 exercise of discretion could benefit that person.

20 In other situations where I knew for a fact, although
21 I didn't disclose it to anyone else, that a marriage may not
22 have been as valid as one would have believed, that petition
23 and adjustment was approved, and I know the Immigration Service
24 doesn't have the personnel, much less the time to go into all
25 the circumstances in detail, and they really have to rely on

1 their own previous experience, but sometimes in most cases,
2 that is just a prejudice toward a particular group of people
3 and type of petition, and I know that may sound rather general,
4 but I don't want to spend too much time relating specific
5 cases for that today.

6 MS. JAMES: I have no more questions.

7 CHAIRPERSON HATA: Do any staff members have questions?

8 MR. STERN: Could each of you state briefly for the
9 record what, if you know, is the feeling about the Carter
10 amnesty plan in your various communities?

11 MR. DARRY LEE: As it relates to the Korean community
12 there really has not been any publicity of the Carter amnesty
13 program. There is still a lot of confusion, but according to
14 our records and our statistics, it would not benefit the
15 greater majority. The greater majority of Korean immigrants
16 are documented. The ones that might benefit are those over-
17 staying on certain visas, student visas in particular. They
18 might benefit, but that is debatable. We have not had any
19 chance to research it fully.

20 MR. GEORGE LEE: As far as the program that is being
21 proposed as amnesty is concerned, I think the inherent right of
22 it is basically wrong in my opinion, and that is that there are
23 many aliens, there are many applicants that have already
24 applied. They either came to the United States or applied to
25 the respective embassy of our country to come to the United

1 States, and they are sitting over there waiting patiently, and
2 they follow the law to the letter, and many of the petitions,
3 petitioners, are citizens of the United States, or some who have
4 permanent residency of the United States, are applying for
5 their relatives.

6 Now, these are the people that went to, perhaps, an
7 attorney, or went to the immigration office and got the proper
8 information, and they applied and they are waiting patiently,
9 whereas in this amnesty program, these are the people that came
10 into the United States, for whatever reason, and they have
11 either overstayed illegally, or they have come across the border
12 without being inspected, and if amnesty is allowed to them, then
13 in effect you will hurt those people that have applied right-
14 fully and followed the letter of the law, and that have been
15 waiting for many, many years as I previously stated. The
16 people in Hong Kong, some of them have waiting for five, ten
17 fifteen years waiting, and by taking the numerical limitations
18 away from them, you are making their wait that much longer, so
19 what in effect, is that you are punishing those that have
20 followed our laws, and -- by benefitting those who did not
21 follow our laws, who are in violation of the law, although in
22 many cases in a specific ethnic group, I can understand it was
23 so easy for them to come across the border here, and some are
24 very good people.

25 They are the ones who will pay taxes. They work hard.

1 They have families here, and I can understand that, but by
2 giving amnesty, if you are going to give it and take away numer
3 ical numbers, then you are in fact hurting those people that
4 applied, and while I have the microphone, I guess I want to
5 make one more statement if I may, and that is that as far as
6 the Chinese people who go to the Service to find information,
7 acquire information, it is such a long wait they go to an
8 attorney, and an attorney is not able to get the information of
9 a specific case that easy. It is a long, long wait for them,
10 which results in a lot of them being very expensive to the
11 people who try to find some information of a specific case.

12 And as far as Chinese cases are concerned, all
13 Chinese cases are handled through one officer in the Immigra-
14 tion and Naturalization Service here in Los Angeles, however,
15 I realize the problem that the Chinese immigration is so com-
16 plex that a certain amount of expertise is necessary. I am
17 just trying to indicate here that what happened if this officer
18 was incapacitated in some way, where everything is just coming
19 through one specific officer, and I think there should be more
20 officers ready back in the event that an emergency, or that
21 the load is so great that that other officer can take over the
22 case as well.

23 CHAIRPERSON HATA: Mr. Lee, two quick questions. How
24 long is the wait, and how many cases do you estimate this
25 officer handles?

1 MR. GEORGE LEE: Gee, very overburdened. The
2 Immigration have not been getting the proper personnel, by the
3 Federal Government. They are very, very understaffed. They
4 are hard workers. I think it is so overloaded I couldn't even
5 make a guess because every day there is applications going in,
6 and just one officer really, I doubt -- that is very tedious
7 and very slow when you have to work through an interpreter, and
8 anyone who has experience in court cases are concerned, by
9 just having an interpreter slows your case down to --

10 CHAIRPERSON HATA: So this one officer is not bilin-
11 gual.

12 MR. GEORGE LEE: No.

13 CHAIRPERSON HATA: Thank you.

14 MR. THAN: Well, they are not that, in effect, a
15 refugee --

16 MR. LAMDAGEN: My response to the question presented,
17 it is probably multi-faceted, but I will try to be brief as
18 possible. In my estimation, the amnesty plan is just -- on its
19 face appears to be an economic move to resolve a problem, name-
20 ly a large backlog of undocumented aliens, but as I see it from
21 the point of view of the Phillipino community, you are talking
22 about a group of people that are generally well-educated and
23 professionals in background, either in the medical science
24 fields or in the arts, and the period of stay from 1970 to 1977
25 simply gives them a period of additional five years to regularize

1 and normalize their status, and I feel that behind the immigra-
2 tion law itself, there is basically an offer. If you have got
3 a contribution to make to this American society, you are wel-
4 come, within the limitations of numbers. Since I believe that
5 there are a number of Phillipinos in this country who can offer
6 by their own employment and training and experience, valuable
7 services that are in short supply, I think beyond just a regu-
8 larized normal status for the next five years, I think it should
9 incorporate a permanent resident status as well, and for that
10 reason I feel the amnesty plan is short of really serving a
11 number of the needs of the Phillipino community in respect to
12 an amnesty plan, and like any kind of legislation, you hope to
13 have it effective in order to resolve a problem, and one of the
14 problems I see is basically in terms of employers, the better
15 type of working conditions and relationships that an alien may
16 have, knowing that his status is or will be normalized shortly,
17 and I feel until that action is taken by Congress, you are not
18 really resolving the problem, namely in respect of normalizing
19 the status so that employers cannot arbitrarily discriminate
20 simply because they know the person doesn't have a valid normal
21 legal status as an immigrant or non-immigrant, and I think that
22 has got to be brought to the attention of the public as a whole.

23 MS. FONDA: I would like to a question of Mr. Pok.

24 The large number of Indochinese refugees that have come to this
25 country since the ending of the war, I would like to know if

1 they have faced any harassment, if they have been turned back
2 or denied visas on the grounds that they will take work from
3 American workers or that they will benefit from tax-supported
4 services in this country.

5 MR. THAN: No, I don't think so.

6 MS. FONDA: Thank you.

7 CHAIRPERSON HATA: Gentlemen, thank you very much.

8 MR. MONTEZ: Ms. Campbell, are your witnesses ready?

9 MS. CAMPBELL: Would Dr. Maram and Mr. Bert Corona
10 please come up to the table? Is Mr. Bert Corona here? We will
11 call on Mr. Bert Corona later. Dr. Maram, would you please
12 state your name and occupation?

13 DR. MARAM: Okay. My name is Shelly Maram, and I am
14 an Associate Professor of History at -- Latin American History
15 at California State University, Fullerton, and my area of
16 research is Latin American labor and immigration.

17 MS. CAMPBELL: The Committee understands that you are
18 a member of a special task force in Orange County which recent-
19 ly prepared a report on the economic impact of undocumented
20 aliens. Would you please tell the Committee what the purpose
21 of the report was?

22 DR. MARAM: If I may, for a second, I would like to
23 back into the question a little bit because I think part of the
24 problem with this overall issue that we are dealing with, the
25 undocumented immigrant issue is that so often we are focussed

1 on problems that don't exist, and not focussed on what are real
2 problems, and the task force, what the task force had to do is
3 really an example of this.

4 There is charges made in society, assumptions that
5 are made that have been made perhaps in this country for about
6 a hundred years about problems created by immigrants. One of
7 those problems that immigrants are supposed to create are that
8 they are a burden on public social services, public and private
9 social services. Another problem is that they are a burden on,
10 you know, on the -- they create unemployment.

11 Now, these charges have been disproved time after
12 time in this country scientifically, and it is ironic -- I was
13 thinking about this in driving up, that here we see government
14 agencies at times the media, making charges, and saying, I am
15 not committed to immigrants, create a burden to public social
16 services. They create a burden to tax-supported public social
17 services, and then people say, well that is not true, and then
18 they turn around and say, we are going to terminate certain
19 public social services, or we are going to pass punitive legis-
20 lation unless you disprove something that we have no evidence
21 to prove.

22 So in essence, that is really what we had to do in
23 Orange County. The Orange County Board of Supervisors, and
24 Orange County public opinion was affected, like public opinion
25 throughout the country, by charges that were made by some

1 government agencies, and repeated in the press, that undocumen-
2 ted immigrants are a burden on public social services.

3 As a consequence of that, about a year ago, the Board
4 of Supervisors in Orange County seriously considered curtailing
5 or eliminating the limited medical services that are presently
6 offered for undocumented immigrants in the County.

7 A group of citizens, a small group, and which inclu-
8 ded myself, went before the Board and said, well, this charge
9 that they are a burden to public social service is not suppor-
10 ted by any evidence, in fact, every bit of primary research
11 that has been done on this topic, every single research study
12 that has been done, says the opposite, that they pay more in
13 taxes than they receive in tax-supported public social services.

14 The Board decided to form a citizen's task force to
15 study the issue. The citizens task force went out and did
16 original research on this topic. The task force conclusions,
17 which are contained in this report that you mentioned, was
18 that in Orange County, undocumented immigrants pay more in
19 taxes than they receive in public social services, and those
20 findings are consistent with the findings, even statistically
21 consistent with the findings of all the other studies.

22 Now, the absurdity of it is, is that we are dealing
23 with spending a great deal of time disproving charges that don't
24 have any basis, and we are not focussing on real problems, and
25 let me give you some concrete examples.

1 We see in Orange County as we see throughout the
2 nation, minimum wage laws being violated, yet we don't focus on
3 how we can enforce minimum wage laws, nor get legislation to
4 give teeth to minimum wage laws.

5 We see massive violations of the Occupational Health
6 and Safety Act, and yet we don't have time or energy to focus on
7 that, and I was hit very personally by this, that I got a tele-
8 phone call from someone I know who works for Cliff Beeder (ph.)
9 in the State of California, and he said to me, there is a plan
10 in Orange County, in a city in Orange County, that is notorious,
11 that when they have workers injured on the job who are undocu-
12 mented, they call the Immigration Service and have them deport-
13 ed.

14 Now, the Immigration Service is being used in that
15 sense. I mean, they don't know that that is what the employer
16 is -- I assume they don't know that is what the employer is
17 doing in that case, but, and he said, is there something we can
18 do in that area? Well, what is happening is that the few peop-
19 le who are involved in research in this area, and involved, you
20 know, in a personal way in this area, are so involved in attempt-
21 ing to produce evidence to disprove charges that have been made
22 over and over again, and it has been proven in this country
23 that they don't have a chance to focus violations of the Occu-
24 pational Health and Safety Act, violations of Minimum Wage Act.

25 Police harassment is another problem that we have in

1 Orange County, and this goes down the line, whether we deal
2 with the unemployment issue or whether we deal with the charges
3 that there is a crime wave now being produced by undocumented
4 immigrants.

5 MS. CAMPBELL: Okay. Let me back up a little bit and
6 ask you, in terms of the report, what types of -- could you
7 briefly describe the data gathering methods that you used.

8 DR. MARAM: We basically did survey research, and
9 our -- as you probably are aware, that when you are dealing with
10 an undocumented immigrant population, you cannot do random
11 sampling because noone knows the exact size of the population,
12 noone knows the exact characteristics, nor the exact locations,
13 so what we did was survey research in two areas, one in communi-
14 ty, and the other in the workplace, and we felt that the only
15 way that the sampling would have validity if it were attached
16 to the other types of samples that have been done, which have,
17 you know, sampling biases and see if there is any trend in the
18 data, and what we found to our surprise, that all the samples
19 that have been -- major samples that have been done in this
20 area, that statistically they come in very close to each other
21 even though they are sampling off a different population.

22 Most of the studies have sampled off people who have
23 been picked up or deported by the Immigration Service. Now
24 that kind of sample has a certain built-in bias. You would
25 tend to pick up people that would be less able to hide from the

1 Immigration Service, people who are more buried in society would
2 be less likely to be picked up by that kind of study, where the
3 kind of study we did would be more likely to pick up people who
4 have been in longer-term residence.

5 Yet in each one of the studies that have been done,
6 whether it be done by Jorge Justamene (ph.) in Mexico or Wayne
7 Cornelias who does research in Mexico, or the Litton Corporation
8 study which was done at 19 different sites throughout the na-
9 tion, or, you know, the San Diego Study for the San Diego Board
10 of Supervisors, or the Orange County study, statistically all
11 came in asking the same questions with very comparable numbers.

12 Question one, for example, "Have you ever received
13 welfare payments?" Our study came in with about 2.6 percent
14 of the respondents indicating that they had received welfare
15 payments. Now that, incidentally, is higher than what the
16 Welfare Department in Orange County picks up, which indicates
17 that virtually no one has received welfare payments.

18 The other studies range between 1 and 4 percent in
19 those payments, but in essence, I am answering in a very long,
20 obtuse way, we did survey research and we used that data in
21 conjunction with other kinds of formulae to come up with pro-
22 jections on cost as well as tax payments in Orange County.

23 MS. CAMPBELL: Okay. Could you go into more detail,
24 the conclusions of the report?

25 DR. MARAM: Well, the overall conclusion was that one,

1 not only are undocumented immigrants, according to the best
2 evidence we can gather, not a burden to other taxpayers, but
3 they pay more in local, state, and federal taxes overall than
4 they receive in public social services.

5 Two, that -- and this part of the study was done by
6 a medical anthropologist, that if you curtail medical services
7 to any segment of the population, whether they are undocumented
8 or not, you are going to endanger the public health. Disease
9 is not asking for whether or not they have a green card or a
10 permanent resident or not, or a U.S. citizen. There are costs
11 that are going to be borne by society whether or not you draw
12 the line in providing medical services for undocumented immi-
13 grants or not.

14 Children born in the United States are U.S. citizens.
15 You do not provide the woman in the case with prenatal and post-
16 natal care, as was being denied in Orange County, you will have
17 serious medical complications, and this was shown with data in
18 Orange County, and it is really kind of absurd to deal with
19 that, because anyone knows that if you don't provide, you know,
20 preventative medicine to a population, or you don't provide
21 medical facilities which -- where people feel comfortable to
22 come in for the treatment of disease, the entire society will
23 suffer, both monetarily and in terms of the public health.

24 MS. CAMPBELL: You talked about the concern with try-
25 ing to disprove charges. What types of recommendations did the

1 report make, other than dealing with the issue of cost impact?

2 DR. MARAM: Our mandate from the Board of Supervisors
3 was very specific and very limited. We were asked just to focus
4 on medical issues, and in that narrow focus that we took, we
5 suggested that, one, that medical -- that people be encouraged
6 to seek preventative medical care, that some of the policies
7 which turned out to be very short-sighted of the Orange County
8 administration be discontinued, which were discouraging people
9 from applying for medical care.

10 Maybe I could sort of back up and give some indica-
11 tion of that. After this group of citizens went to the Board in
12 May of 1977 and suggested that we not curtail medical services,
13 about a month later the Orange County administration, medical
14 service administration, came up with a new policy, which had
15 some brilliant facets to it.

16 For the first time in Orange County history, it was
17 decided that undocumented immigrants would be considered eligi-
18 ble for Medical, by which the costs of the medical care would
19 be shared by the State and Federal Government, "unless they were
20 proven to be undocumented. Now, if a person signs up for Medi-
21 cal, by California State regulation, they must sign a WR-6 or
22 WI -6 form, and the name goes to the Immigration and Naturaliza-
23 tion service, so what they were doing is to try to encourage,
24 to use a gentle word, anyone who came in that they suspected of
25 being undocumented, to sign up for Medical.

1 Now, they anticipated the argument that people just
2 wouldn't sign up for Medical if they knew that their name would
3 be turned over to the Immigration Service, so what they came up
4 with is a brilliant new policy, which is Orange County's own
5 policy, which was that if you didn't sign up for Medical, and
6 they suspected you of being undocumented, they would collect
7 your name for possible referral to the Immigration Service.

8 Well, this information spread like wildfire through
9 the latino community, particularly in Orange County, and what
10 we found was a tremendous fear of going to any medical facility,
11 public medical facility, and seeking, you know, health services,
12 and we were able to document it in a limited statistical manner
13 that there was people, you know, statistically, who were not
14 coming into the community clinics.

15 It is very hard to document who doesn't come in, but
16 we saw people -- now, it was pointed out, of course, that public
17 health service never asked people whether they have a green card
18 or not, what their immigration service was, but in the minds of
19 many in the latino community, and in the undocumented immigrant
20 community, every public health facility, whether it would be
21 funded by the County or through the university or through the
22 public health service and what have you, there was a threat that
23 going into there could produce in them being sent to the Immigra-
24 tion Service and produce the possibility of deportation, and we
25 had one classic case that I would like to point out.

1 We had a case of a 93-year old Mexican undocumented
2 immigrant who had been in the country since 1923 who came in
3 for some medical treatment, he was sort of pressured to sign up,
4 I guess, or his family was pressured to have him sign up for
5 Medical, his name was sent to the Immigration Service.

6 The Immigration Service, following their function,
7 called this person in for an interview, for a hearing. What
8 they did in this case was they suspended deportation hearings,
9 they put basically in legal limbo in this situation, but of
10 course the family is in just tremendous fear. I remember, you
11 know, people contacted the family about information about that,
12 and they were very much afraid that this person who had been
13 in the United States since 1923, was 93 years old, contributed,
14 you know, some 40 years of his life working in this country,
15 could possible face deportation because he came in seeking
16 medical assistance.

17 MS. CAMPBELL: What do you project the effect of the
18 report to be in the future?

19 DR. MARAM: Well, the Orange County Board of Supervi-
20 sors voted unanimously to endorse the report, and the key
21 recommendations of the report. The key recommendations it en-
22 dorsed for immediate action back in April, I am sorry, March of
23 this year, were that the policy by which the people's names would
24 be collected for possible referral to the INS if they refused
25 to sign up for Medical, that policy would be eliminated. They

1 also agreed that in the future, that anyone who is encouraged
2 or counselled to sign up for Medical who is suspected of being
3 undocumented would be fully counselled to the possible conse-
4 quences of signing up for Medical, that is, that their names
5 could go to the Immigration Service, and that would lead to
6 possible deportation.

7 They also agreed that undocumented immigrants, as
8 policy, that undocumented immigrants in the County of Orange
9 would be treated like any other indigent, indigent undocumented
10 would be treated like any other indigent patient in terms of
11 medical treatment, and medical billing, and there would not be
12 any discriminatory treatment, and they also further agreed that ---
13 we had several incidents of the Mexican Consul being brought
14 into the hospital and given the names of undocumented immigrants
15 to talk to the people in the hospital, and we were asked, when
16 we asked the person in charge of this program why the Mexican
17 Consul was brought in, he said, well, we were very concerned
18 about, you know, work related accidents where people weren't
19 getting their workmen's compensation, and we asked them, well,
20 is the County collecting data on who, what employers are not,
21 you know, paying into workmen's compensation funds, because that
22 is a violation of law by the employers, and he said no.

23 We had at that time the dean of the medical school,
24 which we pointed out that many of the people that were being
25 interviewed by the Mexican Consul were women who had just given

1 birth to children, which one would assume, I guess, in their
2 eyes were work-related accidents, but we had -- but anyway, the
3 Board agreed, in its policy, at least the policy is this, that
4 foreign Consuls will not be brought into the medical facilities
5 and given the name of any patients unless the patient requested
6 it, and that basically are the actions.

7 Now, once more, this is policy. Whether the difference
8 between policy and practice is often very wide.

9 MS. CAMPBELL: Okay. The Committee understands that
10 you are also a member of the Orange County Human Relations
11 Commission. We would like to know, based on your experience as
12 a member, what is the impact on citizens and aliens of enforce-
13 ment of the immigration laws by all levels of government.

14 DR. MARAM: Well, basically, the problem that we have
15 seen in Orange County, has been particularly related to local
16 police departments. Now, this is not just an Orange County
17 phenomenon. We have seen it all over the country, and basically
18 what is happening now is that there is a charge that is coming
19 up that, by or from police departments, that at one time -- the
20 argument goes something like the following: That at one time
21 it was argued that undocumented immigrants committed very few
22 crimes because they were so fearful of coming into contact with
23 any public agency, particularly law enforcement agency, because
24 it would mean possible deportation.

25 Now we are seeing the charge that there is a rising

1 crime rate among undocumented immigrants. Now, I am sure it is
2 true that undocumented immigrants commit crimes, you know, Jews
3 commit crimes, blacks commit crimes, you know, all people of
4 all backgrounds commit crimes, of all socioeconomic centers,
5 but what we are seeing is a very vague, you know, these very
6 vague kinds of charges that are going on.

7 For example, you saw in the report from the Los
8 Angeles City Police Department, that there is a ring of 200
9 undocumented immigrants that are floating around the state, you
10 know, committing crimes all over the state, and you get from
11 these headlines, and the impression you get in the press, is
12 that there is this massive undocumented immigrant crime wave
13 going on.

14 Now, we would not make this kind of charge, you know,
15 for example if we picked up some people who were Jewish for
16 crimes, and say, and there was a Jewish crime wave. No longer
17 is it socially acceptable to talk about black crime waves or
18 Chicano crime waves, but if you talk about an undocumented
19 immigrant crime wave, based on, you know, a few people being
20 picked up, it is apparently socially acceptable, at least now,
21 and so what we are getting is these -- even Los Angeles City,
22 incidentally, even came up with a statistical report.

23 They sent out to their local district captains, and
24 asked them questions, what percentage of people do you think
25 commit the following crimes who are undocumented. Now, they

1 didn't ask them, now what are your data, and they even had one
2 of the statistical things which I have never been able to find
3 out how they determined it, is what percentage of people who
4 called in on the phone, either as victims or otherwise, were
5 undocumented.

6 Now, I know law enforcement is very sophisticated in
7 its techniques these days, but I would like to know how they
8 determined over the telephone whether a person is undocumented
9 or not, unless people call up and say, you know, I have had a
10 couple crime committed, and I am an undocumented alien, and
11 write the Governor's statistical report. I have some doubts
12 that that goes on.

13 Well, in any event, in Orange County in particular,
14 what we are seeing is particular police departments developing
15 their own immigration policy, and it is ironic that two of the
16 the two most active that have done this are the police depart-
17 ments in the areas with the highest heroin problem, Santa Ana
18 and Placentia, which are notorious, you know, heroin centers,
19 and Santa Ana is a notorious distribution point for heroin
20 throughout, you know, Southern California, it is one of the
21 places, and I think Placentia has one of the highest addiction
22 rates, yet they do not focus on the heroin problem in that
23 community. They focus on the undocumented immigrant problem,
24 of which they have no evidence. Yes?

25 CHAIRPERSON HATA: What is the minority makeup of the

1 police department of these two cities?

2 DR. MARAM: In Santa Ana, it is a very -- they have a
3 significant percentage of latinos in the police department, but
4 the minority makeup of the police department, I think we have
5 seen this is correct whether we are dealing with the United
6 States or whether we deal in other countries in the world, really,
7 it helps having people of minority backgrounds in some ways.
8 In other ways, it is a question of whether the people of a given
9 background are sensitive or not sensitive.

10 But basically a policeman or a police captain, or even
11 sometimes a police chief must enforce the policy that is laid
12 down by those who make policy, and the local police officer
13 does not enforce policy. So what we have seen, for example, the
14 latest example was in the city of Brea.

15 Brea is a very small city in northern Orange County,
16 and they developed their own immigration policy. They picked
17 up within a three-month period of time over a hundred undocumen-
18 ted immigrants, and in many cases, we don't know whether in all
19 100 cases, but in many cases they took undocumented immigrants
20 in Brea police department cars, and shipped them from northern
21 Orange County all the way to the San Onofre immigration check-
22 point in San Diego County, across County lines.

23 Now, my understanding of immigration law, that is not
24 a legal act, and in fact my understanding of other legislation,
25 is that if there were any accidents, the Brea police had an

1 accident while transporting people in their cars, that these
2 people could sue. Now, of course there is another problem.
3 Undocumented immigrants rarely sue, because they are concerned
4 about other kinds of status.

5 But in any event, what we saw as a consequence of
6 this, both in Santa Ana and Placentia and Brea, is harassment
7 within the latino community. Now, there may have been harass-
8 ment -- in Orange County, the principal minority community is
9 latino. We have a very small black community. We have a small
10 asian community.

11 There may have been examples of harassment with the
12 asian community, but we don't have data, we do not have any data
13 on that.

14 MS. CAMPBELL: In our discussions earlier, you mention-
15 ed in the area of employment, minorities were having a difficult
16 time finding jobs. How do you relate this to immigration?

17 DR. MARAM: I think that it relates to the economic
18 structure and economic problems that we have in this country,
19 rather than immigration. I mean, this issue -- I would heartily
20 recommend a book written in 1912 by professor Isaac Horowitz,
21 who wrote a book called "The Economic Impact of European Immi-
22 grants on the United States," where he dealt with in a degree
23 of research that will take us about five years to duplicate, in
24 the United States, the very same question, whether European
25 Immigrants, basically Jewish and Catholic immigrants from eastern

1 and southern Europe, who are creating unemployment or not, and
2 he pointed it out, based on his research that they don't create
3 unemployment, in fact they create employment, that people work-
4 ing create employment, which incidentally is a classical eco-
5 nomic theory in the United States that what creates unemploy-
6 ment are certain economic conditions within the society.

7 MS. CAMPBELL: I am sorry. What I was asking was,
8 is there any fear in Orange County or any effect of employer
9 sanctions, that are federally proposed under Carter's immigration
10 plan?

11 DR. MARAM: Well, it is a question of those people
12 who are sensitive to the issue and who are aware of Carter's
13 program, yes, are very concerned about it. They are particular-
14 ly concerned when they read the November, 1976 hearing before
15 the Small Business Subcommittee of the U.S. Senate, headed by
16 Senator Packwood, where they brought up an employer from Orange
17 County who was part of a pilot study to find out whether undocu-
18 mented immigrants could be weeded out of the work force or not,
19 and they brought in one employer from all over the country, and
20 ironically enough it was from, on this pilot study, was from
21 Orange County.

22 You know, pilot studies are designed to be perfectly
23 successful, and indeed this was a very successful program. The
24 employer pointed out that he went out to his informants, and
25 said, this American, that if we hired an illegal alien, this is

1 his term, that we would face a heavy penalty, a perhaps \$10,000
2 fine, and make sure we don't hire any illegal aliens, and he
3 went back, and he said that -- I am virtually quoting. It is
4 in the paper that I submitted to the Committee, and it is also,
5 of course, in the Congressional hearings themselves, and he
6 said, I went back two days later, and I found out that we hired
7 no illegal aliens.

8 In fact, we hired no one that even looked like an
9 illegal alien. Senator Packwood turned to this employer, who
10 was from Anaheim, and said, well, what looks like an illegal
11 alien to you, and he said, and this is a quote, "We think of
12 the Mexican-American as being an alien..." Now, Senator Pack-
13 wood said nothing to the comment.

14 In fact, at the end of the entire testimony, Senator
15 Packwood congratulated this employer for being a patriot, and
16 carrying out the highest interests of government policy. Now,
17 this is not to suggest that every employer will discriminate
18 against minorities because there are penalties on employers,
19 but I think we have to recognize that many employers only hire
20 minorities under the force of law, and now if there is another
21 law passed which gives them the excuse of saying, well gosh,
22 I didn't know this person was not an undocumented immigrant, or
23 not, or a permanent resident, and I thought he was, we will see
24 that, and we know from talking to employers in Orange County,
25 many of them have said to us that they will discriminate.

1 They will not hire anyone that they suspect of being
2 undocumented. Someone comes in with an accent, you know, a
3 Mexican accent, they will suspect him of being undocumented, a
4 person speaks Spanish exclusively, they will suspect him, and
5 they will not take the risk.

6 On other hands, we have seen employers tell us that
7 they have a large company now, and they are going to avoid this,
8 the penalties on employer, by dividing their company in 50 parts
9 because they know the immigration service won't raid a plant
10 under 20 people, you know, if this law is passed, that they will
11 not be penalized, so we find both ends of the situation, but
12 their is concern, to answer the question directly, in Orange
13 County, that this will lead to discrimination against minorities
14 particularly latinos.

15 MS. CAMPBELL: What are the problems, if any, that you
16 are experiencing in relation to the Immigration and Naturaliza-
17 tion Service in Orange County?

18 DR. MARAM: I cannot talk about direct problems with
19 the Immigration Service. I can talk about direct problems that
20 we are having in government agencies which are enforcing
21 immigration law, which allege that they have the sanction in
22 terms of their action through the police departments or the
23 Immigration Service, but I do not have primary evidence that
24 indeed that they do.

25 For example, recently in the Brea incident, the Brea

1 police chief said that he had talked to Mr. Sureck, who is head
2 of the Immigration Service, and he told him that that was a
3 correct policy. We asked for that, that the police chief to
4 get that interpretation in writing. Now, he never got that
5 interpretation in writing, and later on the policy was changed
6 and they got a ruling from the Attorney General of the State
7 of California, so I can't say for a fact that, you know, that
8 the Immigration Service gave sanction to something that was
9 in my opinion in violation of immigration policy.

10 MS. CAMPBELL: Okay, could you tell me what activities
11 are currently being conducted by the Human Relations Commission
12 to remedy some of the problems you have just discussed?

13 DR. MARAM: Well, we have difficulty remedying, you
14 know, problems, real problems in things in terms of, you know,
15 dealing with a broad-based society. Two parts of things we
16 deal with, we are basically firepeople, you know, we put out
17 fires, so when the Brea police department does action that we
18 feel would lead to discrimination and it is in violation of the
19 law, we speak with them as well as community groups that invite
20 us into the community about these policies.

21 But it is very difficult to remedy, you know, a prob-
22 lem that doesn't exist, to have people focus attention on prob-
23 lems that do exist, when basically the unreal problems are being
24 expounded continually by public officials and are being repeat-
25 ed in the press continually, so unless you have direct access to

1 the press with hard evidence, and in ten words or less hard
2 evidence, then you have difficulty, and the problem is really,
3 and I guess -- I was thinking of the clumsy way I have been
4 putting this.

5 The problem is that one hand you have the charges
6 that are made in very simple terms. Undocumented immigrants
7 are a burden to taxpayers. Undocumented immigrants create
8 unemployment, they take a million jobs away from Americans, and
9 on one hand you have these very simple simplistic statements
10 that are not backed up with fact.

11 On the other hand, you go after and do research in
12 this area, and what you come up with is a long, involved, and
13 complex analysis with, you know, clause on clause, and what have
14 you, that is not really as, I think, as effective in a propagan-
15 da sense as the charges that are made on the other hand. Right
16 now society believes that undocumented immigrants are a problem
17 and as long as society believes that we are going to have action
18 on that.

19 CHAIRPERSON HATA: That means, in two minutes, your
20 answer is, nothing.

21 DR. MARAM: The Orange County Human Relations Commiss-
22 ion, we have been able to put out certain fires. We have been
23 able to put out a fire in Santa Ana and alleviate a policy that
24 was going to be very discriminatory towards the latino communi-
25 ty. We were able to help stop the Placentia and Brea police

1 departments from carrying out actions, but if we are talking
2 about real problems within the society, in terms of, you know,
3 changing attitudes and preventing in a long term way from these
4 things cropping up, in one city or another city on a continual
5 basis, no, and I don't think commissions like that can do it,
6 whether it be civil rights or human relations commissions.

7 MS. CAMPBELL: I have no more questions.

8 CHAIRPERSON HATA: Are there any questions from the
9 staff? Yes, Jane?

10 MS. FONDA: You have stated that in Orange County, at
11 least, there are statistics that show that the undocumented
12 alien does not exacerbate unemployment, and does not eat up
13 services, tax-supported services. I would like to know what
14 your recommendation is for protecting the labor market from
15 any impact by undocumented aliens.

16 DR. MARAM: Well, in terms of -- I may have said that
17 the first part about statistics about not impacting on employ-
18 ment, that would have been an incorrect statement for me to have
19 said. What real possible economic theories suggest, based on
20 the best data that undocumented immigrants do not create unem-
21 ployment and indeed would create employment.

22 MS. FONDA: Employment.

23 DR. MARAM: The one study that has been done, in
24 Texas, that has attempted primary research, suggests that they
25 do not create unemployment. What we need is research in this

1 area, but before we can assume, pass legislation based on the
2 assumption they create unemployment, at least we need to look
3 at the area.

4 In terms of impact, if we were concerned about the
5 impact of immigrants on the society, let us assume that they
6 do have an impact, you know, on the labor market, and on that
7 assumption, a negative impact, and that is an assumption which
8 I would debate. I would suggest that we do what has been done
9 in Western Europe with -- where they have ten million documented
10 and undocumented immigrant workers. The labor unions in Western
11 Europe decided that if you bring in immigrant workers, whether
12 they be documented or non-documented, they must be allowed to
13 join labor unions and they must be paid the prevailing wage.

14 If people feel that undocumented immigrants are hired
15 because they are paid so poorly, or they are paid below the
16 minimum wage, let us enforce the minimum wage law. It seems a
17 very conservative suggestion to enforce already-existing legis-
18 lation rather than going into new legislation whose effect, at
19 least, there are strong suggestions will be to create more --
20 create tremendous harm within society.

21 CHAIRPERSON HATA: Somewhere in there you got your
22 answer, I think, Ms. Fonda. Mr. Stern?

23 MR. STERN: Thank you. There is presently pending in
24 Federal Court here in Los Angeles a lawsuit against the Los
25 Angeles County Hospital, alleging that numerous Mexican and

1 Chicano women were sterilized without consent while they were
2 in labor during a period of years dating back to the early '70s.
3 Did your medical task force report uncover such instances in
4 Orange County?

5 DR. MARAM: I am not aware of such incidents in
6 Orange County.

7 CHAIRPERSON HATA: Thank you. Any other questions
8 from the Committee members? I have one final question. I
9 wonder, as the great Pepsodent commercial has gone, I wonder
10 where the yellow went. Why not an Asian-American input into
11 your study on undocumented aliens?

12 DR. MARAM: That is a question you would have to ask
13 the Board of Supervisors, because they selected the members of
14 the task force.

15 CHAIRPERSON HATA: And there were no Asians on the
16 task force?

17 DR. MARAM: No.

18 CHAIRPERSON HATA: Thank you.

19 MS. CAMPBELL: Thank you, Dr. Maram. Okay, is Mr.
20 Corona here? I would like to call Audrey Bahr, Ray Garcia,
21 and Sal Montenegro, please?

22 MR. MONTEZ: For the record, Laurie, can you state the
23 people that were invited and did not show?

24 MS. CAMPBELL: We are going to call for them once more

25 MR. MONTEZ: I don't know if we are going to have the

1 time to back.

2 MS. CAMPBELL: Okay. Part of this panel, we had
3 called, requested participation of Mr. Thomas Hibbard, who is a
4 Deputy to Supervisor Peter Schabarum, and he phoned me yester-
5 day and told me he had another commitment, so I would like to
6 state for the record that he was invited to attend.

7 MR. MONTEZ: For the record, Mr. Bert Corona was
8 also invited, and --

9 MS. CAMPBELL: Mr. Corona was going to speak on con-
10 cerns of the San Fernando Valley, and we will state that for
11 the record that he was also invited.

12 MR. MONTEZ: Thank you.

13 MS. CAMPBELL: Would each of you state your name and
14 position, please?

15 MS. BAHR: I am Audry Bahr. I am the Administrator
16 for ambulatory care in the San Fernando Region, which is part
17 of the Department of Health Services in Los Angeles County.

18 MR. MONTENEGRO: My name is Salvador Montenegro. I
19 a Police Commissioner for the Los Angeles Police Commission.

20 MR. REITER: My name is Commander Lou Reiter.
21 Commissioner Montenegro asked me to come just to provide a
22 resource for him. I am scheduled, however, to appear in front
23 of the Commission tomorrow afternoon.

24 MS. CAMPBELL: Is Mr. Ray Garcia here? Would you
25 please step up to the table, Mr. Garcia, and introduce yourself

1 to the Committee, please?

2 MR. GARCIA: Good morning. I am Ray Garcia, Legis-
3 lative Coordinator for the Los Angeles County Welfare Depart-
4 ment.

5 MS. CAMPBELL: Mrs. Bahr, I would like to ask you
6 first of all, would you speak on a report that was done,
7 issued by the County Department of Health Services in 1977,
8 which dealt with the cost impact of nonresidents on Los Angeles
9 County's health care system. Could you please define non-
10 resident?

11 MS. BAHR: A nonresident is someone who does not have
12 legal residence in the County of Los Angeles. That could
13 include individuals who are transients but are citizens.

14 MS. CAMPBELL: Could you briefly describe the
15 research methods that this report used to deal with the issue
16 of cost impact?

17 MS. BAHR: As best I can. I didn't participate in
18 the study, but it was based on research design, and it was a
19 statistical sample selected on patient visits and in-patient
20 admissions. The outpatient visits, the data was collected by
21 interview, the inpatient visits, the data was collected from
22 medical records.

23 MS. CAMPBELL: Okay. What conclusions as to overall
24 cost impact did the report make in terms of undocumented aliens?

25 MS. BAHR: The report indicated that there were about

1 12.6 percent of the patients who were treated in our facility
2 who were unable to prove that they were in this country legally,
3 and that the cost of those services was about \$53 million.

4 MS. CAMPBELL: In the report, what types of services
5 were utilized most by undocumented aliens?

6 MS. BAHR: Emergency services, obstetrical services,
7 and public health.

8 MS. CAMPBELL: Okay. And assessing the cost impact,
9 did the report in any way attempt to attribute any kind of over-
10 expenditure on undocumented aliens?

11 MS. BAHR: No, the report was not intended to be
12 judgmental. It was intended to only collect facts which had
13 not been available in the past.

14 MS. CAMPBELL: In your experience, what factors might
15 result in an increase of the cost of health care from year to
16 year?

17 MS. BAHR: Well, there is a natural inflationary
18 increase in health care, and as everyone is aware, the cost of
19 medical services has increased greatly nationwide, probably more
20 than any other part of the gross national product. Also, utili-
21 zation of course increases cost, as does advances in medical
22 technology.

23 MS. CAMPBELL: Could you describe to the Committee
24 the two levels of cost in providing services?

25 MS. BAHR: Restate your question.

1 MS. CAMPBELL: Could you describe the two levels of
2 cost in providing services?

3 MS. BAHR: You mean the direct cost as opposed to
4 indirect cost?

5 MS. CAMPBELL: No, overhead versus services.

6 MS. BAHR: Okay, yeah, all right. Direct costs are
7 those -- the cost of providing services directly to patients.
8 That would be the cost of medical staff, the facilities, supplies,
9 drugs, treating the patients, equipment, those kinds of things.
10 Then there are overhead costs that all county departments have,
11 and those relate to support of the facility and to the contin-
12 ued operation, and those kind of things would include, for
13 example, a capital department, building services or custodial
14 services, parks and recreation that does the grounds mainten-
15 ance, and those kinds of things.

16 MS. CAMPBELL: Are overhead costs affected by the
17 amount of services you provide?

18 MS. BAHR: No. Those would -- well, indirectly they
19 would be, if we provided considerably less services, we would
20 have less facilities, but since the facilities exist and have
21 to be maintained, overhead costs are constant, regardless of
22 the number of patients.

23 MS. CAMPBELL: Could you describe the policy of the
24 County Health Department in providing medical care to undocu-
25 mented aliens?

1 MS. BAHR: Related to the whole Department?

2 MS. CAMPBELL: Yes.

3 MS. BAHR: Okay. At the present time, we have a pol-
4 icy which states that we will treat any individual who comes to
5 our facility, regardless of residence, for emergency. That is
6 required by law. And we will provide public health services.
7 Our policy states that any individual who requests service will
8 be evaluated. If the services they need is of an elective
9 nature, in other words, it can be delayed, and the individual
10 is not eligible, and there are other reasons other than residence
11 for being ineligible, they would then try to refer the patient
12 out to private care, if that is available.

13 We try to keep the policy operational within medical
14 practice.

15 MS. CAMPBELL: Okay. In your experience, how do
16 people within the Department view services to undocumented
17 aliens?

18 MS. BAHR: Well, it didn't used to be a problem at
19 all, and the Department of Health Services hasst always consider-
20 ed itself a health care agency, not a law enforcement agency,
21 and so to the extent that it was required to provide informa-
22 tion that did so, on request, other than that, we feel that we
23 are in the business of providing health care, and it is our
24 concern that the public health be served, and that individuals
25 not have to endure unnecessary pain and suffering.

1 MS. CAMPBELL: Could you describe the current contro-
2 versy within the County regarding medical care to undocumented
3 aliens, in terms of emergency care?

4 MS. BAHR: I don't think there is any controversy in
5 relation to emergency care, I think that that would be -- to
6 deny care to individuals who need care on an emergency basis
7 would be so inhumane I don't think anyone would argue with that.
8 I think there is a controversy that is related to budget, and
9 the fact that the County coffers have become leaner and leaner,
10 and the fact that individuals have been looking for ways in
11 which revenues can be replaced, and I think that that was what
12 precipitated the interest in the amount of health services
13 provided in the County hospitals and public health centers,
14 and the feeling is that the immigration problem is one that
15 is the Federal Government's problem, and not specifically L.A.
16 County's problem, and that it exists in other areas in the
17 country, and that until immigration laws can be changed or
18 corrected or enforced to such an extent that we do not have
19 a major influx, that the Federal Government should share the
20 cost.

21 MS. CAMPBELL: What about preventative care? Is there
22 a controversy over that?

23 MS. BAHR: Oh, and how.

24 MS. CAMPBELL: Oh, I am sorry. I meant prenatal care.

25 MS. BAHR: Yes. There is a controversy, because in

1 the past, prenatal care has always come under the auspices of
2 the Public Health Department, because it is written into feder-
3 al public health law, relation to maternal and infant care, and
4 the public health centers have always provided routine, normal
5 obstetrical services, or prenatal services for indigents.

6 Then the women usually deliver in county facilities
7 as inpatients. When we came to task with County Council, those
8 patients or those individuals that would be covered under state
9 and county administrative code as being eligible, there was a
10 decision made that prenatal services, because it is not patho-
11 logical, was not an emergency or a public health problem, and
12 so that has not been resolved.

13 MS. CAMPBELL: What problems are undocumented aliens
14 encountering in the controversy over prenatal care?

15 MS. BAHR: At the present time, nothing, because we
16 don't have any policy that eliminates them, we are continuing
17 to treat them. If there was a change in the policy, I would
18 imagine there would be no place for these people to get prenatal
19 care, which would mean that their babies would be at risk and
20 the mothers themselves would be at risk.

21 MS. CAMPBELL: What effect would the amnesty provisions
22 of Carter's immigration proposals, in terms of the creation of
23 a temporary resident alien status, have on your Department and
24 community health problems in general?

25 MS. BAHR: Well, it is our impression that it won't be

1 of any service to us at all. As I understand the proposal, it
2 puts people who were -- who have been in the country more than
3 five years into kind of a state of limbo, and that they will not
4 be under order for deportation, however, they are not eligible
5 for any services such as Medical and at public medical facilities,
6 so it doesn't resolve that issue for us of whether or not we
7 are able to take care of them, and it doesn't provide any
8 replacement revenue for the cost that is expended in care for
9 them, and it is my impression that a large number of them, at
10 least the ones that we see, are fairly recent entries into this
11 country, and so those individuals, of course, are not even
12 covered by amnesty.

13 MS. CAMPBELL: Okay. I have no more questions.

14 CHAIRPERSON HATA: Are there any questions of Ms.
15 Bahr? Yes, Jane?

16 MS. FONDA: You have mentioned the \$53 million cost
17 impact for treating undocumented aliens to the Los Angeles
18 County health care system?

19 MS. BAHR: Uh-huh.

20 MS. FONDA: Did the 1977 study also include the amount
21 of revenue generated by the taxpaying illegals? Undocumented
22 aliens?

23 MS. BAHR: No. We are assuming that they -- because
24 this study was based on a kind of current time, there wasn't any
25 opportunity to follow the collection efforts on the patients.

1 Now, Los Angeles County Department of Health Services
2 bills for all its services, and we have about an 18 percent
3 return from patients who are paying on their bills, and they
4 are allowed to pay a small, like \$5 a month until the bill is
5 paid off.

6 It was our impression that illegal aliens or undocu-
7 mented aliens pay at least as well as the general population,
8 and in some instances I think they probably pay better, because
9 if they want -- when they go to apply for their citizenship
10 papers or their legal entry papers, they can't have any public
11 debts, and so they come in and pay them off, but we do not have
12 any data on that. We would estimate it is probably in the
13 neighborhood of 18 percent that we have from the rest of the
14 population.

15 CHAIRPERSON HATA: I was curious about how you deter-
16 mine who is undocumented and who is not in your study. At what
17 point in the process do you ask someone the question, or at
18 what point do you demand documentary proof?

19 MS. BAHR: As part of our process, we have to ask --
20 we have to determine eligibility on all individuals who receive
21 care in our facility, and that processing includes asking if
22 they would like to apply for Medical to cover the cost of their
23 care, and it is -- as part of the Medical application process
24 that we ask them about their citizenship, and ask them to show
25 their alien registration card, and the only possible way that

1 anyone would ever know for sure how many undocumented aliens
2 were receiving services at any agency is if every individual
3 showed their citizenship papers.

4 So, we have -- they will report. Sometimes they say
5 they do. Sometimes they are able to prove -- to produce the
6 alien registration card, and -- so we assume that they don't
7 have one, but it is very speculative.

8 MR. STERN: Would that mean that your statistics of
9 \$53 million would also be subjective?

10 MS. BAHR: Yes. They are as hard data as we can get
11 under the circumstances, but we do not ask every individual
12 to show their citizenship papers, or their birth certificate.

13 CHAIRPERSON HATA: It was discretionary --

14 MS. BAHR: Well, it had to be. Some individuals said
15 they were, and some individuals were unable to show any regis-
16 tration card, and most of the individuals who have them show
17 them.

18 CHAIRPERSON HATA: Ms. Gomez?

19 MS. GOMEZ: What communities does the San Fernando
20 Region serve?

21 MS. BAHR: Canoga Park, Van Nuys, San Fernando, all
22 the way out to the Antelope Valley, it includes Glendale and
23 Burbank, Lancaster, Palmdale, also.

24 MS. GOMEZ: Thank you.

25 CHAIRPERSON HATA: Anyone else?

1 MR. MONTEZ: What would be the figure for total cost
2 for all services provided from your facility, if you have made
3 an estimate, I presume, of \$53 million for undocumented workers,
4 what would be the total cost of services for all people provid-
5 ed in that area?

6 MS. BAHR: The total budget for the Department of
7 Health Services is almost \$700 million, of which \$220 million
8 are net counted costs.

9 CHAIRPERSON HATA: Okay, back to the staff.

10 MS. CAMPBELL: Thank you, Mrs. Bahr. Mr. Garcia,
11 what studies has the Department of Public Social Services con-
12 ducted within the last year regarding the fiscal impact of
13 undocumented aliens on Department resources?

14 MR. GARCIA: I would like to begin by explaining that
15 according to federal regulations, undocumented aliens are not
16 eligible for welfare benefits. Here in the State of California
17 we have a separate system that permits us to assist aliens who
18 are here legally but who have lost their documentation. They
19 have lost their alien registration card. This system permits
20 us to pay the welfare benefits temporarily for a 90-day period
21 while we clear the alien's status through the INS, through the
22 local offices here at INS.

23 Simply what is required is the alien applicant would,
24 if he does not have documentation to verify his alien status,
25 would simply sign a certificate that he is here legally or that

1 he is not subject to deportation, and based on that signed
2 certificate we will grant interim assistance while we start the
3 process of clearing that alien status through INS.

4 What studies we have conducted in the last two years
5 are to determine the responses from the referrals that we get
6 back from INS. Our first, the first year we really looked at
7 these responses was calendar year 1976, and at that time it --
8 our study revealed that there were about 4,900 out of 6,000
9 referrals coming back from INS with negative results.

10 We figure about 50 percent of that 4,900, about 2,200
11 were undocumented illegal aliens, the rest of them it is diffi-
12 cult to tell because they just failed to cooperate with the INS
13 process, but it is only fair to point out that when this sys-
14 tem was developed here in California we created an enormous
15 backlog for INS, so that 1976 figures are not really -- are
16 somewhat inflated. They include a backlog from previous years.

17 We conducted the same study in 1977, and found that
18 out of 3,800 referrals to INS, only 1,100 came back with nega-
19 tive results, and about half of those can be considered as
20 illegal aliens. The cost, in 1976, is very minimal, about
21 \$300,000 of which \$50,000 would be Los Angeles County's costs,
22 so it is a little early to tell if that trend will continue,
23 but the number of aliens applying for welfare is decreasing,
24 and certainly the number of aliens who prove to be illegals,
25 undocumented aliens not entitled to be here, are decreasing at

1 even a more rapid pace, so it is a very small problem.

2 MS. CAMPBELL: When was this procedure implemented,
3 whereby you make a referral to the Immigration Service?

4 MR. GARCIA: Initially in 1973, through a state
5 process. It has been adjusted a couple of times through court
6 actions which now require that the applicant simply sign a
7 statement that he believes he is here legally, or that he is
8 not subject to deportation, or that he is not married to a
9 person who is subject to deportation, and based on that signed
10 statement, we can go ahead and grant temporary aid.

11 MS. CAMPBELL: How has this policy affected the cost
12 impact over the years, that is spent by the Department on
13 aid to undocumented aliens?

14 MR. GARCIA: Well, if we figure that \$300,000 total
15 cost and \$50,000 County cost in 1977 can be attributed to aid
16 to illegal aliens, or undocumented, I by the way draw a differ-
17 ence between undocumented and illegal, that represents about
18 two tenths of our AFDC budget, and our AFDC budget in the
19 County is \$790 million. It is a very, very small amount.

20 CHAIRPERSON HATA: Mr. Garcia, would you clarify for
21 the record your difference in definition between undocumented
22 and illegal?

23 MR. GARCIA: Well, okay. That is -- my definition,
24 the undocumented alien may or may not be entitled to remain,
25 certainly through our INS clearance process. A person who

1 simply does not have verification or documents or papers to
2 show his or to verify his status. INS very often, in fact in
3 over half of the cases, half of the referrals, simply finds
4 out that the person is indeed entitled to be here or entitled
5 to remain or was admitted legally or whatever, and is certain-
6 ly not going to be deported, not subject to deportation, or
7 whatever, and in many cases, have simply lost their identifica-
8 tion cards, their alien registration card, which then can be
9 reissued, and the number of persons that are simply not here
10 legally, either by their own admission or by refusal to partici-
11 pate in the INS process, is where I draw the distinction.

12 CHAIRPERSON HATA: All right, thank you. Staff?

13 MS. CAMPBELL: Mr. Garcia, under this current pro-
14 cess where you make a referral to the Immigration Service, does
15 an employee within the Department always have to make a refer-
16 ral whenever a person is there without documents?

17 MR. GARCIA: Yes, and that is creating the problem.
18 It is creating a problem with citizenship in general, because
19 State regulations now require that you must be a citizen or
20 an alien legally entitled to be here, which means that we
21 would have to see proof of citizenship from U.S. citizens as
22 well as some documentation of status from non-citizens, and
23 that is creating a problem especially for persons who do not
24 have that U.S. citizen documentation, and there is time delays
25 involved in getting that information from various parts of the

1 country and so forth.

2 MS. CAMPBELL: Under the County's procedure, do you
3 foresee a decrease in aid to undocumented aliens in the future?

4 MR. GARCIA: I really think the problem is very
5 insignificant as far as welfare is concerned. I think, in
6 general, the population in general understands our policies
7 and our rules and regulations that we need to follow. The
8 number of persons that come to us applying for assistance and
9 who prove to be not here legally, very, very small, and I
10 expect it might continue -- it might level off at where it is
11 now, which is less than five or six hundred a year.

12 MS. CAMPBELL: Okay, I would like to also ask you
13 about what types of effects the Department foresees in terms
14 of Carter's immigration proposal, the amnesty provisions, and
15 the creation of a temporary resident alien status. What effect
16 would that have on your Department?

17 MR. GARCIA: Well, we anticipate that our costs will
18 increase, the total costs will increase for persons who are
19 here continuously since January, 1970 or earlier, that those
20 folks would be entitled to remain permanently, and they would
21 be eligible for welfare benefits.

22 The total number -- now this is by an INS estimate,
23 not our own, the estimate in Los Angeles County of undocument-
24 ed aliens at the present time is about 700,000 by INS estimates.
25 We figure about 100,000 will fall into the category of being

1 here since 1970, and just by applying our overall rate of
2 dependency, that is, the percentage of the general population
3 who would come to us for assistance, we figure about 13,000
4 additional persons in L.A. County may become eligible, which
5 would increase the overall costs, and our Department has a very
6 strong recommendation and has for several years, that the cost,
7 the total costs of providing assistance to non-citizens be a
8 total federal expense.

9 So we do see some increase, probably, applying the
10 rate of our dependency rate and figuring about 13,000 addition-
11 al persons become eligible under the Carter amnesty plan, that
12 would come to about \$2 million a year additional cost.

13 MS. JAMES: Can I ask a clarification on that? The
14 13,000 -- it is my understanding that Carter's proposal said
15 the temporary resident from 1970, to 1977, would not be eli-
16 gible for AFDC.

17 MR. GARCIA: That is correct.

18 MS. JAMES: So that is the 13,000 for those that have
19 been here before 1970.

20 MR. GARCIA: Yes.

21 MS. JAMES: Okay.

22 MR. GARCIA: Which we figure would be about a hun-
23 dred thousand out of the -- if you accept INS's figure of
24 700,000 being in the County.

25 MS. CAMPBELL: I have no more questions of Mr. Garcia.

1 CHAIRPERSON HATA: Do the Committee members have
2 questions? I have one question, Mr. Garcia. You talked about --

3 MR. GARCIA: Yes.

4 CHAIRPERSON HATA: -- some referrals to INS, some of
5 which or some of whom were kicked back or declared illegal.

6 MR. GARCIA: Yes.

7 CHAIRPERSON HATA: What happens to these people?

8 MR. GARCIA: When we have an applicant sign the cer-
9 tificate and it is referred to INS, INS staff then clears their
10 local office records to see if they have any information on
11 the applicant, if they can indeed adjust his status or declare
12 his status. If that proves negative, then they check their
13 INS offices at the point of entry where the alien entered the
14 United States. If that also proves negative, then they send
15 a postcard to the applicant setting up an appointment, asking
16 them to come in to provide some additional information in a
17 face-to-face interview.

18 Now, if at that time they can establish any verifica-
19 tion that the man is not subject, or the person is not subject
20 to deportation or will be indeed -- is entitled to remain in
21 the country, then their status can be adjusted at that time.
22 Otherwise, based upon the information provided at the interview,
23 additional records are checked including INS's central offices
24 in Washington, so there are some extensive searches that INS
25 makes in order to determine status.

1 What happens when I say we have looked at the respon-
 2 ses that we received back from INS during the period of one
 3 year, is that, if I may give you the figures for 1977, we made
 4 3,800 referrals for persons without documentation during 1977,
 5 and 2,700 of them came back as positive responses from INS,
 6 indicating that they just lost their papers or there was just
 7 some adjustment needed to be made, and 1,100 came back with
 8 negative responses, negative results. Now that could mean
 9 that the person simply refused to cooperate, did not show up
 10 for his face-to-face interview with INS.

11 In about half, only half of those negative results
 12 does INS indicate that indeed the alien is not here legally.
 13 The rest of them can be for a variety of reasons, not the
 14 least of which, the emergency that the family was under has
 15 been relieved. They found work and found no further necessity
 16 for welfare assistance, whatever.

17 CHAIRPERSON HATA: There is no systematic follow-up
 18 however, for that 1,100?

19 MR. GARCIA: On our part?

20 CHAIRPERSON HATA: Right.

21 MR. GARCIA: No, ma'am.

22 CHAIRPERSON HATA: Is there any systematic follow-up
 23 on the part of INS, to your knowledge?

24 MR. GARCIA: No. You mean as far as declaring depor-
 25 tation status and actively -- not in Los Angeles County, no.

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1 CHAIRPERSON HATA: I was just curious as to whether
2 INS was using you as a source of, perhaps, looking for --

3 MR. GARCIA: Oh, no. We are very careful is that
4 regard.

5 CHAIRPERSON HATA: Yes, Mr. Stern?

6 MR. STERN: If as you described the situation that
7 the impact on welfare of undocumented workers is insignificant
8 and minimal at most, is it cost effective for you to continue
9 your monitoring process?

10 MR. GARCIA: We are about to do that, because state
11 and federal regulations and laws required it. The federal
12 regulations prohibit any welfare assistance to a non-citizen
13 or a person who is not entitled to remain, so that puts the
14 bind on us and the state.

15 The state has a more liberal interpretation than the
16 Federal Government, and that is to provide us with the means
17 to aid, pending that INS verification, at least if a family is
18 in an emergency situation, and the applicant does sign the
19 certificate, we can advance aid for a period of three months
20 until that status is cleared up, so unless the federal regula-
21 tions are changed or state statutes are changed, we will con-
22 tinue our monitoring process.

23 I think what we are also looking at is the fact that
24 although we attribute the welfare, and I say AFDC, that is Aid
25 to Families with Dependent Children, the costs of undocumented

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1 aliens or to those who prove to be illegal are totally \$300,000
2 last year. We expect under the President's amnesty plan, those
3 total costs will increase to about \$2 million, and I think we
4 will also continue our monitoring process until we can get the
5 total costs of health and welfare aid to non-citizens transfer-
6 red to the Federal Government, since only the Federal Govern-
7 ment has control over the flow and the movement of aliens. The
8 County Government and local government has no control, and yet
9 we are paying about 16 percent of the costs, the payment costs,
10 and that is from the local property tax base.

11 CHAIRPERSON HATA: Jane?

12 MS. FONDA: Do you think it is fair to ask people to
13 pay taxes and not provide them with services? You personally?

14 MR. GARCIA: My personally, no, ma'am, but you asked
15 the question with regard to health also. Yeah, there have been
16 some studies done, I don't think very exhaustive studies on
17 the amount of tax and contributions made, and I think they are
18 significant, however, it is a state and federal tax base that
19 the alien pays into when he works, and that money doesn't come
20 to the county.

21 Our funds are derived solely from the property tax
22 base, and yet we are paying the 16 percent from the local
23 property tax base, so I would personally agree with you, yes.
24 I think there is an entitlement to services if you are paying
25 into the system, and I don't think that payment has to be a

1 monetary payment through taxes, either. I think there are
2 for greater contributions made by people in addition to paying
3 taxes, contributions to society, but I think unless some of
4 that tax payment comes to local government, then we should not
5 be required to pay, you know, pick up a portion of those costs.

6 MS. FONDA: Then you would take exception to the
7 section of Carter's program that would create the temporary
8 resident status.

9 MR. GARCIA: No, I think the only exception we would
10 take is the continuation of local support for the aid costs,
11 the costs of health and the costs of welfare payments, but we
12 wouldn't take exception to the plan as far as granting status
13 to persons who have been here continuously since 1970, because
14 the federal -- well, one federal regulation is just being
15 changed now by HEW, which presented for us an incredible situa-
16 tion.

17 Federal law permits assistance to aliens who are here
18 among other reasons, under color of law, and color of law has
19 never been really clearly defined through the regulation pro-
20 cess, and I believe it is the Internal Revenue Service, one of
21 the federal agencies has interpreted color of law to mean July,
22 1948. Now that was set in a regulation several years ago, and
23 at the time it was set in regulation it was only a four or five-
24 year period, but that regulation has never been changed, so in
25 order to qualify under color of law, an alien now in 1978 would

1 still have to be here continuously since July of 1948.

2 That date has never been adjusted. HEW is now pro-
3 posing to adjust that date to a five-year period for aged
4 aliens who are receiving Supplemental Security Income, that is
5 the HEW Social Security Benefit for aged, blind and disabled
6 persons. Two years ago in Los Angeles County, we were required
7 to provide some kind of emergency assistance for some elderly
8 aliens who moved from the federal program, and their total
9 source of income was taken away. They were quite old and had
10 been here in this country for a number of years, but could not
11 prove that they had been here since 1948.

12 Unfortunately, that restriction in federal law also
13 applied to state and local law so we had considerable difficul-
14 ty in amending our local codes to provide assistance for these
15 people.

16 CHAIRPERSON HATA: Phil.

17 MR. MONTEZ: Could you give me, just to clear up my
18 own confusion of the shared -- there are various types of wel-
19 fare programs shared by different governmental agencies? Now,
20 you talk about like if all welfare is paid by the property tax-
21 payer, and I am not sure that I am clear on that. Doesn't the
22 Federal Government pick up a large amount of welfare? Could
23 you sort of clear that up?

24 MR. GARCIA: Yes, sir. The Federal Government, in
25 the program of Aid to Families with Dependent Children, now

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1 those are single or married parents with dependent children, in
2 that program the Federal Government pays 50 percent of the aid
3 payment. There is a sharing ratio for the remaining 50 percent
4 between the County and the State of California, and it averages
5 out, because there are separate subcategories in that program,
6 the average payment for Los Angeles County would be between 16
7 and 18 percent of the cost.

8 It is usually shared 50-50 between County and the
9 State.

10 MR. MONTEZ: Okay. What other programs are there of
11 welfare besides AFDC, now?

12 MR. GARCIA: The most expensive one to Los Angeles
13 County, because it is paid solely out of the property tax money
14 here is a general assistance program. Generally, a relief pro-
15 gram is a state-mandated program that the counties provide aid
16 to indigent persons. Those are single individuals and child-
17 less couples. They are unfortunately not eligible for any
18 federal welfare program.

19 Until recently, we had a -- state programs for aid to
20 the aged, the disabled, and the blind. Those were in 1973
21 taken over by the Federal Government, and that is our SSI pro-
22 gram, Supplemental Security Income, it is run as an adjunct to
23 the Social Security system.

24 MR. MONTEZ: I would just love to prolong it, but
25 could we possible get some kind of a breakdown as to percentages

1 of the total cost to Los Angeles County, and the shared cost
2 by state and federal government, and I hope you understand why
3 I am probing this. I think it should be part of the record,
4 simply because welfare costs are generally used to imply that
5 only the property tax person is the one who is carrying the
6 load, and I think you have clarified that that is not necessar-
7 ily so, and I would -- if we could be provided later on with
8 some documentation so that we are more accurately aware of
9 who pays the cost of welfare for Los Angeles County.

10 MR. GARCIA: Certainly. I would be pleased to do
11 that. I might point out, though, that we are talking about
12 aid to undocumented aliens, we are primarily talking about the
13 AFDC program --

14 MR. MONTEZ: Right.

15 MR. GARCIA: The alien parents with dependent chil-
16 dren.

17 MR. MONTEZ: Right, but then you go on to say, you
18 know, that that should be, of those 100,000, if the Carter
19 proposals go through, that should all be carried by the Federal
20 Government, and that confuses me because the Federal Government
21 is already carrying a large percentage of the welfare load.

22 MR. GARCIA: Yes, I would have to give you a number
23 of details, because the Federal Government does indeed pay
24 50 percent of the aid payment that we pay to welfare families.
25 They pay 50 percent. The State and the County pay the

1 remaining 50 percent. Our portion, the County portion, comes
2 out of the property tax base, which happens to be our only source
3 of revenue. We do not have an income tax, County, city, or a
4 local government.

5 So that when we say that the Federal Government
6 should provide the full cost for aid to noncitizens, that covers
7 undocumented aliens. It should also cover refugees. We have
8 a large concentration in southern California of refugees,
9 southeast Asian refugees as well as Cuban refugees, and these
10 are programs that have been historically funded, entirely by
11 the Federal Government, and there was a plan as of last year,
12 through President Carter's budget, to reduce federal participa-
13 tion in those programs to phase it out over a period of four
14 years, which means that we will then be absorbing locally part
15 of the costs.

16 CHAIRPERSON HATA: If the Federal Government's share
17 is 50 percent, then how much of the remaining 50 percent is
18 the County's share?

19 MR. GARCIA: About 16 percent, and that is the easiest
20 way we can tally our costs for AFDC, see, because we have sub-
21 components, for example, foster care, on AFDC in which we pay
22 varying rates of our contributions.

23 CHAIRPERSON HATA: In the interests of time, I think
24 we will ask staff to get back to you and follow up on this
25 issue. I think staff also has one question.

1 MR. GARCIA: Very good.

2 MS. JAMES: It is related but it is very quick. You
3 mentioned that if the amnesty program goes through, the cost
4 will go from \$300,000 to about \$2 million?

5 MR. GARCIA: Yes.

6 MS. JAMES: Is that AFDC?

7 MR. GARCIA: That is AFDC costs, yes.

8 MS. JAMES: Okay. And you had mentioned earlier that
9 you were counting 13,000 additional clients, so it would cost
10 from \$300,000 to \$2 million for 13,000 clients?

11 MR. GARCIA: Yes.

12 MS. JAMES: Okay. I am just getting it clear.

13 MR. GARCIA: We have, by the way, we have a detailed
14 report that I would be happy to show to you that shows exactly
15 our methodology in determining these costs.

16 MS. JAMES: How it is broken down. Okay, thank you.

17 CHAIRPERSON HATA: One final brief question.

18 MS. FONDA: Do you or do you not consider renters in
19 some form via the property owner contributing to property taxes?

20 MR. GARCIA: Yes, ma'am.

21 CHAIRPERSON HATA: Thank you, Mr. Garcia. Laurie?

22 MS. CAMPBELL: Thank you, Mr. Garcia. I would like
23 to direct the questions to Mr. Montenegro now. We would like
24 you to talk about a report that was issued by the illegal alien
25 committee of the Los Angeles Police Department in 1977, on

1 undocumented aliens. We would like you to speak about the
2 purpose of that report, if you would.

3 CHAIRPERSON HATA: Excuse me, Mr. Montenegro, for the
4 record, would you back up and identify yourself?

5 MR. MONTENEGRO: Oh, yes. My name is Salvador Monte-
6 negro. I am a member of the Los Angeles Board of Police
7 Commissioners.

8 CHAIRPERSON HATA: Move your microphone closer?

9 MR. MONTENEGRO: Oh, I am sorry.

10 CHAIRPERSON HATA: Thank you.

11 MR. MONTENEGRO: But what I have to say are my sole
12 opinions the -- are my own. I am here as an individual police
13 commissioner. I want that to go on the record. Yes. In fact,
14 I was embarrassed by the opinion report of the Los Angeles
15 Police Department, January, 1977, because it strictly was an
16 opinion.

17 I think that the -- those who were involved in this
18 report picked a pattern here and there and pieced it together,
19 so I certainly do not accept that report. I do not accept it
20 today. In fact, I asked the Chief to come up with a proposal
21 to be amended, so that we could be amended to our policy regard-
22 ing the undocumented, and I did that after having experience
23 with the report, the previous report, and my experience out in
24 field.

25 CHAIRPERSON HATA: Mr. Montenegro, I am sorry to

1 interrupt again, but would you go back and summarize for the
2 record the report that you are speaking about?

3 MR. MONTENEGRO: I am talking about the --

4 CHAIRPERSON HATA: We need to have that information in
5 the record from you.

6 MR. MONTENEGRO: I am talking about the illegal alien
7 problem, and impact on Los Angeles Police Department resources,
8 a briefing paper prepared for the staff officers' meeting re-
9 treat to Los Angeles, California, January, 1977, by the illegal
10 alien committee.

11 MS. CAMPBELL: Okay, before you go into your criti-
12 cisms, could you tell us the purpose of the report, please?

13 MR. MONTENEGRO: Well, I think that the purpose was
14 to give an opinion of the 17 commanders, a report that could be
15 utilized to present to various law enforcement agencies as to
16 the problems of the undocumented in the City of Los Angeles,
17 regarding the police. This report, or a rough translation --
18 in fact, I asked Leonel Castillo, the head of INS, about the
19 report. He said if he were a college professor, that the MAPA
20 report would never pass.

21 Just give you an idea of -- no scientific data, and
22 opinions on that report. In fact, we talk in terms of arrests.
23 One particular division mentions a 36 point something, were
24 those arrested the month of June were undocumented, but they
25 didn't give the numbers. It could have been five, could have

1 six, could have been ten, but by the mere percentages, it would
2 tend to make a generalization that division inundated with
3 undocumented criminals in that particular month.

4 MS. CAMPBELL: Could you state your objections on the
5 report in terms of the data gathering methods, please?

6 MR. MONTENEGRO: The who?

7 MS. CAMPBELL: The data gathering methods of the
8 report?

9 MR. MONTENEGRO: Well, as I mentioned previously, it
10 appeared that the data was selected from INS, from personal
11 opinions, surveys, and pasted together to make a formulation
12 of opinion. I think that the report was laced with biases and
13 prejudice, so it was distorted, and I think that it was very
14 unfair for the Los Angeles Police Department to have had that
15 report presented to our department.

16 MS. CAMPBELL: What specific methods did they use
17 to gather their information?

18 MR. MONTENEGRO: Well, it was basically the guess
19 estimate method where we guessed how many undocumented. In
20 fact, last -- undocumented criminals -- last January, I asked
21 for a survey of four divisions that had primarily Italian
22 people, and the survey indicates to me that the results were
23 that the area that had the greatest number of undocumented
24 had the least amount of crime. The area that had the least
25 amount of undocumented had the -- more criminals, so what we

1 had -- all we had to do is to ask the high school student, what
2 is your opinion. I think that they would respond that, some-
3 thing, like it is wrong. So this is the type of experience that
4 I have had, and the survey that I have asked for this spring
5 indicated that we had divisional direction.

6 I attended a seminar at the International Association
7 of Police Chiefs, a convention last year, that I am a member,
8 seminar, undocumented, that if we the law enforcement, looked
9 upon the undocumented as a criminal type of people, that the
10 greatest percentage are criminals, then we have a real problem.
11 But I keep hearing this time and time again, and I fight it,
12 and it is my experience perusing data, that is not true.

13 In fact, I have a preface to our policy that will
14 show that the -- in fact, I will read a sentence. "Only a small
15 percentage of undocumented aliens are involved in crime." I
16 think that is very important. This is based upon our present
17 administrator. I think that we will include this in our policy
18 of the Los Angeles Police Department.

19 MS. CAMPBELL: I have no more questions.

20 CHAIRPERSON HATA: Mr. Montenegro, will you backtrack
21 again? The report was presented to whom?

22 MR. MONTENEGRO: To the staff officers in their annual
23 retreat.

24 CHAIRPERSON HATA: Who are staff officers?

25 MR. MONTENEGRO: The Assistant Chief, the Deputy Chief,

1 and the Commander of the Los Angeles Police Department, and at
2 that time when it was presented, and at that time I think this
3 year was a report.

4 CHAIRPERSON HATA: It was presented to three people
5 in the Department, is that right?

6 MR. MONTENEGRO: I am sorry. It was presented to
7 the whole staff of the Los Angeles Police Department at a
8 retreat that we had in Santa Barbara.

9 CHAIRPERSON HATA: And the staff that you are talking
10 about includes officers? We are talking about secretarial
11 staff, what kind of staff are we talking about?

12 MR. MONTENEGRO: All the Commanders in the Los
13 Angeles Police Department, all the Deputy Chiefs, and the --
14 at that time the three Assistant Chiefs, to the Chief Group.
15 A total of 38.

16 CHAIRPERSON HATA: Thirty-eight.

17 MR. MONTENEGRO: Personnel at that time.

18 CHAIRPERSON HATA: Of the personnel assembled there,
19 how many were minority personnel?

20 MR. MONTENEGRO: At that time there were two blacks,
21 one was Spanish-surnamed.

22 CHAIRPERSON HATA: What kind of rank?

23 MR. MONTENEGRO: Commanders.

24 CHAIRPERSON HATA: Commanders. Who wrote the report?

25 MR. MONTENEGRO: It was Frederico Alvarez, and the

1 staff of the Sergeant, with an officer.

2 CHAIRPERSON HATA: How many of the people who wrote
3 the report were minority individuals?

4 MR. MONTENEGRO: One.

5 CHAIRPERSON HATA: And was a Chicano, or --

6 MR. MONTENEGRO: No, he was black.

7 CHAIRPERSON HATA: What were the major conclusions,
8 then, of the report?

9 MR. MONTENEGRO: Well, it would appear that the pur-
10 pose of the report was to show that we -- that the crime rate
11 had increased, that we need more policemen. This is what I
12 gathered from this particular report.

13 I will agree that this City could use more policemen,
14 but there is going to have to be a new philosophy in the whole
15 police department about the divisions, is that only a small
16 percentage of undocumented aliens are involved in crime.

17 CHAIRPERSON HATA: What has been the Police Depart-
18 ment's response to the report?

19 MR. MONTENEGRO: Well, there are great criticisms of
20 the report, and of course --

21 CHAIRPERSON HATA: Are these internal criticisms or
22 external criticisms?

23 MR. MONTENEGRO: External criticisms.

24 CHAIRPERSON HATA: Were there any internal criticisms?

25 MR. MONTENEGRO: If there were, I didn't hear them.

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1 CHAIRPERSON HATA: So yours is the only internal
2 criticism that has come forth so far?

3 MR. MONTENEGRO: There wasn't any named person that
4 was very critical of the report within the Department. It
5 wouldn't be proper to name the rank of that person.

6 MS. GOMEZ: Commissioner Montenegro, do you believe,
7 or to your knowledge, was this report prepared around the time
8 that the police bond issue came up? There was a bond not too
9 long ago --

10 MR. MONTENEGRO: I think the report was prepared after
11 the bond issue.

12 MS. GOMEZ: After?

13 MR. MONTENEGRO: Yes. You may interested to know
14 that the Spanish speaking community supported the bond issue.

15 MS. GOMEZ: However, wasn't this information being
16 used in order to -- to your knowledge, was this information
17 used prior to it being publicized, in order to gain the sup-
18 port of the electorate towards that bond?

19 MR. MONTENEGRO: I don't know.

20 CHAIRPERSON HATA: Mr. Stern?

21 MR. STERN: To your knowledge, has the LAPD complied
22 or issued any report detailing the extent to which undocumented
23 workers have crimes committed on them that go unreported due
24 to the undocumented status of those persons?

25 MR. MONTENEGRO: Yes, the Los Angeles Police Department

1 has been very -- it is concerned, who are the victims. In fact
2 we have all kinds of citizens stop the borders, and go for that
3 one, that one of the prime purposes to investigate the reports
4 of crimes committed against the undocumented. The City Attorney's
5 office has worked very closely with them. In fact, I got so
6 involved with that, I went to a different section of the city
7 with an officer, and I went undercover disguised as an undocu-
8 mented to see if these conditions exist as far as them being
9 policed, and I saw various examples that they were, and I got
10 an insight in that fashion, so there are many crimes committed
11 against them.

12 For example, the undocumented fear being deported,
13 keeps his money with him on his person. There are certain
14 people in our community who have that knowledge, and will
15 pursue these people, and the Department has taken effort to
16 apprehend these type of criminals to protect the interests of
17 the undocumented.

18 I think our Department has shown in spite of the
19 report, has shown sympathy towards the undocumented.

20 MR. STERN: Is there any documentation on this prob-
21 lem, and if so, has it been publicized to the same extent as
22 was this report that you have been discussing?

23 MR. MONTENEGRO: There appears to be a contradiction.
24 Our Department has publicized this material regarding the vic-
25 tims, but it is not recently in our report, in our first report.

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CHAIRPERSON HATA: Ms. Hilborn?

MS. HILBORN: Yes. I would like to backtrack a moment regarding the presentation of this material to the staff or the Commanders at the retreat. I was wondering what methodology was used after that presentation by the Commanders at their individual sites to present this information of the study to the officers underneath them? Was it passed by? Was it used in a training session for these officers? Was it used as a point of fact for them? How do you feel it might affect their individual attitudes as far as the performance of their duties?

MR. MONTENEGRO: I don't know whether it was used in training or not. Maybe the Commander has that intimate knowledge. Was it used?

MR. REITER: To my knowledge, it was not. It was simply a discussion tool used in the assemblage of the top staff of the Department to discuss one evening during our retreat. Whether it was used by any persons when they returned to their commands is an individual basis, but there was no guidance given by the Commission nor the Chief of Police to use this and make this a policy of the Department.

In fact, with the new Chief of Police, he has asked another group to come up with a new policy addressing the undocumented alien issue.

MS. HILBORN: So each Commander then could actually, depending on his own attitude, could go back and do with it as

1 he pleased, is that correct?

2 MR. REITER: Or disregard it, too. -

3 MS. HILBORN: Right.

4 MR. MONTENEGRO: Now, I have asked the Chief to come
5 up with an amendment to this report, and I think he has an
6 excellent start, and this report, a natural -- Commander Reiter
7 is the chairman of that. I would urge the Department to utilize
8 report and the various loopholes. In fact, some of the purpose
9 here is to have it utilized not only in the -- every division,
10 but also in the Academy to teach those in the Academy, the
11 recruit level, and also to teach those in the various divisions,
12 but first of all, it won't work unless the Chief believes it.

13 This Chief believes it, and once it is believed, and
14 it appears that that is the way it has always been, the Chief
15 would meet with a certain philosophy, it will be accepted.
16 This Chief believes that philosophy, of an appropriate -- of
17 minimizing the gap, the communication gap that exists between
18 our police and the undocumented community.

19 I hope that by the time we are through that law
20 enforcement agencies throughout the country will utilize a
21 report that is based upon facts, based upon the human need,
22 and based upon an accurate study which will deal with some of
23 the criminals that we come across, and there are criminals,
24 and we are very much concerned in making a vast and very impor-
25 tant description of the criminal and the noncriminal.

1 Again, I emphasize that the statement, only a small
2 percentage of the undocumented aliens are involved in crime,
3 and I think that this -- that would show the contradiction to
4 the original report. This report is not based upon personal
5 opinions. It is not based upon any particular selfish motive.
6 It is based upon what we think is right with each human being,
7 and I think that if we talk in terms of recognizing the human
8 element throughout the world, we also should recognize it even
9 in only part, and I am very pleased that we are moving forwards
10 in that direction.

11 CHAIRPERSON HATA: Thank you. Phil?

12 MR. MONTEZ: It almost seems inconceivable to me,
13 Commissioner and Commander, that a report such as this was not
14 authorized at a higher level. It seems to me that the group of
15 people who are designated as the writers of this report had
16 some authorization to do it even for the discussion level of
17 the seminar that they had, and it seems to me that there is a
18 great deal more responsibility on this kind of an accurate
19 reporting by the Los Angeles Police Department, which implies
20 to me a real disservice to the total community.

21 When you see that the report made the Los Angeles
22 Times, I am really curious about the total intent and the pur-
23 pose of the report to begin with, other than what I can see
24 is a total discredit to not only the problems that we have on
25 undocumented workers in this country, but to the total Mexican

1 American community, which has problems of its own, and I just
2 can't rest and let it lie that it was not authorized by some-
3 body besides the so-called writers of this report, and I am
4 amazed that the Los Angeles Police Commission did not take a
5 position on this report when it hit the Los Angeles Times,
6 other than yourself, Commissioner Montenegro. I am really
7 quite amazed that this would be allowed to pass as something
8 highly documented.

9 I think it is a disservice to the total community.

10 MR. MONTENEGRO: Well, the material that is presented
11 in the -- meetings, are material that is prepared by the Chiefs
12 and his administrators. The Commission has very little to say
13 about what is presented, but the Commission has a great deal
14 to say as to what involves our policies, and as far as I am
15 concerned, this -- although we have a good policy, and where we
16 do not arrest any undocumented simply because they are undocu-
17 mented, you know, it is a violation of the state law, and we
18 have had that policy prior to the bringing in of the state,
19 but I think that this is just a report based upon not opinions,
20 essentially, for the men' in the field, frankly I just don't
21 understand why the report came about.

22 I don't understand the motives, but I do understand
23 it to incumbent on me to -- and at that particular time, at
24 at that particular meeting, I took issue with the makers of
25 the report, so I would be very happy that we are going to

1 initiate, we are coming in with an intelligent philosophy, and
2 we are going to redefine our policy, and I hope we will deal
3 with this report through refining it somehow, that perhaps it
4 could be accepted by law enforcement agencies in the southwest.

5 I think that the report was again, was based upon
6 fear about being inundated by these undocumented. It is a fear
7 the law enforcement region has had -- no one's parents are
8 raised upon this particular property, so I will not rest until
9 we can define this and refine it so that it can be acceptable
10 in the southwestern states.

11 CHAIRPERSON HATA: Commissioner Montenegro, it is
12 then the policy of the L.A. Police Department not to arrest
13 someone because he or she is an undocumented alien, is that
14 correct?

15 MR. MONTENEGRO: That is absolutely correct, and I
16 think that we have that --

17 CHAIRPERSON HATA: Does this also mean that if you
18 arrest someone who is an undocumented alien for committing a
19 crime, do you turn that individual over to INS as part of your
20 process?

21 MR. MONTENEGRO: We have held them, and turned them
22 over to INS.

23 CHAIRPERSON HATA: Okay, Laurie?

24 MS. CAMPBELL: Commander Reiter --

25 MR. MONTENEGRO: We have notified INS, but then again

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1 I have to be perfectly clear that some occasions, we have held
2 them for the INS, in my personal experience.

3 CHAIRPERSON HATA: So policy and practice are very
4 different.

5 MR. MONTENEGRO: It is our hope that our policy can
6 be accepted under the new administrator, and his new philosophy,
7 so that every division manager can abide with the guidelines.

8 CHAIRPERSON HATA: Is this going to be mandated, or
9 is this still policy that the Commission speaks to but the
10 Commanders have no awareness of?

11 MR. MONTENEGRO: No, I think that we are on the road
12 to success, because our Chief believes it, this philosophy, and
13 the Commission believes this philosophy.

14 CHAIRPERSON HATA: Well, if the Commission and the
15 Chief believe it, I certainly hope that there will be some
16 evidence to support your belief that everyone supports the
17 policy, other than simply coming forth and saying well, we
18 all believe in it, but on a local level, Commanders hold people
19 for INS. Laurie?

20 MS. CAMPBELL: I wanted to direct Commander Reiter's
21 attention back to the report. We were going to talk -- ask
22 you some questions about that tomorrow, and I thought perhaps
23 if we have you here now we could -- you could speak directly
24 on the report, and we will discuss the policy tomorrow at the
25 scheduled time.

1 MR. REITER: All right, Ms. Campbell.

2 MS. CAMPBELL: Okay, do you want to just generally
3 respond to the things you have heard this morning in terms of
4 the purpose of the report and the data gathering, the research
5 methods and what the reaction of the Police Department was,
6 to the criticisms, and I think Mr. Montenegro has talked about
7 the current efforts being made to update the report, so I will
8 just leave it up to you on what you have heard this morning,
9 if you have anything to add.

10 MR. REITER: This report, as I have stated before,
11 was prepared for a retreat which Commanders and above go on
12 each year, and this is a period of time three days, when we
13 discuss issues that are facing the Los Angeles Police Department.
14 We at that time, under Chief Davis, he liked the approach of
15 having position papers developed that would stimulate discussion
16 in these areas.

17 One of those areas was given to this group of Comman-
18 ders, who prepared this report. It stimulated some discussion.
19 Knowing people within the Department, and working probably
20 closer than Commissioner Montenegro, I know quite a few people
21 did disagree with much of what was in the report, and also
22 disagreed with the fact that it didn't specifically relate to
23 police problems, but encroached upon the problems that really
24 police are at best maybe a resource for those persons who are
25 involved, such as health, welfare, schools, employment.

1 The material used was more of discussions with people
2 who were involved, law enforcement officers. The Los Angeles
3 County Sheriff's Department has a special south coast burglary
4 team, and when it refers to the 200 undocumented aliens who are
5 identified burglars, if that is from their information. I
6 don't have anything specific about that.

7 The studies that we have used are fraught with incon-
8 sistencies that are reflected in that report, because most of
9 them relied on the officer's perception of whether a person was
10 undocumented or not, and that was not proper scientific tool
11 to use in coming up with statistics, and I think all of us now
12 realize that, and that is why Chief Gates has asked, and I am
13 the Chairman of a group, and we can discuss at least the pre-
14 liminary policy that Chief Gates will propose to the Police
15 Commission, and will become policy and direction for the
16 Department.

17 It is not an analysis of statistics, nor is it a
18 survey of problems that exist now in Los Angeles. It is simply
19 an operational plan to deal with the issue of the undocumented
20 alien, both as a person requiring police service, a victim,
21 and some who are actually perpetrators of crimes.

22 But this report, I think, was issued in 1976. It is
23 old now. It is not currently the information that influences
24 the directions of the Los Angeles Police Department, and Chief
25 Gates and the Police Commission will be coming forward very

1 soon with a new policy and tomorrow we can discuss some of the
2 elements of that, but I think that we should really say that
3 this report is two years old, allow it to lie, and not use it
4 because we in the Police Department no longer use it. I have
5 not -- I use it only because it was there in my file. It was
6 strange at the time that this report was developed, I was also
7 involved in a committee for at that time Assistant Chief Gates,
8 and so this report was done totally outside our knowledge and
9 committee structure that we had, and we had been working on it
10 for a much longer time.

11 MS. CAMPBELL: Does the Committee have any questions?

12 CHAIRPERSON HATA: Let us go back to something that
13 I am a bit curious about. What were the officers -- assuming
14 that all of this is past history now, what were the officers'
15 perceptions of undocumented aliens? You spoke about head
16 counts being based on the officers' perceptions of undocumented
17 aliens. I wonder what their perception was, how they determined
18 somebody was undocumented versus someone who is not.

19 MR. REITER: Well, that is very individual. It
20 depends on the officer, and really the survey that was distri-
21 buted to all areas, that made up the attitude survey, was
22 given to street officers, and each one at that time, he had a
23 lot of things that weighed on his mind that gave him the
24 perception of -- when you say, how many people in your area,
25 how many times when you respond to a call for service, and that

1 is not a telephonic call. That is when an officer gets a call
2 on the radio and then responds to provide some sort of service
3 to the person that requested the police, so when we say calls
4 for service, it is not telephonic. It is when he responds to
5 that person.

6 And then it is his opinion whether that person -- and
7 granted, when you ask an officer, you know, during the last
8 year, what percentage of your calls involved undocumented
9 aliens, it is -- you are really getting guesstimate then, and
10 there was no analytical study on a day by basis for him to
11 record it.

12 More importantly, there are some officers that might
13 say anyone who looks latin and does not speak English is there-
14 fore undocumented. Well, we know that is absurd. There may
15 be others that simply would say that a person who is a latin
16 might be undocumented, and therefore when he -- you ask him to
17 recall back on the year's activities, he might say, well what
18 percentage of people do I approach, how many of those latins?

19 So that is what I am saying, totally inaccurate.

20 CHAIRPERSON HATA: And realizing these pitfalls, then,
21 you still accepted the statistics as accurate, or included them
22 in your report without any qualification.

23 MR. REITER: I can't -- I was not the preparer of the
24 report. They laid it out. It was a stimulation for discussion.
25 What it showed to me, Commissioner Montenegro, and many others

1 on the Department, is that we have a perception problem that we
 2 must deal with through training and education, and that is what
 3 our new direction, our new policy will address, is to actually
 4 change the perception of officers and -- through two things.
 5 Not only that it really is irrelevant whether a person is undoc-
 6 umented or not, from the police standpoint, and that is the kind
 7 of approach that the Department will be taking.

8 CHAIRPERSON HATA: I suspect we will pursue this
 9 issue tomorrow in terms of basic policy. Yes, Ms. Gomez?

10 MS. GOMEZ: I would just like to say one thing. I
 11 would like to thank and commend Commissioner Montenegro, because
 12 city commissioners don't normally come forth and state their
 13 disapproval publicly. It is just not known, and I want to
 14 thank you for stating your disapproval, on any question that
 15 you may have, and that you had in the past, for stating it
 16 publicly. I think it is a tremendous service to the community.

17 MR. MONTENEGRO: Thank you. I just wanted to cite
 18 a couple of these instance I have had also regarding our policy.
 19 There was an arrest made about a year ago. I think it was --
 20 well, according to policy, I suppose they had to make the
 21 arrest. The man was arrested for interference. If a citizen
 22 of this country would have committed the same kind of violations
 23 he would have committed -- I talked to this man at the jail,
 24 and I asked him, how long have you been in this country? He
 25 said, I have been here seven years, but I didn't commit a

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1 crime. I simply asked a question. Well, are you married?
2 He said yes. I am married and I have three children, but
3 tomorrow they are going to send me to the Spring Street for
4 deportation.

5 This man was very concerned, very worried. I don't
6 think very much for himself, but for his family. But I suppose
7 under the guidelines, we had the right to arrest him because
8 he was undocumented, didn't have the green card and committed
9 the -- the crime.

10 But my question was to the former Chief, are these
11 the kinds of criminals that we should be concerned with? Really?
12 So, we hope that we can change some of these kinds of procedur-
13 al points, to make certain that we deport the true criminal
14 and we contain the good people in our country.

15 CHAIRPERSON HATA: I hope you will raise the same
16 question to the new Chief.

17 MR. MONTENEGRO: Well, I don't have to because his
18 philosophy is different, very similar to mine.

19 CHAIRPERSON HATA: For the record, it would be an
20 interesting response.

21 MR. MONTENEGRO: It would.

22 MS. CAMPBELL: Thank you, Commissioner Montenegro,
23 Commander Reiter. Would Mr. Day and Mr. Gutierrez please come
24 to the table? Okay, would you both please state your name and
25 your involvement in the issue of media reporting of immigration

1 MR. DAY: My name is Mark Day. I am the Chairman of
2 the Journalism Department at Los Angeles Southwest College, and
3 I have been involved in this problem of undocumented workers
4 for the last ten years as a journalist and as an educator.

5 MR. GUTIERREZ: My name is Felix Gutierrez. I am an
6 Assistant Professor of Journalism at California State Universi-
7 ty, Northridge. I have a doctorate in communication research
8 from Stanford University as well as a master's degress in
9 communication research from the same university, a master's
10 degree in journalism from Northwestern University, and I have
11 been investigating coverage of chicanos in the media issues for
12 the past five or six years.

13 MS. CAMPBELL: Mr. Day, what has been your experience
14 with respect to how immigration issues are handled by all types
15 of media?

16 MR. DAY: It has been my experience over the past ten
17 or 15 years that, as I mention in my paper, in the title, that
18 the media, the mass media in general, the press in particular,
19 the printed media, have acted more as cheerleaders for the
20 establishment and for the existing status quo than as accurate
21 and objective reporters of the issues that are happening, wheth-
22 er they be deportation raids, whether they be hearings or
23 incidents that happen day by day.

24 MS. CAMPBELL: Okay, would you please go --

25 MR. DAY: Okay. Well, I don't want to read the

1 entire paper, but over the past, especially three or four years,
 2 there have been particular incidents. One was already brought
 3 out this morning by the Commissioner, and this was the -- he
 4 mentioned the police briefing paper, but perhaps I could draw
 5 particular attention to the manner in which the police brief-
 6 ing paper was handled by one particular Los Angeles daily.

7 Rather than take exception to, or to get the other
 8 side of the issue, so to speak, on the police briefing paper,
 9 the reporter simply recorded and parroted the remarks and the
 10 findings of this Police Commission that formed the report. As
 11 a matter of fact, in the report, there is one quote from the
 12 police briefing paper that caused a lot of comment in the
 13 community, and many phone calls to the newspaper, many letters
 14 to the editor, none of which were published, and that was that
 15 the report said that if we assume that illegal aliens commit
 16 no more or less crime than the general population, we can
 17 impute a share of the crime to this group, based on their
 18 percentage representation in the general population. This
 19 would be 18.7 percent of the crimes committed.

20 This is, you know, totally extrapolated out of the
 21 air, that 18.7 percent of crimes committed are committed by
 22 undocumented workers. There is no -- and yet this was report-
 23 ed in the largest daily newspaper in the west, without any
 24 comment, without going to community leaders and getting their
 25 opinions, without further research and so forth, and so it is

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1 my contention that this type of inflammatory reporting does
2 nothing to improve the situation but only inflames it.

3 There are many, many other cases. There is the other
4 case that perhaps Mr. Gutierrez could also discuss, is the one
5 which was -- appeared in the Los Angeles Herald Examiner in a
6 banner headline, Monday, August 8th, "State Threatened by
7 Alien Horde." This particular story was widely discussed, even
8 in journalism reviews, because it was done by a stringer for
9 the New York Times Service, who had done some reporting along
10 the border.

11 He reported -- his findings came from an employee who
12 was subsequently fired from the Tijuana police department,
13 stating that so many thousands, hundreds of thousands of aliens
14 were poised on the border ready to come into the United States.
15 This received a banner headline, "State Threatened by Alien
16 Horde," again reminiscent of the type of journalism that many
17 of us thought was defunct in the forties when the zoot suit
18 riots were going on and when the Sigid Agoul (phonetic) case
19 took place, and many other things, and when people were sent
20 from Washington to come out and talk to the newspaper editors
21 and publishers.

22 I think I would just like to make one other state-
23 ment. I am making these charges, and I think that in all fair-
24 ness we should ask why. It is not some type of conspiracy on
25 the part of newspaper publishers or editors to take off against

1 the current scapegoat. I think a lot of it is simply shoddy
2 journalism. It is the fact that reporters are assigned to
3 stories who have minimal training, who lack language skills.

4 It is the fact that editors, the gatekeepers in the
5 mass media, the so-called gatekeepers, are middle class, middle
6 income, middle aged white men whose work and interests are far
7 removed from the lives of struggling immigrants living in pover-
8 ty and speaking a foreign tongue.

9 Recently the publisher of the largest newspaper on
10 the west made the statement on KCET that he -- his newspaper
11 does not feel that it should engage in extensive reporting in
12 the black and chicano communities because the advertising
13 revenue from these communities does not warrant an editorial
14 commitment, and this was a public statement which is documented,
15 and I think this is reflected not only in this newspaper, but
16 in many other newspapers and the electronic media as well.

17 I think that the problem is, is that the definition
18 of the issue has been made down through the years by people
19 who have spread racial hysteria. The media, rather than
20 challenging this definition of aliens as lawbreakers, aliens as
21 unwanted, bringing of great disease into the country, rather
22 than challenging these assumptions vigorously, the media has
23 acted as a parrot and has simply parroted these charges and has
24 not done the in-depth investigative reporting that is needed
25 in this type of an issue.

1 MS. CAMPBELL: Okay, thank you. Does the Committee
2 have any questions to ask of Mr. Day?

3 CHAIRPERSON HATA: Anyone?

4 MR. DAY: Yes.

5 MR. STERN: How can citizens constructively respond
6 to these types of articles and accusations made in the media?

7 MR. DAY: I think that to begin with the electronic
8 media, because they are more vulnerable to this type of activi-
9 ty. People should write in, call in, contact station managers
10 and tell them that they took exception to the type of reportage
11 that they experienced, and I would like to add that when I make
12 these charges I am in no way making them against individual
13 reporters, many of whom -- and they are sitting in this room --
14 are sympathetic to the plight of undocumented workers.

15 I am talking about the process that happens at the
16 stations when perhaps a reporter will suggest a good story, and --
17 but the story will be cut or the story will not run. As far as
18 the newspapers are concerned, I think that we have to band
19 together in citizens' groups and go to these newspapers and
20 meet with them and put pressures on the editors and on the
21 publishers, and I think that over the years there has been
22 some change.

23 For example, the police briefing paper, some of the
24 reportage has backed off from this type of hysteria, and I
25 think it was predominantly because of pressure groups that have

1 gone to newspapers and to TV stations.

2 CHAIRPERSON HATA: How would you respond to the
3 printed media's response to what you have just said as, these
4 kinds of actions are invasions of their first amendment rights?

5 MR. DAY: Well, as you noticed, I carefully did not
6 say that some legislation -- journalists, especially, and I
7 teach the first amendment, and I hold it sacred. I would not
8 advocate any type of governmental actions or laws that would
9 restrict the first amendment. I think that, you know, A.J.
10 Lehman said that the only person who has freedom of the press
11 is somebody who owns one, and so I think that that is a reality,
12 and I also mentioned in my paper that the newspapers are being
13 more and more owned by conglomerates and multinationals, the
14 same type of multinationals that are exploiting people on both
15 sides of the border.

16 So I think that rather than try to pass laws or to
17 do repressive types of things, people should simply be heard by
18 means of letters, by means of pressure, and by means, if necess-
19 ary, civils acts as picketing newspapers and boycotting. I
20 don't think these things at all impinge upon the first amend-
21 ment. I think they are expressions of the first amendment.

22 CHAIRPERSON HATA: Staff?

23 MS. CAMPBELL: Okay, thank you, Mr. Day. Mr. Gutier-
24 rez, I would like to ask you to describe the data you have
25 collected regarding the content of newspaper articles on

1 immigration in the last year.

2 MR. GUTIERREZ: I surveyed a 14-month period of news-
3 paper articles in California newspapers in the daily press,
4 what are called general circulation newspapers, in all of Cali-
5 fornia. The articles were taken from the INS news digest, which
6 comes out about every two weeks and is put together nationally
7 in Washington, D.C. by the INS, from articles that are sent in
8 by the regional commanders and regional offices that they have.

9 Out of this 14-month period from January, 1977
10 through February, 1978, there were 342 newspaper articles in
11 California newspapers that were in the INS news digest, and of
12 these I took a random skip interval sample of 114 newspapers,
13 which is a standard statistical technique, so what I am giving
14 you could be extrapolated to the 342 articles.

15 I wanted to see how the issue is being covered, and
16 who is covering it. The first thing I looked at was the number
17 of articles by newspaper, and found that for the most part, a
18 few newspapers are doing most of coverage. The morning news-
19 paper in San Diego had the largest number of articles, with
20 58 of the 114, followed by the morning newspaper here in Los
21 Angeles, the evening newspaper in San Diego, and the afternoon
22 newspaper here in L.A., and there were 12 newspapers that split
23 articles among themselves.

24 When I looked at how long the articles were, I found
25 that they were relatively long by newspaper standards, most of

1 them falling in the range of between 16 or 20 or 11 and 15
2 paragraphs, so these are not short spot news articles. There
3 is enough room to do some of the kind of reporting that Mark
4 has been talking about, where you talk to several sources.

5 Another thing I looked at was ethnicity of reporter,
6 because California is built on the Latin American Pacific
7 border of this country, we are receiving immigration from both
8 Pacific and Latin American streams, and it would seem common
9 sense that newspapers might want to assign reporters who were
10 familiar in either the Asian or the Spanish languages to cover
11 these stories in order to be able to penetrate the migrant
12 stream on both sides of the border and see what is going on.

13 However, I found for the most part, using reporter
14 identification by surname, as an indicator, that most of the
15 articles are being reported by Anglos. There were only 28
16 articles that were reported by Spanish surnamed reporters, none
17 by Asian reporters, and of the 28, 26 of those came from two
18 reporters, one at the Los Angeles times, another one at the
19 San Diego Union who is now at the Los Angeles Times.

20 CHAIRPERSON HATA: Excuse me, did these two reporters
21 have any special background expertise?

22 MR. GUTIERREZ: I know from personal experience in
23 talking with them, they have quite a bit of background exper-
24 tise, and I will refer a little bit later to the types of
25 articles that they did as contrasted with the other types.

1 So basically, it is Anglo reporters covering the story,
2 and they would probably tend to have less inside and less under-
3 standing of it than people who come from a community that has
4 heavy migration. Myself, my mother was born in Mexico, and I
5 know something about what migration has meant to our community.
6 Anglo reporters would not tend to have this kind of background.

7 The type of sources cited indicates the types of
8 generalizations you have heard about coverage. The reporters
9 cite law enforcement sources more often than any other type of
10 source. To find sources of law enforcement in 73 of the 144,
11 114 articles, and 143 different law enforcement sources, was
12 far above sources from other sectors that they could have tapped.

13 Public agency or officials, government officials, were
14 second, at 59 of the articles, with 128 sources, followed very
15 distantly by latino organizations with 16, so there is a big
16 peak at the top of law enforcement and public official agencies
17 being cited, and then a big drop down to latino organizations,
18 anglo organizations, legal types, academics, general public.

19 Interestingly enough, undocumented workers themselves
20 appeared as sources in only four of the stories. These are
21 stories that are supposed to be on undocumented workers, yet
22 undocumented workers themselves appeared as sources in only four
23 of the stories, and law enforcement sources appeared in 73 of
24 the stories.

25 Ethnicity of the sources cited, the ethnicity again was

1 identified by surname or by organization identification, to see
2 who within the organizations the reporters are going to for
3 information. Again, Anglos were the predominant group being
4 cited. They were cited as sources in 83 of the stories and 161
5 of them were cited.

6 Latinos were second, 53 of the stories, 104 of them
7 were cited, blacks next in six stories, a big drop-off, Asians
8 in three, and native Americans in one.

9 If I can generalize the coverage, it is the story of
10 Anglos quoting Anglos on Mexicans. The vast majority of repor-
11 ters and sources were Anglos. The majority of the stories came
12 from either law enforcement or public agencies, and this gives
13 this leads to the biased, one-sided view of this community that
14 Mark has alluded to earlier.

15 Obviously, if you are going to go to law enforcement
16 sources, you are going to get a portrayal of the group as a
17 law enforcement problem, because that is the only sector of
18 that community that the law enforcement people are going to
19 come into contact with.

20 Secondly, the public agencies, who again are looking
21 for additional funding, are going to tend to portray this group
22 as a public agency problem, as a drain on the schools and the
23 hospitals and the welfare system, because that is how they come
24 into contact with this group, and when you do not balance that
25 coverage by citing sources who work day to day with that commun-

1 ity, either immigration organizations, latino groups, community
2 organizations who are familiar with the day-to-day reality,
3 employees, labor, employers were well underrepresented, too,
4 you are going to get a distorted image of that group, and we have
5 seen in the past how this has been used against us.

6 In the media, Mark alluded to a little bit earlier,
7 the coverage of zoot suiters, the coverage of wetbacks in the
8 1950s, the term "chicano," which was used negatively by the
9 media to denote militant chicanos in the late '60s and early
10 '70s, has always accompanied violations of our civil rights.

11 They have always been accompanied by either mass
12 repression, in terms of the zoot suit riots, or police repression
13 in terms of operation wetback, or infiltration of our communi-
14 ties, as in the Chicano Movement, of one type or another. The
15 media, whether they want to admit their role or not, whether
16 they want to accept their responsibility or not, has been to
17 play cheerleader, and to create a climate under which violations,
18 massive violations of civil rights against our community, are
19 perpetrated, and it is interesting to note that when these
20 violations occur, the media on their editorial pages will criti-
21 cize them, as they criticized the Ku Klux Klan patrol of the
22 border last year, on their editorial pages.

23 However, on their news pages, they are creating the
24 climate that allows these type of activities to happen by giving
25 a one-sided, distorted view of our community. Now, you mentioned

1 the portrayal of latino reporters, I did find -- I did not run
2 any additional data. This is a pre-test, as I mention in the
3 paper, but I did look and spot-check of the articles written by
4 latino reporters, and found that they tended to be more balanced.

5 They included law enforcement sources, as the other
6 ones had, but they also included sources from latino organiza-
7 tions, immigration organizations, Mexican officials, people on
8 the other side of the border as well, and I think part of this
9 coverage is a product of the discriminatory hiring practices in
10 the newspaper industry, which I hope the Civil Rights Commission
11 looks at sometime in the future.

12 MS. CAMPBELL: Thank you, Mr. Gutierrez. Would you
13 also explain to the Committee your research in the area of
14 social effects the media are playing?

15 MR. GUTIERREZ: Well, the social effects are very hard
16 to pinpoint, because people -- it is very difficult to tell, and
17 say, I was affected by this to do that. In other words, this
18 newspaper article affected me in a certain way. However, it
19 has been shown historically that whenever there is inflamma-
20 tory news coverage of the chicano community, in this area at
21 least, two things happen.

22 One, the media picks up a term which it drums into
23 the heads of the public as that symbol for the bad Mexican.
24 The term can be zoot suiter. The term can be wetback. The
25 term can be pachuco. The term can be illegal alien. That term

1 is used to trigger a negative stereotype in the mind, so that
2 every time you see that word, or every time you hear that word
3 in the media, it triggers a negative stereotype in your mind.

4 . Once that climate has been established in the commun-
5 ity, then the way is paved for repressive police or public ac-
6 tions against that segment of the community, in other words,
7 the general public is so concerned about these pachucos or zoot
8 suits or wetbacks or, you know, illegal aliens, that whatever
9 is being done to rid the community of this menace is acceptable,
10 and in that climate we have massive deportations in the 1930s,
11 in our community, which my father-in-law still remembers, the
12 zoot suit riots in the 1940s, which my father lived through,
13 Operation Wetback in the 1950s, again massive deportations which
14 I remember as a young man, and the repression and police
15 brutality and infiltration of chicano community organizations
16 of the late 1960s, that I personally lived through.

17 Anybody who doesn't think it can't happen again in
18 the 1970s just doesn't have their eyes open.

19 MS. CAMPBELL: I have no more questions.

20 CHAIRPERSON HATA: Committee members have any ques-
21 tions? No? If not, then thank you both very much.

22 MR. DAY: Thank you.

23 MS. CAMPBELL: Thank you very much, Mr. Day, and Mr.
24 Gutierrez.

25 CHAIRPERSON HATA: I would like to acknowledge the

1 arrival of Mr. Corona, who was one of our earlier witness, but
2 in the interest of time, because we have a very heavy schedule
3 until six o'clock this evening if we are on time, we will ask
4 Mr. Corona to submit his testimony in writing to the Committee,
5 and we will adjourn, then, for an hour. We will meet promptly
6 back here at one o'clock. Off the record.

7 (Whereupon, at 11:55 a.m., the public hearing in the
8 above-entitled matter was adjourned, to reconvene at 1:00 p.m.
9 that same day.)

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A F T E R N O O N S E S S I O N

(1:05 p.m.)

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3 CHAIRPERSON HATA: On the record. I understand our
4 witnesses for this afternoon have a very tight schedule, so I
5 would like to call the meeting to order, and turn the question-
6 ing over to staff person Dimas.

7 MR. DIMAS: Because of the time constraints, what I
8 think would best to do is ask each one of these gentlemen to
9 brief the Committee on their own work. If we may start with
10 Mr. Campos?

11 MR. CAMPOS: In terms of my background? Is that what
12 you are talking about?

13 MR. DIMAS: Identify yourself, and tell the Committee
14 briefly what your involvement is in the immigration area.

15 MR. CAMPOS: Okay, my name is Raymond Campos. I am
16 an attorney in private practice. I have in the past been a
17 Director of legal services of One-Stop Immigration Center, and
18 before that a Director of the Harbor Area Office of the Long
19 Beach Legal Aid Foundation. I have specialized in immigration
20 law since about 1973.

21 MR. DIMAS: Thank you. Mr. Merkatz?

22 MR. MERKATZ: My name is Steve Merkatz. I work for
23 Jewish Family Service as an immigration specialist, and our
24 agency is presently handling mostly refugee cases, and I have
25 been working with immigrants since about 1971.

1 MR. MARTINDALE: My name is Lowell Martindale. I am
2 the Associate Director of the Immigration and Citizenship
3 Division of the Catholic Welfare Bureau, and we handle any
4 immigration problem that walks into the office.

5 CHAIRPERSON HATA: Excuse me. I understand that there
6 is somebody here from the INS, Mr. Smith?

7 MR. DIMAS: Is Mr. Smith present?

8 VOICE: Mr. Smith will be here at any moment.

9 MR. DIMAS: I see. Well, we'll have him join us as
10 soon as he gets up here. Also with us in the audience is Mr.
11 Ed O'Connor who is the Regional Commissioner of the Immigration
12 Service. He will be participating in one of our panels tomorr-
13 ow afternoon. At the present, I think he wants to observe how
14 it is going, and we welcome him.

15 Gentlemen, since all of you deal with immigration
16 cases, you deal directly with the clients, could you tell us
17 briefly, in turn, what some specific problems are that your
18 clients encounter?

19 MR. CAMPOS: Well, the problems are endless, really,
20 beginning with the delay in applications or petitions, the
21 waiting times, the waiting lines at Immigration to file docu-
22 ments, the wrong criteria in resolving adjudications of, for
23 example, waivers of deportations, the lack of independence of
24 judges as they are presently at least on the surface tied in
25 to Immigration directly, and in terms of the judges, for example,

1 the lack of their use of discretion in suspense of deportation
2 cases, discourtesy of employees throughout the service.

3 MR. DIMAS: Mr. Campos, I believe when you use some
4 terms like suspension of deportation, it might be helpful if
5 you briefly explain for the Committee members what that is and
6 what it entails.

7 MR. CAMPOS: Well, I am talking about discretion and
8 relief that applicants are entitled to apply in some cases. It
9 is a suspension of deportation. It involves a requirement of
10 at least seven years of residence in the country, continuous and
11 uninterrupted, plus hardship to an American citizen and good
12 moral character.

13 A lot of times the judges will not use discretion,
14 and it is very hard to reverse them on appeal. In terms of
15 discourtesy of the employees of INS, I must admit that they
16 are getting better, and very few people at Immigration, but that
17 is upset by the tremendous amount of discourtesy on the great
18 majority of employees of the Service, at all levels, not only
19 the people who come into daily contact with applicants, but
20 also in the deportation branch, in the trouble control branch,
21 and in all branches of the service.

22 MR. DIMAS: If I may skip to Mr. Martindale, Mr.
23 Martindale, would you please give us a brief overview of the
24 applications process, let us take a typical case of a spouse
25 from a foreign country trying to immigrate, the U.S. citizen

1 spouse coming to you for your assistance.

2 MR. MARTINDALE: Well, the biggest problem that our
3 clients have is their inability to simply fill out a complex
4 form. Many of them can't speak English. The immigration laws
5 have become so complex that it is simply necessary that they
6 have help, and we handle only the client, the group of people
7 who are unable to afford to pay for that help. We fill out all
8 their forms for them. We obtain the necessary documentation,
9 and we submit it to Immigration.

10 Now, contrary to what this gentleman says, we have
11 no problem with Immigration. Their service to us is excellent.

12 MR. DIMAS: Would you describe the process itself,
13 Mr. Martindale, that is used for qualifying somebody for Immi-
14 gration?

15 MR. MARTINDALE: Well, if an alien walks into the
16 office, we first determine whether or not he has any equities
17 under the immigration law. If he does not, we simply tell him
18 that we can't help him, then he leaves. If he does have
19 equities, we determine what those equities are and best how to
20 go about legalizing his status. There are too many branches
21 off from that for me to spend time --

22 MR. DIMAS: No, I was trying to get from you a
23 description, more or less a chart, of the actual progress. May-
24 be I can turn to Mr. Merkatz on this one. Mr. Merkatz, could
25 you chart for the Committee the road that a prospective

1 immigrant must take in order to get all their documentation
2 approved, in other words, starting out with the I-130 process,
3 the applications that are involved?

4 MR. MERKATZ: All right. Okay, most of the clients
5 that we get are from Communist-dominated countries, and they
6 attempt to bring out their relatives, either by --

7 MR. DIMAS: Most of your clients are from Communist-
8 dominated countries?

9 MR. MERKATZ: Communist-dominated countries, and we
10 submit what is called a visa to the, for instance, the Russian
11 Government to get them permission to leave, and then they get
12 to Rome, but a certain number of our clients are citizens and
13 are able to bring out their relatives on visa petitions.

14 When they want our help, we have them get their birth
15 certificates, marriage certificates, divorce certificates, and
16 naturalization papers. Many cases, these documents are unavail-
17 able, and we have to obtain affidavits.

18 Once we have gotten the proper documentation together,
19 we fill out what is called a 485, which is the actual adjust-
20 ment form if they are here in the United States, and if they
21 are overseas we end it with the I-130, and then the Consul will
22 handle it overseas.

23 The documentation is not that difficult for people
24 who have it available to them, but for those who have been in
25 countries where World War II has taken its toll, and destroyed

1 many of the city halls there, it is a big problem. For a lot
2 of our clients, if they don't come on visa petitions, they will
3 come as refugees. The Immigration Service has been quite help-
4 ful in approving a lot of these cases where only affidavits were
5 submitted. I guess this may be because they would come anyway
6 as refugees if they don't come under one of the preferences.

7 MR. DIMAS: Mr. Campos, do you experience any particu-
8 lar problems in having your clients gather the necessary docu-
9 mentation to support each applicaton?

10 MR. CAMPOS: Yes, but I guide them through the pro-
11 cess. When I need documents from foreign countries, I obtain
12 them from them for them.

13 MR. DIMAS: What documentation is normally required
14 in attempting to get an immigrant visa?

15 MR. CAMPOS: Well, for example, in the case of a rela-
16 tive petition, you have to get the document necessary to prove
17 the relationship between the American citizen or the permanent
18 resident to the alien that is immigrating, and so you need
19 birth certificates, marriage certificates, certificates of
20 adoption, and I obtain those documents for them, and then directly
21 translate them, and submit them to Immigration, that goes
22 along with the application, but I have no difficulty in obtain-
23 ing those documents.

24 MR. DIMAS: Mr. Merkatz was saying that apparently in
25 some cases you can use affidavits in lieu of actual documents?

1 MR. CAMPOS: I find that -- oh, well he is talking
2 particularly of particular cases. Refugees and Chinese appli-
3 cants are cases that are not ordinary, but for example, when
4 a document is lost, an adoption certificate was lost, for exam-
5 ple, because of the civil register was burned. Immigration
6 will very much doubt the affidavits. I have a case like that,
7 and it is a matter of actually convincing that the adoption
8 took place on 23 years ago.

9 But in the case of refugees and Chinese, they will
10 accept affidavits.

11 MR. DIMAS: In the case of refugee Chinese, they will
12 accept affidavits?

13 MR. CAMPOS: Uh-huh. On some countries where the
14 documents, where the certificates of birth were not actually
15 put into some place that is going to be existent for a long
16 period of time.

17 MR. MARTINDALE: The Immigration Service will accept
18 secondary evidence in lieu of original birth certificates,
19 marriage certificates, and that sort of thing. For example
20 now, we are having trouble getting any kind of a document out
21 of Vietnam, for example.

22 MR. DIMAS: And so what do you do?

23 MR. MARTINDALE: We try to support it in the form of
24 affidavits, and the Immigration Service understands the diffi-
25 culty, and they will accept secondary evidence, only if it is

1 convincing.

2 MR. DIMAS: Is convincing difficult?

3 MR. MARTINDALE: They are as reasonable as we are.

4 MR. DIMAS: All right. Mr. Merkatz, do you experience
5 any particular problems in regards secondary evidence such as
6 affidavits with any of your clients?

7 MR. MERKATZ: Not in particular. If we have a prob-
8 lem, usually it can be resolved. There are problems such as
9 when we submit an affidavit, they will kick it back to us and
10 ask us to obtain a letter from the country involved or from the
11 American consul, saying that' the document is unobtainable.

12 For instance, in Poland, we can get from the American
13 Consul over there, they were in touch with the Polish Govern-
14 ment, they can send us a letter to the effect that this partic-
15 ular document is unavailable, and as long as we attach that,
16 we will not have a problem, because it specifically states it
17 is unavailable.

18 MR. DIMAS: Do you ever experience, Mr. Merkatz,
19 problems regarding the unacceptability of written documentation,
20 primary documentation?

21 MR. MERKATZ: Primary.

22 MR. DIMAS: Such as the non-acceptability of birth
23 certificates from any particular country?

24 MR. MERKATZ: Well, my understanding has been that
25 in such countries like China, there have been problems with

1 birth certificates because they also require blood tests from
2 those countries, and in that case, the birth certificate alone,
3 even though it may be a valid one, is not acceptable alone.

4 MR. DIMAS: A blood test to prove parent-child rela-
5 tionship?

6 MR. MERKATZ: Parent-child relation.

7 MS. GOMEZ: What country? Excuse me.

8 MR. MERKATZ: Well, I know China. I am not sure of
9 the other countries involved. Maybe some of the other Arab
10 countries also. But I know for sure the blood test is required
11 for Chinese.

12 MR. DIMAS: Excuse me. I believe this is Mr. Phillip
13 Smith?

14 MR. SMITH: That is correct.

15 MR. DIMAS: Welcome, Mr. Smith. I am sorry you
16 couldn't be here earlier.

17 MR. SMITH: Well, I am sorry. I ran a little late.

18 MR. DIMAS: Since you have just arrived, you work
19 with the Immigration Service? You are the Assistant District
20 Director for Enforcement?

21 MR. SMITH: For investigations.

22 MR. DIMAS: For investigations. I am sorry. And you
23 have worked previously with the travel control branch, the pro-
24 cessing?

25 MR. SMITH: No, that is not correct. Only in the

1 enforcement end, not in the examinations part of Immigration.

2 MR. DIMAS: I see. So you would get-involved in the
3 normal applications process how, Mr. Smith?

4 MR. SMITH: I would not.

5 MR. DIMAS: Would you possible investigate any diffi-
6 culties with the documentation?

7 MR. SMITH: Yes, yes, I would be involved in that
8 part of it.

9 MR. DIMAS: Could you describe some of that for us,
10 please?

11 MR. SMITH: In the application process, either for
12 citizenship or applying for, let us say, adjustment of status,
13 or any other benefit under the immigration laws, where an
14 investigation is necessary either to ascertain the validity or
15 the bona fides of a relationship, or an investigation into the
16 person's moral character, into his background while here in
17 the United States or even abroad, then that would be under my
18 supervision.

19 MR. DIMAS: Approximately how much of your staff time
20 or your time is devoted to that type of investigation? Percent-
21 age, roughly?

22 MR. SMITH: Well, I would estimate that in excess of
23 50 percent of investigative activities are involved in this
24 aspect, and of course, I would be the supervisor or the program
25 manager of the activity as a whole.

1 MR. DIMAS: How many staff do you have engaged in
2 that?

3 MR. SMITH: Let us see. Our total authorized force is
4 152 investigators in Los Angeles, plus about 19 clerical per-
5 sonnel, so we would be devoting let us say at least, when we
6 are fully staffed, 75 or so investigators involved in the appli-
7 cations or the application process.

8 MR. DIMAS: How long, approximately, would you say
9 the average case takes to be completely process through your
10 office, the investigations office?

11 MR. SMITH: When you get into the actual investigation
12 itself, it should be resolved within 60 to 90 days. Unfortunate-
13 ly we have had some backlogs whereby we may not have been able
14 to get to a particular investigation for a period of six months
15 or a year.

16 MR. DIMAS: So you do not get to it for six months
17 or a year, is that correct?

18 MR. SMITH: Oftentimes not --

19 MR. DIMAS: Uh-huh.

20 MR. SMITH: -- just because of the sheer volume?

21 MR. DIMAS: What is your volume? Can you give us
22 some idea of that?

23 MR. SMITH: Let us see, our total backlog of investi-
24 gations, and this will also include the enforcement aspect, we
25 would have between ten and twelve thousand investigations at

1 the present time. We have the category involving applications
2 approximately a backlog of 1,000. Now, these are, at the pres-
3 ent time, the present Immigration Service policies are being
4 given the highest priority, and it has been required that we
5 reduce this particular backlog within the present fiscal year
6 by 80 percent, so hopefully -- we started out with --

7 MR. DIMAS: It has been required?

8 MR. SMITH: Yes, sir, by Washington, and we started
9 out with a, oh, a thousand or 1,100 at the beginning of the fis-
10 cal year in October, and because of the large flow of this type
11 of application to us, we have not yet accomplished the objective
12 but we anticipate by the first of the fiscal year that commences
13 in October, that we will have accomplished this objective.

14 MR. DIMAS: Mr. Campos, you earlier mentioned some
15 of the backlog problems. I take it what Mr. Smith has just
16 explained is what you were referring to. Could you give us
17 some idea of how this affects your clients?

18 MR. CAMPOS: Yes, and typical cases apply to what
19 Mr. Smith said. For example, in a case that I have, I have an
20 application that is suspect because the marriage is suspect,
21 and he sent for investigations. We have submitted statements
22 from the former wife to the effect that the initial marriage
23 was valid, and because of the backlog and this, at least seven
24 months, I understand, that application is just sitting there
25 and in this case, part of the family is in Guatemala, and it is

1 a separation of family that cannot be -- the family cannot be
2 reunited until this investigation takes place. Now, in my
3 opinion, the particular cases is bona fide, but it looks sus-
4 pect. I understand, and I admit it, but the application cannot
5 be adjudicated until this investigation is performed, that is, the
6 necessary interviews with the wife and the other people involved
7 and that has taken at least, now, a year, and although I sub-
8 mitted the application to expedite it, and submitted the names
9 of people that should be interviewed, that hasn't been done,
10 and the case is not untypical of the cases that I am aware of.

11 MR. DIMAS: Mr. Martindale, what about your clients?
12 Do they experience large delays in this, and if so, what nor-
13 mally -- what consequences to them?

14 MR. MARTINDALE: Well, Mr. Dimas, they do experience
15 delays, but we understand why those delays, and we explain it
16 to them.

17 MR. DIMAS: Mr. Martindale, I am sorry, could you move
18 closer to the microphone, please?

19 MR. MARTINDALE: I say they do experience delays, but
20 we are aware of the reasons of those delays, and we tell them at
21 the very beginning, there is going to be a delay, and we explain
22 to them why the delays, the volume of work in Immigration pro-
23 hibits the expediting of these things, and with that explanation
24 we don't have any serious problems, no.

25 MR. DIMAS: Mr. Merkatz, do you deal primarily with

1 people who are financially unable to afford legal help in these
2 matters?

3 MR. MERKATZ: Not necessarily. We accept all appli-
4 cants to our service, not necessarily people -- we have a large
5 number who are unable to pay for the service, but we also accept
6 other clients, too.

7 MR. DIMAS: Do those who are unable to pay experience
8 any particular difficulties beyond those others, beyond the
9 normal ones?

10 MR. MERKATZ: Well, there is a difficulty, apparently,
11 in finding files, and the transfer of files from one office to
12 another. We have a number of cases that are conditional entrants
13 and apply after two years. Actually, they are supposed to be
14 called in to the Service, but because of the movement of people
15 around the United States, a lot of the cases aren't called in,
16 so we initiate the process and we fill out some of the forms
17 to alert INS of their presence in Los Angeles, and a great
18 percentage of these people are not called in for many months,
19 and the cases -- INS tells us that in many instances, they do
20 not know where the case is. They try the port of entry. They
21 try Washington. In some cases they come up with the answer
22 that the case is still overseas or in another jurisdiction, but
23 they wait for many months, it is a problem.

24 MR. DIMAS: Is this fairly rare, or is it fairly common?

25 MR. MERKATZ: It is common.

1 MR. DIMAS: Very common. Mr. Smith, somebody made
2 the comment, somebody on the panel made the comment earlier that
3 there was a certain element of discretion involved in certain
4 decisions with the Immigration Service. Could you tell us in
5 what portions of your work discretion on your part is involved,
6 and how would you generally use that discretion? What discre-
7 tionary decisions are there to be made, in other words?

8 MR. SMITH: Well, we get into, in custody cases, the
9 amount of bond that may be set, or a decision as to whether a
10 person should be -- custody should be maintained or not, there
11 is a certain amount of discretion there. Of course, the great-
12 est discretion is with the handling, the approval and denial
13 of applications, which does not lie with the investigations
14 branch.

15 I would like to comment on one thing, also, that with
16 respect to our backlogs and the volume of work that is performed
17 by the Immigration Service, obviously the immigration staff
18 nationwide, and particularly here in this area, has not kept
19 pace with the alien population, and this is the biggest single
20 reason why oftentimes we cannot accomplish something as quickly
21 as we would like to do it.

22 We realize that these people are waiting for certain
23 benefits, and we just simply do not have the capability to
24 respond as timely as we would like to.

25 MR. DIMAS: President Carter has proposed certain

1 amendments to the immigration and naturalization laws that
2 would apparently add even more to your workload. The popularly
3 termed amnesty provisions, for example, would necessitate an
4 application being filed by somebody who has been here since
5 prior to January 1, 1970, for the permanent resident status.

6 How many people do you anticipate, or might you have
7 a projection?

8 MR. SMITH: Golly, I don't. I would hope that if
9 these proposals are enacted into law that we would get staff
10 to help handle the volume that we would anticipate, though.

11 MR. DIMAS: Mr. Martindale?

12 MR. MARTINDALE: That legislation, under the Registry
13 Act, moving the date up to 1970, anticipates 785,000.

14 MR. DIMAS: That is nationwide, is it?,

15 MR. MARTINDALE: Nationwide.

16 MR. DIMAS: Do you have any idea how many would be
17 qualified for that in the Los Angeles area.

18 MR. MARTINDALE: No, sir. That legislation also
19 anticipates a \$50 million expenditure, but when it gets around
20 to Immigration; they will probably give them about \$20 million,
21 so we will just start the cycle all over again.

22 MR. DIMAS: Would you explain that, start the cycle
23 all over again?

24 MR. MARTINDALE: The backlog cycle.

25 MR. DIMAS: Could you go a little bit into more

1 detail with that?

2 MR. MARTINDALE: Well, you stack up cases more, be-
3 cause you don't have the --

4 MR. DIMAS: How badly? What resources do you feel
5 would be needed here, Mr. Martindale, and I think for the Comm-
6 ittee's benefit, you might give them a little bit more of your
7 own personal background, Mr. Martindale? I believe that your
8 viewpoint on that would --

9 MR. MARTINDALE: Well, you have to understand the
10 way the resources request works its way through the process in
11 government. It starts out with the Immigration Service. It
12 goes to the Department of Justice, from there to OMB, from
13 there to Congress. Congress very seldom fails to appropriate
14 the money requested by OMB. The shortstop is in OMB. The
15 shortstop is in the administration. They set a limit on what
16 their budget is going to be. They tell everybody, you can go
17 up to this point, and the Immigration Service is simply too
18 far down on the totem pole to get their share.

19 MR. DIMAS: Mr. Merkatz, do you have any idea, or do
20 you have any feeling for the way in which your clients would
21 be affected by the President's amnesty proposals? Would any
22 of your clients qualify? If so, would they have any particular
23 difficulties with that?

24 MR. MERKATZ: I really don't know what percentage of
25 our clients would qualify, because most of our clients are not --

1 come from a long way, and it is not easy to get to the United
2 States. It is not close to the border, where you have the major
3 ity of people coming and going, and we would of course have a
4 few, but I don't believe there would be that great a change in
5 our present caseload.

6 MR. DIMAS: Mr. Merkatz, since I realize that you and
7 Mr. Martindale are operating under time constraints, I will try
8 to rush through some other things. Do you feel that any changes
9 in the regulations could improve the situation as you deal with
10 it, and if so, which ones and why?

11 MR. MERKATZ: Well, we have had a problem with the
12 national office finding that there is a problem around the
13 country, different interpretations of certain Sections of the
14 Immigration and Nationality Act. For instance, the Public
15 Charge Provision, we have found that in certain districts, as
16 in New York City, there is a different interpretation than in
17 Los Angeles.

18 I think the Public Charge Provision can more simply
19 be explained, those who are likely, who are or are likely to
20 become public charges are excludable for admission to the
21 United States, and that term, "are likely to become" is a bone
22 of contention by different districts.

23 In New York, if you are not receiving public assis-
24 tance at the time you are interviewed, when I worked there,
25 which was from '74 to '75, you had no problem. Here in Los

1 Angeles, it is pretty much the letter of the law. They will go
2 into how much money you are earning, whether you received assis-
3 tance prior, and if the amount of money you are earning will
4 allow you to support your family, or whether you are just bor-
5 derline, and I find this a problem because people do come from
6 other areas to Los Angeles, and tell us, well, I had no prob-
7 lem in New York or Philadelphia, and then our clients here say
8 well, it is another story.

9 That is one area that I feel there could be some
10 uniformity, and I guess the discretion that is involved in
11 other aspects also can lead to inequities. We may have two
12 very similar cases, and one being decided one way and the other
13 the other way because of discretion, and I guess if there were
14 more particular guidelines as to how this discretion should be
15 used, that it would eliminate a lot of the inequities.

16 MR. DIMAS: Mr. Campos, do you experience any partic-
17 ular problems with the Public Charge Provision?

18 MR. CAMPOS: Yes. That is probably my biggest prob-
19 lem because all my clients since I have been getting into
20 immigration law, have been --

21 MR. DIMAS: Could you move closer to the microphone,
22 please, Mr. Campos?

23 MR. CAMPOS: Yes. Most of my clients since when I
24 started in immigration law are people who have received public
25 assistance at one time or another, welfare mothers, things like

1 that, and my problems have dealt with the counselors almost
2 exclusively, because most of my clients came in without inspec-
3 tion, which means that they cannot adjust their status here in
4 the United States.

5 And before, I sent them out to the counselor appoint-
6 ment, now I had to make sure they have paid all these debts to
7 the county. A child born in the United States, for example, at
8 a public facility, that debt has to be paid. There is some
9 question as to Medical cards. I don't know whether -- there is
10 some question as to whether that has to be paid before the
11 Departmental Bureau of resources and collection, will issue a
12 clearance letter, but just that there is -- we have great
13 difficulties with the Public Charge Provision of the Act.

14 And particularly even further, because even if you
15 produce affidavits of support, the Immigration decision is that
16 those are not binding, no matter if they come from relatives
17 or from anybody else, and they cite court cases to that effect.

18 MR. DIMAS: Would you explain for the Committee's
19 benefit, Mr. Campos, what an affidavit of support is, and when
20 it is required?

21 CAMPOS: Well, an affidavit of support is simply a
22 sworn declaration by preferably a relative of the immigrant,
23 that that person who is signing the declaration will obligate
24 himself or herself to support the immigrant, or if that person
25 should happen to fall into -- as a public charge, that the

1 person who signs the affidavit will reimburse the government
2 for the amounts spent on the applicant, but those affidavits
3 are not really acceptable to Immigration or to the Consulates
4 because of the court cases that say that it is only a moral
5 obligation and not a legal obligation, so the applicant is in
6 a catch 22 situation. No matter what he does, he is going to
7 be ending up a loser.

8 MR. DIMAS: Well, are there any particular groups
9 that are affected more by the discretion to reject that affida-
10 vit?

11 MR. CAMPOS: Yeah, poor people in general.

12 MR. DIMAS: Well, I mean, that is what it is directed
13 at --

14 MR. CAMPOS: Exactly, yes.

15 MR. DIMAS: -- to begin with, isn't it?

16 MR. CAMPOS: Yes. Or those who are in the borderline
17 who don't meet the welfare guidelines for sufficient income,
18 depending on the family and the obligations they have.

19 MR. DIMAS: Mr. Martindale, do you normally try to
20 go through the same process that Mr. Campos just described,
21 that is, trying to get the previous debts of the people cleared
22 up before they can process through a consulate?

23 MR. MARTINDALE: Yes, sir. We do, except we don't
24 make any effort to clear up a debt for which there has been no
25 demand for payment. The affidavit of support as now worded is

1 totally unenforceable, legally, and everybody on welfare, there
2 is no demand made for payment, therefore you can't do anything
3 about it. Medi-cal, they do make a demand for payment, as Mr.
4 Campos says, and you do have to clear those debts.

5 MR. DIMAS: So you normally, before you send a client
6 to process for their immigrant visa, try to get them to pay
7 these debts.

8 MR. MARTINDALE: And sometimes it is impossible. They
9 make \$8,000 a year, they owe Medi-cal \$9,000. There is no point
10 in sending it down to the Consulate.

11 MR. DIMAS: So what happens to these people?

12 MR. MARTINDALE: Nothing.

13 MR. DIMAS: Would any of these people, Mr. Martindale
14 in your opinion, have the ability to comply with the provisions,
15 that is, stay off of Government assistance in the future, that
16 simply have had past problems that make it impossible for them
17 to receive their legal papers?

18 MR. MARTINDALE: Are you asking me, Mr. Dimas, do
19 they not pay by choice?

20 MR. DIMAS: No, I am asking if past circumstances are
21 weighted heavily, rather than future prospects?

22 MR. MARTINDALE: I can't answer that.

23 MR. DIMAS: Mr. Campos?

24 MR. CAMPOS: They are not weighed at all. It is true
25 that you cannot pay a debt for which -- you should not be able

1 to pay -- rather, the requirement for public charge is that
2 there is some money owed for which a demand has been made and
3 not paid. However, even the cases where no demand has been
4 made, the consulate, any time you have a birth certificate with
5 the L.A. County USC Hospital on it, the Consulate is going to
6 require about 90 percent of the time that the debt has been
7 cleared, regardless of whether a demand has been made on the
8 applicant, so I never take any chances. I do not send them to
9 an appointment to a consulate unless that is paid off.

10 MR. DIMAS: But again, that is not -- the Consulate
11 is under the State Department, is that not correct, Mr. Campos?

12 MR. CAMPOS: That is correct, yes.

13 MR. DIMAS: And that is physically outside of the
14 boundaries of the United States?

15 MR. CAMPOS: That is correct.

16 MR. DIMAS: Okay. Mr. Smith, in your experience,
17 based on your experience, would any more explicit regulations
18 be desirable in areas that you now normally have a lot of
19 discretion in, such as the discretion to accept a particular
20 written document, or to continue on with an investigation? Is
21 anything more desirable there?

22 MR. SMITH: I can think of none, sir.

23 MR. DIMAS: Mr. Merkatz?

24 MR. MERKATZ: I really haven't delved into that aspect
25 of how one could make the regulations more workable in that

1 sense or make them more equally enforceable, but as it stands
2 now, as with the public charge, the discretion that is used
3 around the country is grossly inequitable.

4 MR. DIMAS: Would you explain that, please?

5 MR. MERKATZ: Well, a client who applies in New York
6 City, who had applied for public assistance prior to his
7 application for adjustment of status, as long as he was not
8 receiving public assistance at the time he is interviewed has
9 no problem obtaining his permanent residence, and in other
10 areas, including Los Angeles, this is not the case.

11 MR. DIMAS: Mr. Martindale?

12 MR. MARTINDALE: Mr. Dimas, there is no deportation
13 case for which there is not a remedy. If they can establish
14 the necessary degree of hardship, there is relief available.
15 There is mandatory relief, there is statutorily discretionary
16 relief. There is discretionary relief that has been granted to
17 the District Directors, and each District Director has to make
18 a judgment decision, and you cannot issue guidelines for judg-
19 ment.

20 MR. DIMAS: What types of relief would be available,
21 Mr. Martindale? Could you describe some of them?

22 MR. MARTINDALE: Well, a type of mandatory relief,
23 let us say that someone obtains a visa by fraud and enters the
24 United States. He is married to a United States citizen. There
25 is relief under that deportation charge of having obtained a

1 visa by fraud. That is mandatory relief. Statutorily, discre-
2 tionary relief means that if he meets certain requirements, the
3 statute says he is not deportable. Discretionary relief has
4 to do with hardship cases, that each District Director has the
5 authority to say that it would be inhumane to proceed with
6 deportation in this case, and he lays it aside.

7 Now, it is that judgment, I think, Mr. Merkatz is
8 talking about. It varies. Of course it varies, because it is
9 a judgment decision.

10 MR. DIMAS: I think at this time I will turn it over
11 to the State Advisory Committee for their questions.

12 CHAIRPERSON HATA: Yes, Ms. Gomez?

13 MS. GOMEZ: I have two questions of Mr. Martindale.
14 Prior to your association as Director of the Catholic Welfare
15 bureau, were you employed by the Immigration and Naturalization
16 Service?

17 MR. MARTINDALE: I was.

18 MS. GOMEZ: Are there any hispanics serving in your
19 capacity in your bureau? Any hispanic people?

20 MR. MARTINDALE: Catholic Welfare Bureau?

21 MS. GOMEZ: Yes, in your capacity, giving the same
22 service?

23 MR. MARTINDALE: You mean work for me? The counselors?

24 MS. GOMEZ: For you or with you, yes.

25 MR. MARTINDALE: Oh, yeah.

1 MS. GOMEZ: How many?

2 MR. MARTINDALE: Ninety percent.

3 CHAIRPERSON HATA: Okay, Ms. Hilborn?

4 MS. HILBORN: I have a couple questions for Mr.
5 Martindale also. First of all, for purposes of clarification,
6 the agency you work for is called the Catholic Welfare Bureau?

7 MR. MARTINDALE: Yes, ma'am.

8 MS. HILBORN: Is that -- there is no limitations,
9 then, on the religion or anything of the applicants or the
10 clients.

11 MR. MARTINDALE: Absolutely not.

12 MS. HILBORN: The second thing I wanted to ask,
13 could you give me a rough estimate, or not a rough estimate,
14 of the number of hispanic people that your agency serves, as
15 compared to possible Europeans or people of other areas?

16 MR. MARTINDALE: Oh, yeah, it is -- I would say 95
17 percent are hispanic.

18 MS. HILBORN: I see. And in response to that, then,
19 have you as an individual noticed any discrepancies between
20 the response of the INS to the hispanic people as compared to
21 people of European descent or another --

22 MR. MARTINDALE: No, ma'am.

23 CHAIRPERSON HATA: Is that all? Mr. Spurlock?

24 MR. SPURLOCK: Yes, I have a couple of questions for
25 Mr. Campos, and my principal areas of concern are in the process

1 itself and how that process can be regularized and humanized
2 or however you want to characterize it, and I don't think that
3 the question was asked of you, Mr. Campos, what are the areas
4 besides, say, the public charge provisions, which you think are
5 significantly in need of regularization, through rules and
6 regulations and that sort of thing.

7 What other areas of discretion are there that you
8 think should be addressed in regulations?

9 MR. CAMPOS: Well, the areas of discretion that Mr.
10 Martindale talked about, the things that he talked about, about
11 visa fraud, for example, that is true, but it is severely
12 curtailed by court decisions, so he is talking about 241-F
13 relief, which says that if a person immigrates through fraud,
14 he has a relation to an American citizen, the fraud can be
15 forgiven.

16 Well, that is almost nonexistent, because the courts,
17 Supreme Court, has cut down that relief considerably, and only
18 I think very recently, three very small basis for relief, which
19 would take a long time to explain, so that discretionary re-
20 lief is almost nonexistent. The discretionary relief with
21 respect to deportation is all nonexistent. I have handled
22 about somewhere -- hundreds of present cases that went to full
23 hearings. I won ten of them, and I am told that I have won
24 the most of anybody in the country, so you can imagine how
25 illusory the relief is.

1 On discretionary relief, for example, after being
 2 deported from the United States, a client who has three or four
 3 children in the United States applies for a visa and he has to,
 4 by law, request a waiver of the previous deportation. A lot of
 5 times he is denied without any basis on the denial -- and Mr.
 6 O'Connor is here presently. He can testify to that if needed,
 7 the later denial is boilerplate type of denial. It says
 8 basically that all are the same, same cases, same everything,
 9 which tends to make you believe that the person who has adjudi-
 10 cated the petition never reads the facts of the case. It is
 11 an automatic denial that has no relation to the hardship that
 12 will attend the American citizens that are of course depending
 13 upon the applicant's support.

14 That is very, very common. San Diego is notoriously
 15 guilty of that, and Los Angeles, too.

16 MR. SPURLOCK: All right, so that there are no rules
 17 and regulations specifically addressed to these issues that you
 18 know about?

19 MR. CAMPOS: There is the rules and regulations, but
 20 the discretion, which is the important thing, is not exercised.

21 MR. SPURLOCK: Well, isn't it true that what you
 22 would be seeking would be rules and regulations which would
 23 limit the discretion, isn't that what you are --

24 MR. CAMPOS: That is correct, yes.

25 MR. SPURLOCK: All right, now if in fact there are

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1 no rules and regulations narrowing the discretion which is
2 present, do you know, or do you know of, have you heard of, any
3 documents which would guide the agency internally?

4 MR. CAMPOS: There are. They have their own regula-
5 tions and operational instructions, and they have cases decided
6 by the Board of Immigration Appeals, that tell them what to do
7 and what are the guidelines to follow, but the guidelines are
8 not even followed because the case itself is not even looked at.

9 MR. SPURLOCK: Is this body of case law or administra-
10 tive decision available?

11 MR. CAMPOS: It is available, yes.

12 MR. SPURLOCK: To the public?

13 MR. CAMPOS: It is supposed to be available to the
14 public in the immigration office, and it is in fact available.

15 MR. SPURLOCK: What is the document that those cases
16 are contained in?

17 MR. CAMPOS: Well, they are contained in operational
18 instructions which are not generally available to the public.
19 They are supposed to be -- and only a person that would know
20 would know where to find them, but they are contained in those
21 operational instructions, and also 14 volumes of immigration
22 decisions.

23 MR. SPURLOCK: All right. What are the in-service
24 directives? What are those?

25 MR. CAMPOS: Well, those are called operational

1 instructions, four big books about 6,000 pages, dealing with
2 each Section of the Act, broken down, explained, court cases
3 cited, which are to give the Inspector, the examining officer,
4 some guidance as to what to do in a particular case.

5 MR. SPURLOCK: And do you think that those are follow-
6 ed with predictable regularity?

7 MR. CAMPOS: I think in most cases are followed. In
8 the area of discretion, I don't think it is followed.

9 MR. SPURLOCK: By areas of discretion, you mean that
10 indeed, for instance, in the public charge provisions, it is
11 possible to go either way, depending on what one's particular
12 attitude is in the area.

13 MR. CAMPOS: That is correct, yes, uh-huh.

14 MR. SPURLOCK: Are any documents which you feel that
15 guide the department, or the agency, in this exercise of this
16 discretion, that are not available to you? That are not avail-
17 able to the public generally?

18 MR. CAMPOS: The only thing that I can think of is
19 the so-called blue sheets, but I think they are available now.
20 Blue sheets are -- I think they are internal somewhat confiden-
21 tial addendum to the operational instructions. I do not have
22 those, but I think they are available, but I do have the
23 operational instructions which are available.

24 MR. SPURLOCK: Do you know if there have been any
25 Freedom of Information suits on --

1 MR. CAMPOS: Yes, those -- the operational instruc-
2 tions were brought out -- they were secret up to 1973 and '74,
3 I think --

4 MR. SPURLOCK: Oh, I see.

5 MR. CAMPOS: -- when there was a Freedom of Informa-
6 tion suit brought out by John Lennon, and the dispersal of this
7 operational instructions was the result of that case.

8 MR. SPURLOCK: I have just got one quick question.

9 CHAIRPERSON HATA: Okay, one quickie, then my turn.

10 MR. DIMAS: If I may interrupt a minute, madam Chair-
11 person --

12 CHAIRPERSON HATA: Yes.

13 MR. DIMAS: I believe two of our panelists had to
14 leave by 1:45, so I think --

15 CHAIRPERSON HATA: Oh. Well, may I ask Mr. Martin-
16 dale my quickie question. You talked about the difficulty in
17 filling out forms. Are any of these forms bilingually transla-
18 ted into --

19 MR. MARTINDALE: Some of the forms are bilingual, yes,
20 but even so they have difficulty, and one of the biggest mis-
21 takes that our clients make, they will take that form down to
22 a notary public, and he will fill it out, charge her \$50, and
23 he doesn't know whether they are eligible or not eligible. His
24 only concern is to fill out the form, send it to Immigration
25 and collect the money. When it gets to Immigration they reject

1 it because he is not qualified. It is a pure rip-off. I think
2 that is the biggest purpose that Mr. Campos and myself and Steve
3 all have served, is to try to keep them out of the hands of
4 people like that.

5 CHAIRPERSON HATA: Okay, thank you, if there are
6 any -- just got a quickie question from Ms. Gomez.

7 MS. GOMEZ: Yes, madam Chairman. Mr. Martindale, if
8 90 percent of your employees are hispanic, I am assuming they
9 are Spanish speaking, so if you do have them in, say, Spanish
10 and English, why would they need to go to a notary public?
11 Couldn't your people assist them there?

12 MR. MARTINDALE: Well, they don't go to a notary
13 public after they leave us. Yes, we have a notary public in
14 the office.

15 MS. GOMEZ: Uh-huh.

16 MR. MARTINDALE: We fill out the forms for them, but
17 I think the point I was trying to respond to, Ms. Hata, is
18 that we don't fill out the forms unless it serves a purpose to
19 fill out the form. In other words, we determine their eligi-
20 bility under the law. The notary public doesn't do that. He
21 can't do that.

22 MS. GOMEZ: I see.

23 MR. MARTINDALE: He doesn't know the law. He just
24 sees a chance to collect a fee for filling out a form.

25 CHAIRPERSON HATA: Okay, well thank you, Mr.

1 Martindale and Mr. Merkatz for coming and being with us this
2 afternoon, and we will let you finish off your last question,
3 Mr. Spurlock.

4 MR. SPURLOCK: I have come to Mr. Smith. It is
5 obvious you are faced with a tremendous backlog in processing
6 various kinds of paper. What I would like to know is what is
7 the process by which you really move that paper, and how do you
8 get rid of a backlog, and do you start to prioritize the differ-
9 ent assignments made to various personnel, investigative
10 personnel? Do you have special teams or something?

11 MR. SMITH: Yes, right now we give the highest prior-
12 ity to anything involving an application, and especially any-
13 thing involving an application where somebody is outside of
14 the United States awaiting an Immigration Service benefit.

15 In some instances you will have people applying for a
16 benefit while in the United States, so it is not as urgent to
17 handle their case as it is for someone that has a relative,
18 let us say, in Japan or Europe or Mexico or wherever.

19 MR. SPURLOCK: Is that the only -- it is just that
20 category in all the others, is that right?

21 MR. SMITH: Pardon me, sir.

22 MR. SPURLOCK: I mean, is that the only prioritiza-
23 tion?

24 MR. SMITH: No, we have a system of priorities. The
25 highest priority is with handling any cases relating to

1 applications. Another very high priority is prosecuting people
2 that are involved in alien smuggling.

3 CHAIRPERSON HATA: Are these priorities new priorities
4 as of your instructions to clean up your caseload?

5 MR. SMITH: The instructions to reduce our backlogs
6 related to what we call the "do latch 'm" cases, where applica-
7 tions are pending. We have always had a system of priorities
8 but we have somewhat shifted our priorities to give special
9 attention to anything where an application is pending, hope-
10 fully to eliminate some of the complaints that have been made
11 regarding the length of time, like Mr. Campos said, had to
12 wait seven months or a year to get something resolved.

13 MR. SPURLOCK: Do you see any change in the operations
14 of the Service since the time that Mr. Smith has indicated there
15 has been an emphasis on getting rid of the backlog, Mr. Campos?
16 Have you seen any change?

17 MR. CAMPOS: I don't know because I don't deal that
18 often with investigations. I deal mostly with other branches
19 of the Service. There is a lot of ways in which the Service
20 can expedite applications. For example, there is no reason
21 why an application, for example, from a mother to a child, an
22 immigration of the child to the mother, or a good, non-suspect
23 spouse application cannot be adjudicated when it is presented
24 in the very minute it is presented, and they have kids, for
25 example, and the marriage has been consummated. There is no

1 reason why it couldn't be done right then, avoid creating a
2 file or keeping the file in Immigration for four or five months,
3 perhaps, sometimes, having the person wait out of the country
4 while the application is pending, perhaps avoiding the giving
5 of someone a benefit because of the delay of that application.

6 Those are just practical considerations. Going, for
7 example, to computers in record-keeping, I understand right
8 now is so -- all the record keeping is done by hand. That kind
9 of a thing -- it isn't a matter of -- it is a matter of budget,
10 of course, but it is also a matter of simply using some efficien-
11 cy in the processing of applications, record-keeping, that
12 kind of a thing.

13 MR. SPURLOCK: Do you have any reaction to that kind
14 of comments by Mr. Campos?

15 MR. SMITH: Okay, at the present time, we are under-
16 going a program to computerize all of our record-keeping. It
17 is going to take a couple years to accomplish. Funds have been
18 allocated, studies are being made, with respect to our relative
19 petitions, our I-130 petitions to which Mr. Campos refers, we
20 are almost completely current now because we have approached
21 with a task force concept.

22 We have changed some of our applications so that pro-
23 cessing rather than having to talk to two different officers
24 can be accomplished now by talking to one officer, dual pro-
25 cessing function, so we are trying to modernize and speed as

1 much as possible the flow of all of these applications to
2 provide better service to the public. Now, it is going to take
3 a while to catch up, but I think we will accomplish it.

4 CHAIRPERSON HATA: Mr. Smith, when you were given
5 that order from Washington to -- the order to reduce your case-
6 load, were you also given additional help, personnel, people
7 power?

8 MR. SMITH: Unfortunately we were not, and for a
9 period of time, we have had an extremely high vacancy factor
10 which has not worked in our favor, but all our efforts are
11 almost directed away from the enforcement action to public
12 service functions now. We could use more help, though.

13 CHAIRPERSON HATA: If you weren't given enough man-
14 power or people power, how are you able to reduce your case-
15 load when you have only so many hands?

16 MR. SMITH: Well, we reduced our case backlogs in only
17 certain areas. We shifted our priorities from, let us say,
18 more from the enforcement aspect to the public service aspect.

19 CHAIRPERSON HATA: So in what areas have your case-
20 load been reduced?

21 MR. SMITH: In the public service aspect, where
22 applications are pending, but in cases where we are trying to
23 locate people, possible prosecute people, we are not able now
24 to devote efforts in these areas, so it is away from an enforce-
25 ment aspect to a public service aspect.

1 CHAIRPERSON HATA: You told us that you have got 75
2 full-time persons working in the investigative area?

3 MR. SMITH: No, I have fully staffed, here in Los
4 Angeles, 152 Investigators. Now about 50 to 60 percent of our
5 efforts will be and are directed toward the public service as-
6 pect, so if I have a full staff, then I would have approximately
7 75 to 80 investigators involved in the public service aspect
8 versus the enforcement part.

9 CHAIRPERSON HATA: Are these individuals who are
10 involved in the public service aspect having direct contact
11 with people out in the field?

12 MR. SMITH: Yes, they are conducting the background
13 investigations, verifying validity of the documents, marriages,
14 bona fides of marriages.

15 CHAIRPERSON HATA: How many of them are bilingual?

16 MR. SMITH: Practically all of our investigators are
17 bilingual in Spanish. It is necessary in this area. We have
18 a few investigators that speak other languages, Thai, German,
19 Polish, and few of the others, but the greatest need in this
20 area is the Spanish Language.

21 CHAIRPERSON HATA: Could you give our staff a statis-
22 tical breakdown of exactly how many of your Investigators are
23 bilingual?

24 MR. SMITH: Well, I would say --

25 CHAIRPERSON HATA: "Practically all" tells me nothing.

1 MR. SMITH: Well, if I were fully staffed with 152
2 Investigators and they were fully trained -- right now we have
3 40 to 50, or I should say 34 to 40 new Investigators, and they
4 have not been trained in Spanish yet, or are in the process,
5 are in the learning process, but I would say that if we are
6 fully staffed and fully trained, that 100 percent of our
7 Investigators are bilingual.

8 CHAIRPERSON HATA: That is if you were fully staffed.
9 At the present you are not fully staffed, and --

10 MR. SMITH: That is correct.

11 CHAIRPERSON HATA: -- you have hired individuals who
12 are not bilingual, and who have promised, I suspect, to become
13 bilingual in the near future?

14 MR. SMITH: That is right. There is a requirement
15 in the first year that they develop a degree of proficiency in
16 the Spanish language that we set.

17 CHAIRPERSON HATA: Is this proficiency tested in
18 some way?

19 MR. SMITH: Yes, it is. They receive a -- 14 weeks
20 of training in an academy, and then they are tested, naturally,
21 as to the degree of proficiency in the language there. At the
22 end of five and a half months they are given another test in
23 immigration law and Spanish, at the end of 10 months they are
24 given another test. If they fail to achieve the requirements
25 that we set then if they cannot perform on the job they are

1 terminated.

2 CHAIRPERSON HATA: Mr. Campos, have you had any
3 difficulty in dealing with investigators who were not fully
4 bilingual?

5 MR. CAMPOS: No. No. Most of them speak good Spanish.

6 CHAIRPERSON HATA: I also have one more question for
7 Mr. Campos. Mr. Martindale indicated or seemed to indicate
8 that there was no real problem when it came to the INS
9 processing delay for his clients, and do you have a comment as
10 far as your clients are concerned?

11 MR. CAMPOS: Yes, that is possibly because of the
12 rapport or relationship between that particular Catholic wel-
13 fare, which is staffed with mostly ex-Immigration officers,
14 who would have some sort of "in" so to speak to individual
15 service, which anybody else doesn't.

16 CHAIRPERSON HATA: Okay, thank you. Does the staff
17 have any more questions?

18 MR. DIMAS: Yes, I would like to address another
19 question to Mr. Campos. The administration has proposed a
20 temporary resident alien category which would offer simply five
21 years permit. I am sure you are familiar with the program, are
22 you not, Mr. Campos?

23 MR. CAMPOS: Yes, uh-huh.

24 MR. DIMAS: Do you feel that people will actually
25 come forward to apply for that status?

1 MR. CAMPOS: No, I don't think so. I think that if
 2 one analogizes that proposal to what happened in Australia in
 3 1973, I think, where there was amnesty offered to, I think
 4 Asians, and I don't recall what are the minority groups they
 5 have there, I think only about ten, twenty percent of the eli-
 6 gible persons applied, because of the fear of being deported.

7 That particular proposal, insofar as the five year
 8 temporary resident, is objectionable in my mind, and I think
 9 this is objectionable to anyone of Spanish speaking origin,
 10 simply because it would violate a lot of civil rights of any-
 11 one who has a dark skin, along with the rest of the proposal,
 12 but it provides, for example, that the applicant, the five-year --
 13 if a person is given a five-year permission to work, for example,
 14 he cannot immigrate his family, so just by that you are viola-
 15 ting the intent of Congress when they enact the immigration law,
 16 which is the keeping of families together, or preventing the
 17 separation of families.

18 MR. DIMAS: And this proposal would tend to keep
 19 families apart?

20 MR. CAMPOS: Definitely. The person who is eligible
 21 could visit the country, could go out and come back, but he has
 22 no right then to, until the Act is amended again, to immigrate
 23 his family, which of course will have the effect of separation
 24 of the family.

25 MR. DIMAS: Now, I think if I may go back very briefly,

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1 Mr. Campos, to something you said in your first statement, the
2 long waiting lines, I take it you are referring to the lines
3 where people are trying to get information --

4 MR. CAMPOS: That is true.

5 MR. DIMAS: -- upon their initial contact. Could you
6 describe that just very briefly for us?

7 MR. CAMPOS: Well, if a person wants to simply get
8 a form from Immigration, he can write, of course, and it will
9 get to him or her in a month, or whatever, but if a person
10 wants to get a form personally, because of emergency or simply
11 because he wants to do the application quickly, he has to wait
12 at least four or five hours. He has to go and get in line to
13 get a number, and then wait some more until his number is called,
14 simply to get a form or to file the application.

15 Sometimes they don't get to his number with a number,
16 and they have to come back the next day, so you are talking
17 about losing at least half a day, sometimes one day, sometimes
18 more than one day. That also applies to the citizenship branch
19 of Immigration where people who are given interviews have to
20 wait two or three hours to be called, or people who have an
21 inquiry as to their status on their case have to wait three,
22 four, five hours simply to get an answer to a question they
23 have about their files.

24 MR. DIMAS: Thank you very much. That is all I have.

25 CHAIRPERSON HATA: Thank you gentlemen very much.

1 MR. CAMPOS: Thank you. Oh, excuse me. I did bring
2 some documents that I would like you to review.

3 CHAIRPERSON HATA: Thank you. Ms. Campbell, would you
4 like to get the next panel together?

5 MS. CAMPBELL: John Phalen, Barbara Honig and Ellen
6 Lee, would you please step up to address the Committee? Would
7 you each please state your name, the organization you represent
8 and the purpose of your organization, please, starting with Mr.
9 Phalen.

10 MR. PHALEN: I am the Executive Director of an
11 organization called the International Institute of Los Angeles
12 and we have existed for some 65 years in Los Angeles as an
13 agency whose exclusive purpose is the service of immigrants and
14 refugees to this community. We currently have a staff of about
15 175 persons, speaking 25 different languages and dialects,
16 providing a multiple complex of educational counseling and
17 immigration counseling services to help foreign born persons
18 attain self-sufficiency.

19 We serve about 30,000 individual clients a year, some
20 of those five days a week.

21 MS. HONIG: My name is Barbara Honig, and I work for
22 the Los Angeles County Bar Association. I am the Director of
23 an immigration legal clinical program that is run together with
24 the Legal Aid Foundation of Los Angeles and UCLA, USC, Loyola,
25 and Southwestern Law Schools, from where I get many law students

1 who work with me. We have a center at the Federal Building.
2 We provide legal counseling to people with any questions in the
3 immigration field, running from deportation to immigration to
4 naturalization questions. We are open part-time from ten to
5 two, Monday through Friday, and it is a free service, with no
6 guidelines in terms of financial minimum, so we do this
7 counseling to anyone with those kinds of questions.

8 MS. LEE: My name is Ellen Lee, and I am the acting
9 Director of One-Stop Immigration Center, a federally funded
10 program where we help people with immigration problems within
11 the City of Los Angeles.

12 The people have to qualify for our services financial-
13 ly and geographically. We are staffed by two attorneys and 9
14 paralegals.

15 MS. CAMPBELL: Okay, I would also like to introduce
16 to the panel Mr. Phillip Smith, who is Assistant District
17 Director for Investigations at INS District Office in Los
18 Angeles. Could you each please give me some idea of the ethnic
19 representation of your clientele?

20 MR. PHALEN: I would say 60 to 70 percent of our
21 clientele are hispanic, 25 percent Asian, the balance middle
22 eastern and European.

23 MS. HONIG: Ours varies quite a bit because we see
24 people on a daily basis, many times never seeing them again,
25 but 60 percent is definitely latin, or Mexican, and the rest is

1 a variety from all over the world, including the Asian countries.

2 MS. LEE: Ninety-five percent Spanish speaking, five
3 percent composed of the rest of the world.

4 CHAIRPERSON HATA: Laurie, excuse me. I would like
5 Mr. Smith to answer that with respect to the cases that he deals
6 with.

7 MR. SMITH: In our enforcement activity, about 90
8 percent would be hispanic, from primarily Mexico and the central
9 American countries, and about ten percent would be from all of
10 the other nations of the world.

11 In our dual action cases, where applications are
12 pending, I think it probably would be about 50 percent hispanic
13 and 50 percent from all nations of the world, other than the
14 Soviet bloc.

15 MS. CAMPBELL: Mr. Phalen, what administrative prob-
16 lems has your organization encountered in terms of getting
17 people processed through the Immigration Service?

18 MR. PHALEN: We have encountered the problems of
19 delay, and by the way, in commenting, let me clarify that I am
20 not an immigration law technician. I am a standard bureaucrat.
21 We have specialists in our agency who conduct our immigration
22 counseling and represent clients, but as reported to me, we have
23 experience delays of years in processes that prevent or delay
24 family reunifications, create problems for people who have lost
25 documents, in terms of identifying themselves to the community.

1 I am pleased to say that I have information which
2 suggests that INS has made some tremendous strides in shorten-
3 ing the length of time involved in some of that application
4 process, and I think that it be complemented for that. That
5 doesn't mean that we have arrived at Kansas City yet. There
6 are still, I think, some unwarranted delays, and I think this
7 is a process that this Commission should be examining on a
8 periodical basis, remembering that family reunification is the
9 intent of the law of our land, that two and three-year delay
10 in accomplishing an application or in applying for citizenship
11 does not seem to be consistent with that intent.

12 MS. CAMPBELL: Could you be specific as to what types
13 of delays?

14 MR. PHALEN: Well, we have just received a listing of
15 some of the delays in application. I will allow my colleagues
16 here to be more specific about that. They know more about it
17 than I do, but one example that I noted in particular the other
18 day in looking at their list, is that it takes three years and
19 two months to accomplish a derivative citizenship, and it seems
20 to me that if the child or wife or relative of an American
21 wishes to accomplish citizenship, and it takes that long, some-
22 how we are frustrating some of the traditional goals of becom-
23 ing, if you will, full participants in this society, that I
24 think have been a concern of this country historically, so that
25 is one example. Others here I am sure can be more explicit in

1 other categories.

2 MS. CAMPBELL: Has there been a problem of lost docu-
3 ments?

4 MR. PHALEN: To my knowledge, yes, and again I am
5 going to defer to my colleagues in terms of some of the techni-
6 cal matters that relate to immigration. My approach in looking
7 at INS is that of an administrator, and I think my questions
8 would go more along the line of there not being an adequate
9 formal appeal complaint process with INS domestically, and
10 tragically so with the consular offices overseas where there is
11 a real possibility of indiscriminate decision making without any
12 appeal process except through the Department of State.

13 We have always found INS ourselves to be very respon-
14 sive in dealing with complaints, but what happens to the client,
15 what happens to the person that has to stand five hours in a
16 line, is then told that his application is wrong and he has to
17 start all over again? Who does he make known his complaint to?

18 Who does the person apply to when they are caught,
19 say, in a cultural bind in Burma, because they are Muslim and
20 required to have a Buddhist state baptismal certificate and
21 the American officer, who has his own idea of distinction be-
22 tween church and state, says we have got to have the state
23 baptismal document, and that means that a muslim has to go
24 through a Buddhist process? Where do clients of this sort make
25 appeal?

1 I personally, and my background is that of a clergy-
2 man, see many situations in overseas circumstance and here,
3 where our particular American middle class cultural tribalisms,
4 if you will, do influence a lot of decision-making where there
5 is a lack of cultural sensitivity with regard to the culture
6 and tradition of the people involved.

7 I would like to see a concept such as an ombudsman
8 established in field situations so that we have at least some
9 sort of appeal process.

10 I will just add another point then shut up for a min-
11 ute and say that a question the legitimacy of a enforcement
12 component and a service component being included in the same
13 entity. My theory says that a clear service intent is implied
14 in the law of our land, that implies an agency with a clear
15 service mission, and with all due respect to many colleagues
16 in this room I know from INS, throughout the land, the INS
17 management team has come up the ranks of a law enforcement
18 training, and I would like to see a whole new approach to
19 service out of a service professionalism generated which has
20 an understanding of the priorities, the decision making.

21 Why is it that we don't have instant decisions with
22 regard to the processes that were mentioned over at this side
23 of the table at the last go-around. I think a professionalism,
24 a mission, would give much in the way of effective prioritizing
25 to our whole approach to immigration services, and I think those

1 are the two things, the need for an adequate appeal complaint
2 process, that protects clients, and the need to make a distinc-
3 tion between service and enforcement, and in supporting INS in
4 terms of dollars, I think that is key, and I think something
5 that can't be said here, but I think this Commission should find
6 out why we have 400 slots for INS here and they have 800 in
7 New York City, and when we have the major problem here.

8 So, it is not just getting more dollars, maybe it is
9 a question of understanding how dollar priorities are established
10 in Washington. I think I will leave it there.

11 MS. CAMPBELL: Let me just back up a minute, Ms.
12 Honig, and ask you why the County Bar Association created the
13 Immigration Law Clinic in the Federal Building.

14 MS. HONIG: Okay. Approximately three years ago, when
15 I was not involved in that opening of the clinic, but the Los
16 Angeles County Bar Association has an Immigration Section, and
17 members of the Section became concerned with the lengthy lines,
18 which at a point not too long ago was even longer than they are
19 today, and then the feeling was to try to develop a center where-
20 by a client could receive an answer that was longer than yes or
21 no or you will have to elsewhere to get that answer, because
22 the Immigration Service with their lack of personnel and the
23 kinds of lines they have down in the information booth, they
24 are not capable of handling any question that really involves
25 any lengthier answer than yes or no, and we are open and the

1 Immigration, in fact, uses our office to be able to give people
2 lengthier explanations of exactly, you know, who is eligible,
3 because if someone who just goes in line and waits for a number
4 of hours gets before an officer of the Service, and then is
5 asking whether or not they are eligible, in other words, they
6 themselves don't even have the knowledge of whether or not they
7 have anything they can do, will have found that wait to be
8 pretty well meaningless.

9 Our availability is there for at least one purpose,
10 to have the time to go with the client through the entire pro-
11 cedure and find the answers which will take longer than one
12 minute, you know, to answer, and that is really, I think, one
13 of the real bases for our establishing that office.

14 In a lot of ways, we have to usually first explain to
15 people that we are not part of the Immigration Service, because
16 even though our notices clearly identify us, many people believe
17 that we are part of the Immigration Service, and we make it
18 quite clear from the beginning that we are not, but we are here
19 to provide immigration counseling, and we do have the knowledge
20 to provide that counseling.

21 They are looking for someone to provide those answers
22 and we were formed to do that, and I think we have the Service's
23 okay, because it is a function that at this present time they
24 are not providing and cannot provide due to, you know, I assume
25 various factors.

1 MS. CAMPBELL: How is your clinic advertising from
2 the building, and have you had any problems in advertising your
3 services?

4 MS. HONIG: Well, our clinic is advertised through
5 signs that we post on tripods down close to the Immigration
6 Information Office on the first floor of the Federal Building.
7 There was when the clinic first opened a whole lot of discussion
8 with the Immigration Service in terms of how we can advertise,
9 you know, where we can put our signs, and over the last year-
10 and-a-half to two years, we have been allowed to put our signs
11 down there near the information counter.

12 One of the, I would call struggles that went on when
13 the clinic first opened, in terms of getting some advertising
14 out, was in terms of our desire to put signs or some kind of
15 notification down near the detention facility, because we also
16 felt that legal assistance ought to be afforded to people who
17 are being apprehended and are being detained, and that was one
18 which we didn't win, and signs were not allowed to be posted in
19 that area, and we never renewed that request since that time.

20 At the present time, the Immigration Service is more
21 prone towards giving detainees legal assistance if they so
22 request it, due to the Munoz case, which if it hasn't been
23 discussed I am sure will be by other panelists at a later point,
24 but that does provide more, or asks the Immigration Service by
25 that court case, will be providing more legal assistance if

1 requested, at least if not at the -- at the Immigration Service's
2 expense, of course, and well, we have now been called quite a
3 few times by judges, by people in detention to come down and
4 give legal assistance, especially to those in detention or those
5 before judges in hearings, who have requested the immediate
6 assistance of legal counsel, and I have provided that on behalf
7 of the L.A. County Bar Association, and that has been working
8 out very well, but as of now, the only actual publicity towards
9 our clinic takes place down there through our signs and by word
10 of mouth, of course, some through periodicals in the Korean,
11 and other Asian communities, a little bit in the Spanish speak-
12 ing press, and also the Federal Information Center on the first
13 floor, which is on the opposite side of the Immigration Service
14 in the Federal Building, when they get a request that they see
15 is more than just something the Immigration Service would
16 answer with a short answer, they will send people up to us as
17 well, so we have various ways that we get referrals.

18 MS. CAMPBELL: Thank you. Now could you describe
19 what types of problems, if any, that your clientele has exper-
20 ienced in regard to applications processing?

21 MS. HONIG: Sure. I wanted to discuss a little bit
22 more detailed the derivative citizenship problem that was just
23 referred to. The derivative citizen is the person who has
24 got really no documents, for the most part, to prove that he or
25 she is a citizen because this is someone who was born abroad to

1 a U.S. citizen parent or parents, and the document that that
2 person has is a foreign birth certificate. Many of them, many
3 of their parents, did go register them at American consuls,
4 but many of them did not, and the three and a half year wait
5 causes these people to have no documentation at all to prove
6 U.S. citizenship. We are not even talking about permanent
7 residency, so I just wanted to emphasize what was mentioned
8 before with that comment.

9 One of the biggest problems, really, that we face in
10 our office on a daily basis, are people who have lost their
11 residency cards, or have turned 14. When you are a permanent
12 if you become a permanent resident when you are a child, your
13 picture does not appear on your card, but you are by law re-
14 quired to come back in after your 14th birthday to register
15 again by turning in your residency card with pictures and
16 fingerprints, and you will have theoretically sent back to you
17 a new card with your picture placed in it.

18 We have found that those kinds of applications as
19 well as people who have just lost their card are taking an
20 incredibly long time to be returned, and to some level in not
21 a very organized way, one of the problems we have is that we
22 are aware that the Immigration Service is in the process of
23 changing the cards to a brand-new type, a magnetic card that
24 the purpose of which is that it would be very difficult to
25 duplicate if it could be duplicated at all, and due to problems,

1 I believe, with the processing of new cards, there has been an
2 undue delay with the receipt of new cards if one has been lost
3 or this 14-year-old situation I described before.

4 However, there have been some people who do get cards,
5 and what has happened is that you have people coming in saying,
6 well, the guy down the street got his in the mail. What happen-
7 ed to me? And the standard answer that I have been giving about
8 the problem with the receipt of the brand-new card hasn't seemed
9 to be clear-cut across the board, which is causing the problem
10 just in the community of people starting to get real competitive
11 with each other towards the Immigration Service, how they are
12 being treated.

13 But what has happened with the fact that cards are
14 not returned, and my suggestion would be that since there seems
15 to be a problem in getting the new card processed, that perhaps
16 we should go back to getting those old cards out and let the
17 new card come when it comes, and people will have to return at
18 a later date, because it is a real problem for people to have
19 no documentation.

20 What the Immigration Service has done has been to
21 establish something called the temporary green card, whereby --
22 of course, these are permanent residents, so they can travel
23 outside the country by law, according to the law, as they would,
24 in terms of vacations, et cetera, and so they have established
25 something called a temporary green card where a person comes in

1 early in the morning because there is only a certain number
2 given per day, and they will be given if they come in with an
3 extra picture, passport-sized picture, a temporary green card
4 so they can have their legal right to travel.

5 The problem is, a certain number is done per day. It
6 is the same line that you heard about a while and all through
7 this period, and that line is quite long, and you are asking a
8 permanent resident, now, that because of bureaucracy hassles,
9 due to the problem of getting this new green card out, now has
10 to spend his or her time in line all morning long, missing work
11 to get a temporary green card so they can have their legal right
12 to travel, and that is an undue delay that I think is too burden-
13 some on the permanent resident to have to bear.

14 The other thing around time delays, briefly, is some-
15 thing that I think was mentioned before in terms of combined
16 processing. There is an attempt being made now, I think a very
17 good attempt, to speed up the process for someone who is adjust-
18 ing status in immigrating into the U.S. They fill out a form
19 and are able to combine what used to be two interviews into one.
20 Not only two interviews, but two interviews approximately a year
21 apart into one interview.

22 The good thing about combined processing, which has
23 been an incredible advantage to people who put in their appli-
24 cations after that procedure began, is that the interview is
25 scheduled on the spot when you file your petition, and you are

1 given the date of that interview right there, along with your
2 permission to work in the United States, which is wonderful.

3 The problem, which is a procedural problem I think we
4 face with Immigration when new policies are established, is that
5 it only applies to the future, and what we have are applications
6 pending from the past, who are not -- who because they were
7 placed in the Service prior to the establishment of the combined
8 processing, have had the disadvantage of having to wait longer
9 than people who filed their applications later, and that is a
10 complication.

11 I know that the attempt is being made on the part of
12 the Service to catch up with the old backlog, but I think what
13 has happened is we still have an old backlog, but the new back-
14 log is only three or four months behind because I know that
15 today if someone filed they would get an appointment date for
16 September 30 under combined processing, but there are still
17 people who filed before who would not have a date, any date, as
18 yet, and will not have a date by September 30, so we have a real
19 confusion with two different systems, because it is only applied
20 to the future, and only catching up with the past.

21 The one thing I would like to say about the long lines
22 if I can, because I think it is important, it is not just that
23 people have to wait, and people lose time at work, because ob-
24 viously that is a problem, especially when they have to return
25 and spend more than one day there.

1 I think it is the effect that that kind of process
2 has on the non-immigrant that is something that should be the
3 concern of this group. You are talking about a person who is
4 a visitor, who is coming to the U.S., and is now asking for an
5 extension of time, for varied reasons, visit more parts of the
6 U.S., family member got sick.

7 During the rainy season, a lot of people came in
8 trying to get extensions because they really didn't get to see
9 anything. That procedure is real detrimental to the vision of
10 the United States across the world, and I think that really
11 has to be taken into consideration, because that is the view
12 that I get when people come up to me saying, you know, I have
13 to wait in that line just to get an extension of, you know,
14 whatever period of time?

15 And I am not talking about poor people, because poor
16 people know how to wait in line. They have been waiting in lines
17 for a long time, and they don't have that view. They will go
18 stand in line. That is what they are used to doing. I am
19 talking about people who may want to come back, want to invest
20 money, want to do things in the U.S. that would be beneficial
21 to our financial, our economic situation.

22 Those lines have a lot of detrimental reasons, not
23 just some that, you know, that might affect the fact that poor
24 people who need to be at work, may lose their jobs, will lose
25 their jobs if they have to waste too much time in lines, but I

1 think the effect of the ugly American comes down on us when the
2 someone who is here as a visitor wants to extend that visa also
3 has to face the same line and the same kind of treatment, and I
4 think for all the reasons, those lines have got to end, and that
5 different parts of what the immigration service does has got to
6 go into different areas of the building or different rooms.

7 When you are going for one purpose, you should go one
8 way, and when you are going for another you should go somewhere
9 else, but to have everybody for every purpose imaginable go
10 into the same line, it is not a surprise to me the lines are
11 as long as they are, because there are so many things happening
12 in one room.

13 MS. CAMPBELL: Thank you, Ms. Honig. Mrs. Lee, would
14 you talk about the problems that you are experiencing at One-
15 Stop.

16 MS. LEE: Talking about application delays, and in
17 that area, I agree with Barbara on what we call the I-90, the
18 replacement of lost green cards or mutilated green cards. Even
19 before the system of the new magnetic cards were even conceptu-
20 alized, it has taken generally on the average over a year to
21 replace them. That has caused tremendous problems with anybody
22 who wants one.

23 Another one that Immigration puts in low priority is
24 issuing of U.S. identification cards to citizens. These are
25 identification cards issued by Immigrations for citizens when

1 they travel and especially those that speak very little English,
2 and used travelling across the border so that they would get
3 minimal amount of hassle with Immigration officers at the border.

4 Immigration also -- I don't know if it is low priority.
5 I just assume it is, because there is a tremendous amount of
6 problem getting them. I know of white Americans, friends of
7 mine, who wanted one, who speaks no other language but English,
8 have been told by the Officer to bring back birth records of the
9 whole family, school records of the whole family, not just him-
10 self, but his brothers and sisters, until he insisted upon
11 getting one before he was issued one.

12 Another one, I think, borders onto that, is the re-
13 ferred to before in the previous panel with the Chinese docu-
14 mentation. When a person is born in Red China or People's
15 Republic of China, before the Communists took over, there are
16 no birth certificates, no marriage certificates and no divorce
17 certificates ever issued by the Government.

18 In order to bring a family member over to prove the
19 family relationship, Immigration has in the past accepted
20 affidavits of various people who know about the relationship.
21 Now they want these people to get documentation from China.
22 Most of them no longer has any relation with the Chinese Govern-
23 ment.

24 Now, if a person could effectively talk to the Officer
25 who does it and explain his or her problem in getting such

1 documentation, that officer has been very reasonable in giving
2 a conditional kind of approval, based on blood tests, but the
3 problem is having access to that Officer, so that the most --
4 the general public are just given a list, to say, contact the
5 U.S. liason office in Peking, and follow through there, and
6 generally, they won't be able to do that. That is another one
7 that I see as immediate problems.

8 Talking also about misplaced documents, because I
9 kind of believe that nothing is lost, just misplaced, but a
10 month ago, I had gone on my own to look for four cases with
11 Travel Control, that has been unduly delayed, I mean, just
12 longer than even what the lists that sent out means, and on
13 all four of them they cannot find them, and they will talk to
14 me when they do, and that has been a month and I -- you know,
15 have not heard.

16 Now, that problem about losing files and don't know
17 where they are is very prevalent, especially among Travel
18 Control at this moment, and that could be verified by all the
19 practitioners that one could -- if you want to talk to anyone.
20 Which, these lead to believe that there is not a good kind of
21 follow-up system, if one is even there.

22 I do suggest that for the general public, since as
23 practitioners we do know who we should talk to and explain, and
24 especially Mr. Sureck has been very good in things like that
25 when one explains to him the problem, but I think that maybe a

1 forum of some kind, a place where the general public could go to
2 find out about the status of their case, instead of having to
3 wait in the long lines in the bottom, and after four hours get
4 told to file what is called an inquiry sheet, and they say they
5 filed that four months ago. File another one.

6 So that is just the method that Immigration has to
7 deal with people that are asking about their cases. The Infor-
8 mation Room doesn't have the answer, which is true, but on the
9 other hand, there is no one place where the person could go and
10 find out and maybe wait the day and find out what has happened
11 instead of the months.

12 MS. CAMPBELL: Mr. Smith, could you comment, please,
13 on the complaint procedures that have been set up for this type
14 of problem by the Immigration Service, on an inquiry on an
15 application or a complaint about a delay or lost document?

16 MR. SMITH: The procedure that has been set up, by
17 and large, is that you file a form, and we attempt to locate
18 the file or the application and respond to it. With the volume
19 that we deal with, there is bound to be a certain percentage of
20 loss, misplaced applications, or whatever. When you consider
21 our total volume, even though it seems like there are large
22 numbers of cases that we can't find, or unduly long in respond-
23 ing to, actually the volume is very low, compared to our total
24 volume of adjudications.

25 You get into the derivative certificates. There, it

1 was a matter of priorities. We felt it preferable to devote
2 our time to naturalizing people rather than ---something has to
3 suffer with a limited work force, so we devoted more time to
4 issuing or to naturalizing people rather than issuing deriva-
5 tive certificates, the same as with our I-90 applications.

6 We realize that many of these people do not have docu-
7 ments. We realize that we have backlogs in these areas, but
8 there again, we attempted to devote more time to the granting of
9 new applications rather than replacing lost alien registration
10 receipt cards.

11 It is a matter of where you place your priorities.
12 Our lines are still long, but I don't think they are as long
13 as they were let us say a year ago. We have somewhat stream-
14 lined certain areas. We have fingerprinting separated from the
15 general area, now, that you can go directly to a fingerprinting
16 man. If you can get inside the door, you can pick up your form
17 without having to take a number to wait to talk to somebody
18 regarding the filing of an application.

19 We are still limited staff-wise, and until we get a
20 sufficient number of people to cope with the volume, we are
21 still going to continue to have some of the problems that have
22 existed for quite a period of time.

23 MS. CAMPBELL: When someone -- go ahead, Mr. Phalen.

24 MR. PHALEN: I think that we, in talking about INS
25 and about the kind of problems, do have to remember that we are

1 dealing, perhaps, with a very profound issue here, and we should
2 not see the INS as the total fulcrum for all that is occurring,
3 and that profound issue is the fact that we are the only major
4 immigrant-receiving country in the world that has nothing in the
5 way of a service policy with regards to foreign-born persons
6 once they arrive here, be they immigrants or refugees, and I
7 hate to tell you the nightmare we went through with the South-
8 east Asian refugee program, in trying to develop an adequate
9 service mechanism to deal with them once they were here.

10 The thought was, well, they move from the camps to
11 jobs and are self-sufficient, and isn't that wonderful? I
12 promise you it didn't happen that way, and there was a very
13 serious lack of I think understanding, in terms of what it
14 really takes to become self-sufficient.

15 So I think we have got to remember that some of the
16 problems faced by INS are problems that have to do with the
17 failure of this country to give adequate attention and adequate
18 priority to the needs of people in this whole approach to
19 migrants, and this perhaps has been true too many decades.

20 On the other hand, I would say that there are avenues
21 for a creative approach to management problems. I tend to
22 think that the division between the service and law enforcement
23 components would be healthier for both, and I think there
24 might be approaches to the question of lines, to the question
25 of service modalities, that could be undertaken, and with the

1 cooperation of the private sector, and certainly Joe Sureck
2 locally, and Commissioner Castillo at the national level have
3 been in dialogue with private agencies about this, and they are
4 to be commended.

5 Resources is a key, but I think we can look at the
6 matter of let us say confinement of the law enforcement compo-
7 nent, what are some of the alternatives to the methods of con-
8 finement here. I think you should talk to Congressman Roybal
9 about some of his points of view in that area, and some of
10 his experiences.

11 I think it is not impossible that better efforts can
12 be made. We are trying to establish an information service up
13 there right now, up at the INS headquarters. Out of coopera-
14 tion with the private sector and out of a real commitment to
15 service, I think some improvement can be made within existing
16 resources, and I underline again, I would love to know why
17 New York has 800 slots and we have 400 in this town.

18 MS. CAMPBELL: Going back to Mr. Smith, I wanted to
19 ask you about the inquiry form that you were talking about,
20 in terms of someone who is inquiring about the status of an
21 application, how long does that take before they get a response
22 from that?

23 MR. SMITH: Well, hopefully immediately. Usually,
24 or traditionally, you run into the case where you can't locate
25 it and oftentimes it has been misplaced, but we attempt to

1 respond as soon as we possibly can. Now, if any cases of
2 extreme hardship, especially cases that are represented by any
3 of the people here in this group, this does not apply to the
4 person that is not represented, but each of these people know
5 to the section or branch where they can go or to the particular
6 Officer, where another attempt will be made to locate the file
7 of the application, and then if there is illness involved, or
8 emergency situations, there are provisions for approving
9 applications, allowing people to leave the country and return
10 and all of this. We attempt to respond.

11 MS. CAMPBELL: Yes.

12 MS. HONIG: I wonder if I could say something about
13 the inquiry forms, because we deal with them a whole lot, given
14 that we are that kind of an office where when your hands are
15 in the air and you don't know what to do, they come in and see
16 us.

17 We found that that has been a very discouraging form
18 for many people, because they don't get a response, especially
19 people with I-90's, who were told to hand in inquiry when they
20 haven't got their green card after they have lost it, and never
21 even hear, just that it is processing delay, or any response
22 at all, and what I have tried to do and our office has tried
23 to do is make direct contact for these people to the section.

24 It is just unfortunate that it has to take either
25 requiring an attorney or one of the agencies or, you know,

1 finding your way to an office like mine, or to get the direct
2 contact that really somehow should be made, where if an inquiry
3 form is going to be filed, those forms have got to be gotten to
4 the right place immediately so that some response can happen.

5 My feeling is that those forms, if they ever leave
6 the first floor, it is really unclear where they go, because I
7 can honestly say I don't know any person who without an attorney
8 has received an answer. I do know attorneys and I myself have
9 received answers, but I don't know people without attorneys who
10 have, and I don't think it is fair to those people who have the
11 capability, and people should be able to file these papers on
12 their own, that they don't get an answer as well.

13 MR. PHALEN: And what do you do when you face that
14 kind of problem with the consular office overseas? Who do you
15 go to then?

16 MS. CAMPBELL: Ms. Honig, I wanted to also ask you a
17 question about immigration forms in general, and I would like to
18 know if you have any concern about what languages the forms are
19 in besides English?

20 MS. HONIG: Well, a few of the forms in Los Angeles
21 are in Spanish, but far too few, and of course Los Angeles, al-
22 though we have a large Spanish speaking community, we do have
23 a lot of Japanese, Chinese speaking applicants who there are no
24 forms available in their language that I know of.

25 But the major form that is utilized to immigrate a

1 relative, the I-130, is available in English only, and one of
2 the services that we have been forced to provide, although that
3 was not our intention when we first opened our office, has been
4 to assist people in just filling out the forms, due to the
5 language problem.

6 That, I would say, is the major form where there is
7 a real problem with not having it in other languages besides
8 English. I am happy to say that the form when you have lost
9 your green card, the I-90 that we have been talking about, is
10 in both Spanish and English, and that has been a great help for
11 people who don't speak English fluently enough to fill out
12 forms in English, but there is a real problem in that given
13 where we are located, we really do need some bilingual forms.

14 MS. CAMPBELL: I have no more questions. I would
15 like to turn it over to the Committee.

16 CHAIRPERSON HATA: Thank you. Ms. Gomez?

17 MS. GOMEZ: Madame chairman, I would like to ask Mr.
18 Smith, where do you recruit for your employees? What areas?

19 MR. SMITH: We -- when we have a vacancy, there are
20 announcements, and recruitment will be through the Civil Service
21 Commission. We will hire from there. We will also hire from
22 within our own system, through an upward mobility program.
23 People from other federal agencies, if they are aware of vacan-
24 cies, our vacancy announcements are circularized with their
25 agency, then they will apply.

1 MS. GOMEZ: You mentioned training as far as language
2 was concerned, training them to speak Spanish. -

3 MR. SMITH: Yes.

4 MS. GOMEZ: What about the cultural sensitivity? Is
5 there any type of training in that direction?

6 MR. SMITH: Oh, I think there is some, but probably
7 not as much as there could be.

8 MS. GOMEZ: There should be more?

9 MR. SMITH: Especially with the hispanic groups.

10 CHAIRPERSON HATA: Mr. Smith, you mentioned, following
11 along with Ms. Gomez' question on languages, you said your
12 officers, most of them speak Spanish, or will speak Spanish
13 when they are through with their language course, German I
14 believe you said, Thai --

15 MR. SMITH: Yeah, we have a few officers that are
16 fluent in these languages.

17 CHAIRPERSON HATA: I was wondering if some of the
18 other panelists would like to comment about the need, perhaps,
19 for officers who speak other languages, representing the
20 clientele that you represent.

21 MS. LEE: I think it is commendable that they at
22 least are learning another language, but I want to say that the
23 Spanish that most of the Investigators speak are not good
24 enough to really get -- especially when you are investigating
25 in depth on a case, that the Spanish is not good enough to

1 get at it, most of the Investigators, and especially, too, on
2 the Information Room in the first floor, that attempt has been
3 made to at least, you know, get Spanish speaking people in there
4 but the Spanish is just not good enough to really get to a
5 problem, because generally speaking, when a person has stood in
6 line for four hours, they have a problem. They have a question.

7 They want the question answered, and we have seen
8 time and time again, because they come to us afterwards, that
9 they have gone there and their questions have not been answered.
10 I think that same goes to the detention facilities that
11 Immigration has.

12 When a person is detained at this moment, and the
13 person is not processed yet, and this is the term used by
14 Immigration, that person has no access to an attorney, even
15 though that attorney wants to be there at the questioning of
16 the detainee.

17 After the processing has been over, and only then,
18 can the attorney talk to the detainee about whatever needs to
19 be done, so that whatever rights, violated or not, is really
20 not known. No attorneys can go to the detention area, even
21 though it is on record, on file, that the attorney is represen-
22 ting the alien -- I mean, attorney representative on record,
23 and the Spanish comes in there too, especially when our agency
24 deal such high numbers in Spanish speaking, that that happens.

25 Our counseling to our clients, and this is our clients

1 before, shall I say, detention picks them up, or whatever the
2 case may be, is not to do anything until they call us, and there
3 are so many cases that I would tell them otherwise, that I have
4 gone over the case with them, there is just actually nothing
5 they could do, and that they know what their rights are, and I
6 would say, you should leave, but for those who have never seen
7 an attorney, who do not know what their rights are, they have
8 no access to one at detention time until they were processed.

9 CHAIRPERSON HATA: What does this processing consist
10 of?

11 MS. LEE: Maybe Mr. Smith can tell you exactly what
12 it is.

13 MR. SMITH: We must keep in mind that the deportation
14 process is not a criminal process. It is a civil administrative
15 process. The guidelines that are applicable under Miranda vs.
16 Arizona do not apply to administrative process. Our processing
17 is by and large the filling out the relatively simple form.

18 The bulk, the majority of aliens that we handle are
19 Mexican citizens, and the majority of them return to Mexico
20 voluntarily, and it is a very -- when I say voluntarily, it is
21 in our custody. They elect to return voluntarily versus go to
22 a deportation hearing.

23 We establish their identity and where they live,
24 family ties, and make a determination as to whether they should
25 be allowed to remain in the country, to pursue any form of

1 relief that might be available. The majority again here are
2 young, single men, and most of them elect to return, so it is
3 a very simple processing procedure, not hours of interrogation
4 or anything like that. We fill out a form.

5 Deportability is established when we encounter the
6 individual in the field. Anyone that is represented by an
7 attorney, and wants to speak to his attorney, he can speak to
8 the attorney, and the attorney can be with him during our
9 processing procedure.

10 MS. LEE: I have known of cases -- I guess I am
11 commenting to that. I have known of cases in which the person
12 is eligible for other types of relief, and if it weren't for a
13 friend that had called us, that person has already by that time
14 signed what is called a voluntary departure, on the way out to
15 the bus before we caught them, and I mean at the nick of time.

16 Now, I also do know of aliens who would lie to the
17 officer about their family background out of fear. Out of fear
18 they say they are single. Out of fear they say they don't have
19 any children, that they are United States citizens born here,
20 for all they are afraid that if they do that, Immigration
21 might go and pick up the rest of the family. I mean, there are
22 all these misnomers and fears out in the community, and out of
23 fear they lie, and to the officer, it is true that under the
24 law, that person is deportable without any other kind of equity,
25 and I say when there is a total access to a detainee before the

1 person is talked to, that would alleviate a lot of those prob-
2 lems that would otherwise now go unchecked.

3 CHAIRPERSON HATA: Before I turn it to Ms. Honig, I
4 would like to ask you a question. Is the processing done in
5 English, or in the detainee's language?

6 MR. SMITH: It is done in the detainee's language,
7 in usually Spanish.

8 CHAIRPERSON HATA: Ms. Honig?

9 MS. HONIG: I just wanted to add, Mr. Smith pointed
10 out that the Immigration procedures are considered civil proce-
11 dures, but you do have someone who is in detention, someone who
12 in order to get out of detention if they do want their right to
13 a hearing will have to post some kind of bond or ask to be
14 released on their own recognizance, and so you have perhaps more --
15 something closer to a quasi-criminal proceeding than you do
16 purely civil, since there is a bond to be posted. There is
17 detention involved.

18 I think what is attempted right now to be worked out
19 with Mr. Castillo's office, due to the case I mentioned before,
20 Munoz, is some way where what Ellen stated would happen, where
21 we can have some kind of legal assistance to the person before
22 processing, because it is true that people are very scared.
23 They are also not only scared of what is going on in and of it-
24 self because they haven't -- it is something new to them, they
25 have never been through it before, but also due to the Officers

1 they are dealing with in detention, many of which do make them
2 very fearful.

3 There is -- I know cases where they were told that if
4 they didn't accept voluntary departure and went for a hearing,
5 they would not get voluntary departure at the hearing. Now,
6 there is no way an Officer can make that determination. Volun-
7 tary departure can be granted by a judge even after a person
8 decided not to accept it administratively, post the bond and go
9 in front of the judge.

10 And yet, many times, they are scared into signing
11 this form, because they were told that they would never be able
12 to depart voluntarily, and a deportation does correctly have a
13 negative effect on any possible immigration in the future.

14 So although Mr. Smith said that attorneys could go in
15 and be with the client during processing, I haven't seen that --
16 I have seen that to be a very difficult thing to have happen,
17 and in fact, most people go through processing, and then are
18 able to see any relatives or an attorney who is there to see
19 them.

20 One of the problems we have with this also is that
21 once that is done, then you go into your hearing if that is what
22 ends up happening, and then the Service uses the processing
23 forms that were just taken prior to advice of counsel in order
24 to get the person to be deportable or deported or whatever
25 happens at the hearing, so there is a real procedural problem

1 that I think is right now in the middle of being worked out
2 through the courts and through Mr. Castillo's office in Washing-
3 ton, D.C., around right to counsel at what time.

4 CHAIRPERSON HATA: Ms. Lee?

5 MS. LEE: This in addition to the fact that even
6 though the whole process is a civil and administrative kind of
7 hearing, there are questions that are asked of the detainee
8 that would have repercussions upon the deportation hearing.

9 They ask about arrests and/or convictions of other
10 crimes, other than being just here quote unquote illegally.
11 That has a bearing on whether the person can get voluntary
12 departure or not, and those are not explained to the alien.
13 They are just asked as a matter of course, and many times an
14 alien does not know when they have been arrested and just been
15 set free that that was not a conviction, and that goes past,
16 because it is not really dug into unless the alien happened to
17 have representation. That is the end of that.

18 CHAIRPERSON HATA: Mr. Phalen?

19 MR. PHALEN: I think it is a matter not just of
20 linguistic understanding, but of cultural understanding, and I
21 refer back to the need for a strong service mission and profess-
22 ionalism that I referred to before, in pointing to the very
23 administrative civil hearings that have just been referred to.

24 A lot goes on in INS, a lot of decisions are made with
25 great discretionary power that influence lives and involve what

1 I call cultural judgments. What constitutes a legal marriage
 2 or what constitutes an appropriate marriage? What is and who
 3 is an undesirable alien? What are the "moral unmoral" implica-
 4 tions of what a desirable or undesirable person is? I am an
 5 Episcopal priest. I will bring in 6 clergy, and we can spend
 6 the rest of the month discussing that one if you want.

7 The question at hand professionally, and I know these
 8 decisions have to be made, who is making them, what kind of
 9 criteria in terms of training, background and experience is
 10 necessary, what kind of simple access to an appeal process do
 11 clients have when they have questions about the hearing process,
 12 and to what extent are their rights protected in these some-
 13 what informal hearing processes, as well as the more formal
 14 processes of INS discussed here, that have to do with voluntary
 15 departure and that sort of thing?

16 CHAIRPERSON HATA: Blood tests are required, you said,
 17 from the Chinese immigrants, Ms. Lee, I guess you said that.
 18 Are blood tests required of any immigrants from other Communist
 19 countries, or are the Chinese the only case?

20 MS. LEE: Best I know, the Chinese are the only case.

21 CHAIRPERSON HATA: Mr. Spurlock? Do you have a question?

22 MR. SPURLOCK: Yes, I have got a couple questions for
 23 Mr. Phalen. In your judgment, is there some rational basis
 24 or reason for continuing to house this service within the
 25 Justice Department, or could in terms of responsiveness, more

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1 budgetary control, greater flexibility obtained if the Service
2 were outside the Justice Department.

3 MR. PHALEN: I think that the actual service compo-
4 nent should be separate from the Justice Department, maybe some
5 branch of HEW or Social Security would be a better place to
6 house the service. I think we should have a clearly set of
7 legally mandated services for this as much as we do for Title
8 XX Social Services, Social Security or anything else, and if we
9 have a law that is going to welcome immigrants, then we should
10 respond in those terms.

11 In other words, I don't go to my local police depart-
12 ment when I want a judgment about a traffic ticket. It is a
13 separate process.

14 MR. SPURLOCK: Do you think that there is a signifi-
15 cant amount of time which is allotted by the higher echelon of
16 the Justice Department to the service component? Do you know
17 at all about -- have you made inquiries about the extent to
18 which this is a --

19 MR. PHELAN: I think it is a highly vulnerable situa-
20 tion. Right now we are at a moment when fortunately, the --
21 let us start with the Commissioner. It is very motivated in
22 terms of services. The former Commissioner was not motivated.
23 His priority was on law enforcement, and he was able to push
24 toward enforcing at the border, if you will, rather than the
25 service.

1 So here again, we have, depending upon perhaps the
2 discretionary decision of some people in high places, a decision
3 made as to whether or not service or enforcement is going to be
4 the primary thrust of the INS, and I don't think that that is
5 fair to the professionalism or the requirements of either
6 components. I am not discounting the need for law enforcement,
7 but I am saying that service and law enforcement should not be
8 in the same entity for ethical reasons, nor should they be
9 pragmatically competing for the same dollars.

10 MR. SPURLOCK: Ms. Lee, you are an attorney. Do you
11 have any perception of the different degrees of judicial review
12 which are available to persons who are aggrieved in the INS
13 process as opposed to other agencies? I mean, is judicial
14 review extremely limited here, or is it as broad as for people
15 who are aggrieved by other government agencies, do you know?
16 And can you comment generally on judicial review that is
17 available?

18 MS. LEE: For judicial review, it is available as far
19 as hearings go. From a deportation hearing, if you appeal that
20 it goes to the Board of Immigration Appeals, and after that it
21 would go to the Federal Courts if needed. Now, there is a
22 separate entity, I see it, from the Board of Immigration Appeals
23 to the Federal Courts, that generally, even though the Board
24 of Immigration Appeals is a separate arm, completely separate
25 from the Immigration Service, that sometimes the difference is

1 yet to be seen.

2 The review itself is again limited only to a certain
3 group of people, a certain group of people who are either educa-
4 ted enough or shall I say tough enough to withstand all the
5 delays and all the harassment. I don't mean physical harass.
6 I just mean, you know, your own internal mental kind of thing
7 by having your -- having to just wait in limbo, that kind of
8 mental harassment, is only limited to those people who want to
9 go that far, that generally a lot of them do give up before
10 that, whereas in the civil courts, and especially in the crimi-
11 nal courts, there are guidelines.

12 Criminal courts have guidelines in which certain time
13 limits have to be dealt with before they can keep the person
14 further in detainees. We treat our juveniles better. The
15 juveniles, in order to be kept in detention, has to be put be-
16 fore a judge, court judge, within a certain limit of time. The
17 alien has not, and I have been called in cases by the judges in
18 which the alien has stayed in jail for -- a detention facility
19 down in El Centro -- for a whole week because they could not
20 find an interpreter to speak the language he speaks from Indio,
21 and another one that I know of is in this woman who refused to
22 answer any questions at all, and the judge was very fair and
23 said, you know, why are you penalize this woman for upholding
24 her constitutional right to remain silent, even though, you know,
25 rightly or wrongly, she believes whatever it is.

1 Now, that woman was held in jail -- detention -- for
2 a whole week. So it is completely different. There is no
3 restraints as far as time, and with Border Patrol, which is the
4 officers out in the field, especially out of Los Angeles, they
5 have highly encouraged people not to go to hearings, and that
6 they have been told that if you do, we have to keep you in jail
7 for -- I know of another case -- two months, or you will be
8 separated from your trial, or whatever the case may be, to help
9 them, or shall I say find a voluntary departure more amenable
10 to sign.

11 CHAIRPERSON HATA: I have one final question. Mr.
12 Smith, you have said that your priorities are going to be
13 naturalization instead of replacing lost documents and so forth.
14 Is that correct?

15 MR. SMITH: I didn't say that they are going to be,
16 but we have devoted somewhat more time to the naturalizing of
17 people rather than to replace documents, because the people
18 want to be naturalized, and hopefully, we will be able to
19 eliminate these other backlogs soon, too.

20 CHAIRPERSON HATA: I wondered if the three of you
21 would like to make a brief comment on that priority decision.

22 MS. LEE: I realize that is a priority. I do realize
23 that the naturalization branch is very overworked. Our way of
24 countering that is that when we have a client on that, we
25 personally go and talk to the person in charge, and they will

1 set up these hearings, but again, that brings back to my recent
2 point, there is not that avenue, really, for the person on the
3 street. They don't know that, they are not told that, that they
4 could do. They are just told that they have to wait, and here
5 are the kids turning 18, 19, and 20, who are citizens of the
6 United States, who could not get any jobs, could not go to
7 school, because they couldn't prove anything other than that they
8 are alive and there.

9 So on those cases, when we have them, we have an
10 avenue to push and the Immigration Service has been very good
11 in that, but for the ordinary person, it is just not there. They
12 don't know about it.

13 CHAIRPERSON HATA: Thank you. Ms. Honig?

14 MR. PHALEN: I would point again to the need for an
15 appeal checks and balance system with regard to the INS system.
16 Who is going to be deciding the priorities, and I think there
17 must be some access to influencing those priorities through a
18 commission, through a citizens group, through a process, so
19 that it is not strictly an internal INS matter.

20 Be it a matter of priorities of enforcement over ser-
21 vice, or the types of service priorities.

22 MS. HONIG: My feeling in terms of those priorities
23 is that there are the people such as people who are derivative
24 citizens, and people who do not have documentation, those who
25 have lost their residency cards, should in fact be given a

1 higher priority. My reason for saying that is that they are in
2 the community with no documentation, especially the person who
3 is a citizen, a U.S. citizen, but without the documentation
4 because of that kind of a backlog, and in fact, I would say
5 that that person, in my opinion, ought to take some kind of
6 priority over naturalization, although I feel very strongly
7 that the priority ought to be service, and less the law
8 enforcement, and that if that means that there be less
9 personnel in law enforcement for those people to be then placed
10 in naturalization and immigrant visa processing, that would be
11 my priority.

12 CHAIRPERSON HATA: One final question from Mr. Montez.

13 MR. MONTEZ: Mr. Phalen, have you ever heard of
14 European undocumented workers?

15 MR. PHALEN: There are undocumented workers and per-
16 sons in this community from throughout the world, Europe,
17 Canada, they are not necessarily as obvious in terms of how
18 quote "immigrants" are viewed, but they are certainly here.

19 MR. MONTEZ: You have heard also, Barbara, that there
20 are European undocumented workers?

21 MS. HONIG: Oh, clearly. Clearly. It is exactly
22 what Mr. Phalen just said. For one thing, you have to under-
23 stand that Canada is our last open border. A Canadian comes to
24 the United States and receives no documentation to prove any
25 length of stay required, in other words, just enters, many times

1 without a passport, and says at the border they want to spend
2 two weeks to visit, that is fine, and they will not be given the
3 IND-4, which is the arrival-departure document that most non-
4 immigrants arrive with.

5 They overstay -- you will never know when they over-
6 stayed from, because there is no document to give them a ter-
7 mination date, and so we have many people in this country, and
8 I come -- that is why I said 60-40 in terms of the people that
9 I see, 40 percent of my people are undocumented from, or not
10 all of them undocumented, but from all over the world.

11 MR. MONTEZ: What is the enforcement policy in that
12 area, Mr. Smith, I mean as it relates to people who don't look
13 immigrant?

14 MR. SMITH: Our enforcement policy relates the same
15 regardless of nationality, and we do apprehend aliens that are
16 in this country illegally from all nations.

17 MR. MONTEZ: Would you say they are not as distinguish-
18 able as other groups, though?

19 MR. SMITH: I think that some of them are just as
20 distinguishable, if you are going to base it on a racial
21 characteristic. You have orientals, you have people from the
22 African nations.

23 MR. PHALEN: Let me just say this, and I said this
24 to my mother facetiously when she asked me about this on the
25 phone. I was born in Buffalo. I used to go to Canada when I

1 went to the country. It took too much trouble to get outside
2 of the city in Buffalo. How do you know that I wasn't born in
3 Toronto?

4 MR. MONTEZ: It almost seems like unequal application
5 of the law, doesn't it?

6 MR. PHALEN: I would call it prejudicial application,
7 and I think it is race prejudice that we are talking about.

8 MR. MONTEZ: Thank you.

9 CHAIRPERSON HATA: Mr. Smith, you used the word
10 "oriental." Does this mean that INS categorizes Asians as
11 orientals?

12 MR. SMITH: Well, I probably should have said Asian,
13 because we do pick up a number of Asians from various nations
14 in Asia.

15 CHAIRPERSON HATA: What is the official INS category,
16 then, for people from that part of the world?

17 MR. SMITH: I would presume it is Asian.

18 CHAIRPERSON HATA: Thank you.

19 MR. SMITH: Pardon me if I incorrectly stated the
20 group.

21 CHAIRPERSON HATA: The State Advisory Committee would
22 be very happy to send you a copy of our report on Asian and
23 Pacific Americans for your clarification.

24 MR. SMITH: Thank you.

25 CHAIRPERSON HATA: And we thank you all.

1 MS. CAMPBELL: Thank you very much.

2 CHAIRPERSON HATA: The Committee is not taking a
3 break in the interest of time. We have got a full schedule to
4 six o'clock, we hope, and I guess our next staff person who is
5 going to conducting questioning will be Debbie Miron, so will
6 you get the panel together, please, Debbie?

7 MS. MIRON: Would Mr. Miller, Mr. Rutkin and Mr.
8 Gibson please step up to the witness table?

9 MR. PARSONS: I came here in Mr. Miller's place. My
10 name is Russell Parsons.

11 MR. GOLDSTEIN: I am here in Mr. Rutkin's place.

12 MS. MIRON: And is Mr. Gibson here, or someone in Mr.
13 Gibson's place? If you take your seat, in a minute we will
14 have the witnesses identify themselves, and then they can sub-
15 mit any written material and also briefly summarize that mater-
16 ial, and Mr. Gibson isn't here right now, so that I think we
17 can start, and then he can join us when he arrives.

18 Mr. Parsons and Mr. Goldstein, could each of you
19 please identify yourselves, starting with Mr. Parsons?

20 MR. PARSONS: Yes. I am a consultant with the Mer-
21 chants and Manufacturers Association in Los Angeles. I am here
22 today as a substitute for Mr. E.L. Miller, who I believe gave
23 an earlier statement to Deborah Miron, relative to the
24 Association's involvement in the employment of undocumented
25 aliens.

1 MS. MIRON: Mr. Parsons, can you please tell us what
2 your role is at the Association?

3 MR. PARSONS: Yes, I am a consultant with Merchants
4 and Manufacturers Association. Our Association has been in
5 existence in Southern California for over 90 years. We repre-
6 sent about 2,300 corporations that cover just about every
7 conceivable phase of southern California business. The predom-
8 inant mixture of our membership is manufacturing, and about
9 38 percent of our members have less than 100 employees.

10 MS. MIRON: Thank you, Mr. Parsons. Mr. Goldstein
11 can you please identify yourself here?

12 MR. GOLDSTEIN: Yes. My name is Charles H. Goldstein.
13 I am the attorney for the Coalition of the Apparel Industries
14 in California. The Coalition is a group which represents 30
15 separate associations in the apparel industry, covering every
16 phase of the apparel industry. The apparel industry members
17 represent 70,000 employees. The apparel industry is the
18 seventh largest in the state of California, and the third
19 largest employer in the City of Los Angeles.

20 MS. MIRON: Thank you. Thank you. Now we will go in
21 order, and you can each briefly summarize your testimony. I
22 just wanted to be sure that you were identified for the record.
23 Mr. Parsons, could you please begin?

24 MR. PARSONS: Might I ask, has the overview that I
25 think you prepared at the time of the interview with Mr. Miller

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1 been introduced in the record?

2 MS. MIRON: It is a part of our investigative report
3 records, and will be on file with the U.S. Commission on Civil
4 Rights.

5 MR. PARSONS: I think that what I have to say here
6 today is essentially probably contained in the statement that you
7 compiled in your discussion with Mr. Miller. If the Commission
8 would prefer that I not repeat it, I will be guided by your
9 desires. It is a very short statement on behalf of Mr. Miller.
10 I believe it is probably in your record.

11 MS. MIRON: I think you had better briefly summar-
12 ize it rather than reading it, as to the record.

13 MR. PARSONS: Our personal goal at the Merchants and
14 Manufacturers Association is to provide information upon which
15 employers can make intelligent decisions in this current period
16 in which we live. Threaded in the decision making policy is a
17 myriad of statutes, among them being the Civil Rights Act,
18 Title VII in particular. We have a fair employment practices
19 act in California, and so many of our employers are government
20 contractors and therefore under the auspices and jurisdiction
21 of the Office of Federal Contract Compliance.

22 In addition to that, we have a rather broad spectrum
23 of statutes in California, including a Labor Code Section which
24 I don't know whether there has been any material introduced
25 relative to the Dixon Arnett statute that was passed by the

1 California Legislature relative to the employment of aliens
 2 some several years ago, and it is our basic role as an employer
 3 association to provide an avenue of decision making to our mem-
 4 ber corporations so that they might be guided by the decisions
 5 which they think are best for their business.

6 We are not in the position of telling our members
 7 what to do. We have not encouraged our association members to
 8 indulge in the employment practice of hiring undocumented
 9 aliens because of the repercussions which are inevitable in
 10 terms of its social and other impact. We have recommended to
 11 our members that in order to comply with the Civil Rights Act
 12 and the California Fair Employment Practices Act, that they
 13 would be well advised to seek documentation of those aliens
 14 who apply for employment.

15 Our principle problem is that which is contained in
 16 that rather simply problem of trying to identify what consti-
 17 tutes a valid immigration document. We have had numerous
 18 experiences, including a recent survey made of one of our
 19 Board of Director Officers, in which the company has done an
 20 intensive job of pre-employment screening and as a result of
 21 an Immigration and Naturalization survey, about 30 percent of
 22 this workforce was found to be in possession of invalid immigra-
 23 tion documents.

24 Our paradoxical problem is that which confronts most
 25 other California employers. It is being able to identify

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1 documents which on their face appear to be valid, and subse-
2 quently are found to be invalid by an Immigration and Naturali-
3 zation survey. That in a sense, is basically our problem.

4 MS. MIRON: Thank you. Mr. Goldstein, could you
5 briefly summarize your testimony?

6 MR. GOLDSTEIN: Yes. In assessing President Carter's
7 proposal submitted to Congress last August, the Coalition of
8 the Apparel Industries in California is glad to see that he has
9 spelled out an amnesty program that would apply to many aliens
10 who have become participating and productive members of society.

11 The promise of eventual citizenship to those undocu-
12 mented aliens who have resided continuously in this country
13 since January 1st, 1970 is, we believe, a definite and defini-
14 tive step forward towards resolving the problem.

15 However, we are concerned about the stipulation im-
16 posing sanctions against employers who knowingly hire undocu-
17 mented aliens, pointing out that employers would then bear the
18 responsibility of proving the legal status of workers applying
19 for jobs.

20 I am going to depart from the written statement, and
21 I am going to discuss with you at various points, my observa-
22 tions in 14 years representing people not only in the apparel
23 industry extensively, but in many other industries.

24 That the task of an employer trying to ascertain
25 whether somebody is undocumented or permitted to work is very
difficult. Exceedingly difficult. It is easy to get Social

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1 Security Cards.. It is easy to get a drivers license. It is
2 easy to get birth certificates. It is easy to get all the
3 paraphenalia for someone to declare themselves to be a citizen
4 and therefore we feel it very unfair to put on the employer
5 the burden of asking questions and probing into the ethnic
6 background of his employer.

xxxx

7 Has been in the country since January 1, or is an
8 undocumented alien. By placing responsibility on employers to
9 determine the status we feel there is a danger that employers
10 might discriminate against applicants on the basis of appear-
11 ance, speech, or surname, and in order to avoid this type of
12 illegal discrimination, the employer must ask whether an
13 applicant is either a citizen or a legal resident.

14 We have provided our Association Members with an
15 application that asks that question, and invariably, not only
16 in this industry but in the furniture industry, restaurants,
17 on and on and on, they check yes, we are a citizen.

18 I mean, you can walk through a plant. You can walk
19 through this hotel, and you know. You know they are undocu-
20 mented. And you know what you have in southern California, you
21 have a society of fear among these people, and they are very
22 productive, a very vital part of the society, a society of
23 fear, because there is no way for the employer to find out,
24 there is no security for these people.

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25 We feel that it is a very essential thing for the

1 President to announce this policy and for this policy to be
2 enacted. Continue. Beyond that point, what proof can the
3 employer require that would not violate the civil rights of the
4 applicant? Social security cards, as I have said, have been
5 easily obtainable, and unfortunately as easily forged, and
6 therefore provide no real proof as a document of residency.

7 The Coalition would ask the government to offer a
8 definitive identification system which will enable employers
9 to know whether the documents presented by an applicant are
10 valid or whether they may be used without fear of breaking
11 another law having to do with civil rights..

12 But there again, do we want to have a national
13 identification system? Do we want to have that type of state,
14 and that is a problem. But the employer is kind of on the
15 horns of a dilemma. If he hires somebody, and he has not
16 checked every documentation that some court eventually says
17 he must hire, or he must check, then he is forced to have
18 penalties against him.

19 And by the way, I don't think, in southern California,
20 in 14 years I have met any employers who say I only hire
21 undocumented workers because I think I can take advantage of
22 them. The real need, as I will discuss, is one of lack of
23 skills. You take a dirty job, you take a repetitive job, you
24 take a job that has no image, an industry that has no image
25 like the motion picture industry there is an image, or the

1 airline industry. I could set up a table on Century Boulevard
2 and offer people minimum wage and run the Charles Goldstein
3 Airline, and I would probably have 150,000 applicants, because
4 it is "airline." If I would say I would like you to work in
5 a heavy manufacturing plant doing welding, I doubt if I would
6 have any applicants.

7 Now, that is the problem we really face, and I will
8 continue. Why is the undocumented alien hired, and why is he
9 necessary in this society of southern California, and perhaps
10 in other parts? Because he is the only person who will do the
11 dirty job, the repetitive job. In many cases, he is the only
12 person that will put in a good day's work, who is not reliant
13 on all of the social services that we have.

14 President Carter's provision, which would give a
15 special nondeportable status to aliens who entered this country
16 after January 1st, 1970, and before January 1, 1977, would
17 place, we believe, untold numbers of aliens in limbo, since
18 those employees would be allowed to work, would have deductions
19 taken from their salaries for Social Security, and in Califor-
20 nia, State Disability, but they wouldn't enjoy any of these
21 programs.

22 There is no way of knowing the exact number of undoc-
23 umented aliens in this country that would fall into the above
24 category who would be granted a five-year amnesty. There is
25 also no clear answer as to what would happen to these people in

1 five years. In respect to the basic human rights, we don't
2 believe that separating members of families for five years,
3 since aliens would be forbidden to bring relatives into this
4 country under the proposal, is in the interests of all concern-
5 ed, and certainly it runs counter to any feeling of basic human
6 rights.

7 MS. MIRON: Excuse me, Mr. Goldstein.

8 MR. GOLDSTEIN: Yes.

9 MS. MIRON: Thank you. I would like to reserve some
10 more time for the questioning.

11 MR. GOLDSTEIN: Okay.

12 MS. MIRON: Mr. Parsons, what I am interested in
13 knowing is what steps if any you have taken to guide your
14 employer or employer members on the questions they raised?

15 MR. PARSONS: Just recently we completed a series
16 of meetings in which Mr. Smith, of the Immigration Service,
17 and Mr. Sureck, the District Director of Immigration Service,
18 in connection with a local labor lawyer in Los Angeles, we
19 put on a series of meetings for our members, going over a
20 detailed outline of the actual physical documents that are
21 issued by the Immigration Service, including the only known
22 publication that we have been able to find, which is published
23 by the Immigration Service, called documentary requirements for
24 aliens in the United States.

25 We attempted through this series of meetings to outline

1 the procedures that are required for persons entering the
2 country as immigrants, and that I think that the bottom line
3 of the two-day series of meetings is probably best described
4 by Mr. Sureck, the District Director, saying that the only
5 persons capable of determining valid documents are those peo-
6 ple in the employ of the Immigration and Naturalization Service.

7 MS. MIRON: Excuse me, Mr. Parsons, given that state-
8 ment, did the Immigration Service ever give any members of
9 your association that kind of help?

10 MR. PARSONS: They have indicated to us that if we
11 can, in the employment process, accumulate applications of
12 aliens, they would prefer that we accumulate it to the point,
13 I think, of 25 individuals, that they would then come out and
14 make an individual survey of those 25 individual people. This
15 is not practical for our members, because to retain 25 indi-
16 viduals in a state of limbo until such time as their could be
17 an Immigration audit made of their documents, the people would
18 long have been gobbled up in the labor market, and no longer
19 be available.

20 MS. MIRON: Did any of your members try that
21 suggestion?

22 MR. PARSONS: Yes, there have been a number of our
23 members that have asked the Immigration Service to make what
24 is called a voluntary survey of their work force, to come in
25 and to examine individually the documents of those people that

1 would appear to be somewhat questionable.

2 MS. MIRON: And about how long did it take before
3 they got a response?

4 MR. PARSONS: It was said, depending upon the partic-
5 ular workload of the department, I think some of them have been
6 running from three to four weeks.

7 MS. MIRON: And what was their criteria used to deter-
8 mine whether there was someone questionable?

9 MR. PARSONS: That I don't know. That is a profess-
10 ional privilege contained within the agency, and I would
11 assume that the only clear determination for credibility of
12 documents are the internal records of the agency.

13 I don't think any visible outward chemistry or any
14 visible outward examination of the documents is in and of it-
15 self valid.

16 MS. MIRON: Thank you. Mr. Goldstein, what efforts
17 if any has the Coalition taken to advise members on this?

18 MR. GOLDSTEIN: The Coalition had a seminar on May
19 20th, and part of the seminar was dealing with the INS, and we
20 advised our members of the types of identification that they
21 should look for, birth certificates, Social Security cards,
22 other valid INS documents, a green card. We also discussed
23 cross-checking. We advised our members not to change Social
24 Security numbers except for good cause. We advised our members
25 to have their applications reviewed, so that they do ask

1 questions, and also on cooperation with the INS.

2 Very early in the scheme of raids by the INS, we
3 received a number of calls, both in my private practice, who
4 is representing the Coalition, and we have developed a modus
5 operandi for dealing with these raids, and we talked about how
6 do you deal with a raid, both before and after.

7 The before or during a raid, we discussed the matter
8 of cooperation, that INS agents should not be permitted into
9 your plant. You should let all the employees out that day,
10 have them interviewed by the people outside the plant, and the
11 reason for this, is in a manufacturing plant, when the INS
12 comes in, if you have any problem, you have a definite safety
13 hazard, and also then the INS is permitted in the plant once
14 the employees are released.

15 The aftermath is more difficult, when the people are
16 taken away, who may have status quo and contact the employer
17 for reemployment. The INS has a habit now of sending a list of
18 names, and the question becomes whether if you have knowledge
19 of somebody being an undocumented worker or illegal alien, and
20 you should transport him, whether you are guilty of harboring.

21 We have had one case in Los Angeles that occurred
22 during a labor dispute, in which the employer was found guilty
23 by the Federal District Court of harboring, because he trans-
24 ported people, so that is the sum and substance of our area.

25 We have had requests for INS to do surveys, and we have

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1 cooperated in the surveys, and that is what we have advised
2 our members. I would like to have this document, which is the
3 full content of my remarks, entered into the record on behalf
4 of the Coalition. I would like to give this to Mr. Montez.

5 CHAIRPERSON HATA: Mr. Goldstein, would you elaborate
6 on this INS list of names?

7 MR. GOLDSTEIN: Yes. After a raid, I would say in
8 the last year, the INS sends a list of the people who they
9 picked up, and who they now verify undocumented workers, and
10 in the letter they --

11 CHAIRPERSON HATA: These are names of people who they
12 have picked up in your factory?

13 MR. GOLDSTEIN: That is right, and they more or less
14 talk about the state law. By the way, the state law is in
15 limbo in California. It went before the U.S. Supreme Court,
16 and now it is in a state where it is not being enforced, there
17 are a number of legal grounds why it is not being enforced, but
18 the point being made in the letter is, if you hire these
19 people back, there may be some sort of penalty, and many
20 employers in many cases I have noticed will not hire these
21 people back.

22 Now, the employers don't bother, in most cases, to
23 check to see whether the INS is telling them about people who
24 truly are undocumented workers, or people awaiting hearing.
25 There is no delineation made in that case.

1 CHAIRPERSON HATA: Do members of your organization
2 share lists of names?

3 MR. GOLDSTEIN: No. No, I have never had that
4 happen, no, not at all. There is nothing like that. As an
5 attorney, I may represent some of the individuals who are
6 members of the Coalition. The Coalition may ask one of the
7 members to call me if they have a problem. We may share the
8 problem. They don't share the list or anything of that nature.

9 MS. MIRON: Mr. Parsons, did members -- did your
10 association have any requests from members regarding the
11 Dixon Arnett bill, the state employer sanction legislation,
12 and how to comply with that?

13 MR. PARSONS: This was partially the subject of our
14 recent series of meetings. I don't know whether you people
15 on the Commission are familiar with the California Labor Code
16 Section or the Decanas vs. Beça decision that came down
17 involving that case. That was a standard enacted in our
18 California State Legislature that made it a misdemeanor for
19 an employer to knowingly employ an undocumented alien, if
20 that employment tended to impair the rights of those legally
21 in the country to accept work.

22 The Decanas case was an attack on the constitution-
23 ality of that Labor Code Section, and as Mr. Goldstein has
24 pointed out, the United States Supreme Court said that it was
25 not an immigration statute, it was an employment statute, and

1 it came back to California, apparently for administrative pro-
2 cedural determinations as to whether or not the California
3 regulations were consonant with those issued by the Immigration
4 and Naturalization Service. I have sought -- one additional
5 point.

6 As a result of the inquiries that came out of our
7 series of meetings, that some employers feel that even though,
8 as Mr. Goldstein pointed out, that the statute is in somewhat
9 a state of unenforced limbo at the present time, that it still
10 exists on the books, and we have sought -- I called the Chief
11 Counsel for the California Division of Labor Standards
12 Enforcement, which is the Agency of the State Department of
13 Industrial Relations, to be responsible for the enforcement
14 of the statute, and I have yet to this date been able to
15 ascertain what, if any, plans, the State of California has to
16 go forward with any regular enforcement of the statute.

17 I understand that there are some questions that
18 might arise relative to the Governor's posture on it. We
19 expect to possibly have some idea as to whether the State is
20 going to seek any active role in the enforcement of that Labor
21 Code Section.

22 MS. MIRON: Thank you. Mr. Parsons, did your -- did
23 employers change any of their hiring practices, to the best
24 of your knowledge, as a result of the enactment of that Bill?

25 MR. PARSONS: There has been, I think, an increasing

1 awareness, I think, of the actual criteria in the immigration
2 book, as a result of our meeting. The 1-151, even though it is
3 difficult to determine its credibility, at least I think it
4 now is better known to our members as to what it looks like,
5 what the criteria are, but I think the bottom line is still
6 one in which we are very conscious of civil rights, and to
7 attempt to balance the employment function within the federal
8 and state statutes, is still a very difficult problem for
9 particularly small employers.

10 MS. MIRON: Mr. Parsons, why is it a particular prob-
11 lem for small employers?

12 MR. PARSONS: Inability to probably determine the
13 credibility that -- where they might not have legal counsel
14 such as Mr. Goldstein that they might not turn to. They are
15 not able to get immediate response from the Immigration
16 department because of the tremendous caseload of the L.A.
17 office, and I think that not being Immigration Inspectors
18 themselves, they are somewhat fearful of decisions that might
19 tend to impinge on those people who are legally in the country.

20 MS. MIRON: Mr. Goldstein, have you noticed any
21 change in the hiring practices since the state sanction law was
22 enjoined?

23 MR. GOLDSTEIN: No, and I will tell you why. I think
24 that the only difference being that some employers who have
25 some degree of sophistication are documenting. They are asking
question. But let me tell you, and this is pertaining to the

1 apparel industry, the third largest in this city, which is one
2 of the major cities in the United States. In the sampling by
3 the coalition of 28 firms, and this was in 1975, there were a
4 total of 659 job openings submitted to the California Employment
5 Development Department to be filled. You know how many appli-
6 cants they got? Thirty-two.

7 There was a raid several years ago on one company
8 that lost 128 operators. They then submitted and requested
9 operators from the State of California. You know how many they
10 got? Three. And what I am telling you is that I probably
11 could look down the industries, whether they are unionized,
12 non-unionized, and the criteria. The criteria are dirty, repe-
13 titive jobs in factories, and I think if you went industry by
14 industry in the State of California, especially southern Cali-
15 fornia, you would see that Dixon Arnett had no impact.

16 A federal law, I was told by some people, they would
17 just -- I would have to convert my practice from a labor prac-
18 tice to a criminal practice. It had no effect. So the real
19 issue is finding people to work, and therefore the law should
20 be structure so that people's human rights are met, and the
21 economic needs in this country and this area are met, and that
22 is really a major part of the presentation I am trying to get
23 across.

24 The INS is policing a bad law, a very vague law, and
25 they police it perhaps in a way that may cast some doubt on it,

1 but it is a bad law. The real problem is the United States at
 2 this point, unfortunately, it seems to me as it always has,
 3 needs the immigrant work force to go out and fill the jobs that
 4 have to be done, and it has nothing to do with whether it is
 5 a five dollar, seven dollar, eight dollar, three dollar, there
 6 are the jobs open.

7 MS. MIRON: Thank you. Mr. Goldstein, are the
 8 employers that you represent screening all of their applicants
 9 for undocumented aliens?

10 MR. GOLDSTEIN: They are doing -- yes. They are
 11 screening, but what limited -- if they have a Social Security
 12 card, if they have a driver's license, what more screening can
 13 you do without somebody saying, well, you are violating my
 14 civil rights, and going to our Fair Employment Practices
 15 Commission? What more would they ask you if you came in? Would
 16 they ask you for anything more than your Social Security card?
 17 I have never been asked from any employer, in the number of
 18 parts, in Washington, D.C., in Ohio, New Jersey, or California,
 19 for anything more than my Social Security card.

20 MS. MIRON: Is that what your member employers are
 21 asking for?

22 MR. GOLDSTEIN: They are certainly asking for Social
 23 Security cards. They are asking, in many cases, for driver's
 24 license, and I can' speak for each and every one, because you
 25 have a large number of employers, they are asking for driver's
 licenses where applicable, they are birth certificates.

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MS. MIRON: How do they determine where it is applicable?

MR. GOLDSTEIN: Well, they try to do this across -- an individual employer might ask for each of these. Some employers might satisfy themselves with merely asking for Social Security cards. When I say when applicable, it may be the individual employer who asks for this.

MS. MIRON: Do you give a general advice, or --

MR. GOLDSTEIN: I tell my employer members to ask for everything, because I believed, at least up until recently, I believed there was going to be the Rodino Bill, and I was preparing our clients and our members for the enactment of a Rodino Bill, and so I told them that if there was going to be a Rodino Bill, they ought to have good records, and they ought to start now.

MS. MIRON: Mr. Parsons, do you give the same advice, that employers should ask for everything, and if so, what does that mean to you?

MR. PARSONS: I don't think I would indulge in broad statements of everything. I don't know how much you know about our California statute, but we do have in California -- I am not at liberty to introduce it into evidence here today, the State Fair Employment Practices Commission has issued what is referred to as a FEPC Guide to preemployment inquiries. Prior to our recent meeting, we requested from Carol Schiller, the

1 area administrator of the Fair Employment Practices Commission,
 2 the current basic position of the State relative to preemploy-
 3 ment inquiries as it pertains to the problem we are discussing
 4 here today, and I will quote from Ms. Schiller's letter of
 5 April 17th, 1978;

6 "Enclosed is the Commission's guidelines on pre-
 7 employment inquiries. Feel free to reproduce and distribute
 8 them. Perhaps the following points will help clarify the matters
 9 under discussion;

10 1) The guidelines relate to inquiries prior to
 11 employment. They do not prohibit making an employment offer
 12 contingent upon receiving additional information that is
 13 necessary for the formal operation of a business.

14 2) An employment application may state, 'If not a
 15 U.S. citizen, can you produce evidence that you have the legal
 16 right to remain and work in the United States.' The Fair
 17 Employment Practices Act does not prohibit an employer from
 18 dismissing a person for falsifying the employment application,
 19 as long as the item falsified was not an illegal inquiry.

20 4) A job offer may be extended, contingent upon the
 21 prospective employee presenting verification of legal status.
 22 Such verification may not be requested prior to making the job
 23 offer."

24 We have attempted to incorporate the essence of Carol
 25 Schiller's and of FEP prior to employment inquiry guide, and

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sic

1 the suggested application form for employment, but invariably
 2 we are getting back to the point of beginning in this entire
 3 process, that when we get into the civil rights area, and we
 4 find out that the person has indicated that they are not a
 5 citizen of the United States, and we ask for the documents,
 6 we are back against the I-151 forgery problem, which I under-
 7 stand can now be obtained on Olvera Street for about 12 bucks,
 8 because I understand that the Immigration Service is coming out
 9 with a new card that is going to be much more difficult to
 10 fabricate.

11 MS. MIRON; Can you please just explain what the
 12 I-151 is?

13 MR. PARSONS: The I-151 is an alien registration card
 14 which I think it is commonly referred to as the green card.

15 MR. GOLDSTEIN: That went up two dollars.

16 MR. PARSONS: Yes, it is a dollar a day at --

17 MR. GOLDSTEIN: It is inflation.

18 MS. MIRON: Mr. Parsons, what was it that gave rise
 19 to your producing the guidelines? Were there specific
 20 complaints, or --

21 MR. PARSONS: Primarily it arose over a conflict
 22 between the questions on the federal and the state statute
 23 relative to preemployment inquiry latitudes.

24 MS. MIRON; These were questions by whom?

25 MR. PARSONS: Employers, There is no preemployment

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1 guide issued by the Equal Employment Opportunity Commission in
2 Washington. They have gone pretty much on a case by case
3 basis as to whether the inquiry would in and of itself per se
4 be a violation of the Civil Rights Act.

5 They have not delineated to the degree that the
6 State agency has, individual questions that can be incorporated
7 in preemployment inquiries procedures, and that is the reason
8 we have gone to this point.

9 MS. MIRON: I see. Would there be a potential con-
10 flict between those questions?

11 MR. PARSONS: Well, our basic view about conflict is
12 that where you have got a state and a federal statute, and the
13 state statute is more severe, we adhere to the state statute.
14 I don't know whether Mr. Goldstein would agree with that, but

15 MR. GOLDSTEIN: That is true, in California, Labor
16 Code, minimum wage, if we have a higher minimum wage, we adhere
17 to the higher standard, OSHA, anything that we have, we go to
18 the higher standard, so that is why our employers are put on
19 this dilemma. They don't know which to follow.

20 MR. PARSONS: That is right. You become a labor
21 lawyer and don't want to do it, but you are encroaching on Mr.
22 Goldstein's provinces here.

23 MS. MIRON: And are the employers running into these
24 problems because they are now screening for undocumented aliens?

25 MR. PARSONS: I think that there is an awareness, in

1 my opinion, amongst the community, that sanctions might be
2 coming, and I think that it is probably an enlightened view-
3 point to be doing a more extensive job of screening as Mr.
4 Goldstein has pointed out, building a record in the event that
5 someone might be accused of seeking out these people and show-
6 ing that there was reasonable due care taken at the time of
7 the employment selection procedure to seek out, within the
8 latitudes, and as I think you can gather from these latitudes,
9 they are difficult to define as to what you can and can't do,
10 under both state and federal statutes.

11 And I think that this is, I think, the result of an
12 increasing awareness that General Chapman made several speeches
13 in southern California. The current Commission of Immigration,
14 Mr. Castillo, spoke in Los Angeles not too long ago. I have
15 heard all the statements from the Immigration Service, saying
16 that invariably the feeling in Washington seems to be that if
17 we are going to curtail the abuses that seem to feel exist in
18 this field of employment of undocumented aliens, that they are
19 invariably going to have to go back to the employment area,
20 that employment is the attraction which apparently brings these
21 people to this country.

22 But to make Immigration Inspectors out of a 50-employee
23 plant, where the person doing the employment is probably a co-
24 owner, doesn't have very much sophistication in the area of
25 civil rights or much of anything else other than the fact that

1 he is going to keep a buck when the week is over, and hope that
2 he is going to stay in business next year.

3 MS. MIRON: Thank you. Mr. Goldstein, when employ-
4 ers do attempt to screen for undocumented aliens, do they
5 attempt to contest the statements of the employees that they
6 are U.S. citizens? And do they look into the veracity of the
7 documents?

8 MR. GOLDSTEIN: That is a very difficult question,
9 because I have to think employer to employer. You know, you
10 could say some employers do and some employers don't. If you
11 need employees but you can't get anybody to do the job, you
12 probably don't look as intensely. On the other hand, if you
13 had a raid last week by the INS, and they cleaned out your
14 plant, and you lost a week's production, you may take a different
15 view, so I don't really think it is something that is across
16 the board. I think it depends on the employer.

17 But again, Mr. Parsons brings up a very excellent
18 point. When you talk about most employers, they have 50 or
19 fewer employees. You know that currently the Labor Law Reform
20 Act is being debated in the Senate, and you know there is an
21 interesting statistics.. Seventy percent of the NLRB elections
22 are conducted with employers who have less than 50 employees..

23 Most employers have less than 50 employees in this
24 country, and these people don't have a personnel director. The
25 owner is usually interviewer, or they may have some shop foreman,

1 and M and M has probably one of the best of supervisory train-
2 ing courses there are, but it doesn't turn out shop foremen or
3 plant managers who are skilled interviewers.

4 MS. MIRON: Have you seen a difference among the peo-
5 ple that you represented within the Coalition?

6 MR. GOLDSTEIN: I think they are more sensitive,
7 because the apparel industry being such a large target has been
8 oh, under constant raids over the last several years. I think
9 that has ebbed somewhat recently, but for a long time, the
10 apparel industry, the furniture industry, had regular raids here
11 and there seemed to be not a day go by when somebody wasn't
12 being raided, and therefore these people became very sensitized,
13 and think the Dixon Arnett Bill, I think that had something to
14 do with it, but I think the raids sensitized them.

15 MS. MIRON: Do you mean by sensitized that they screen
16 more frequently than other employers might?

17 MR. GOLDSTEIN: Yes.

18 MS. MIRON: And when I asked whether you see a
19 differenc among the employers that you represent, I meant, when
20 you speak of differences as between small and larger employers,
21 is that from those that you have represented?

22 MR. GOLDSTEIN: Yes.

23 MS. MIRON; You see a difference in the types of
24 screening?

25 MR. GOLDSTEIN: Yes. The larger employer has the

1 luxury of a personnel department, interviewers, the smaller
2 employer, as Russ said, he hopes he is going to have a dollar
3 left over at the end of the week, and he doesn't know whether
4 he is going to be in business, and he doesn't have that luxury,
5 and especially when he calls up and says, I need three people
6 to be welders, or five, and he doesn't get any response from
7 state sources or employment sources.

8 Now, you can't believe this, with the unemployment
9 figures that come out every month from Washington, it is very
10 difficult to conceive in the State of California, that many, many
11 jobs go begging. Well, what is the current rate here for the
12 State Disability, \$134?

13 MR. PARSONS: That is right.

14 MR. GOLDSTEIN: Yes,, \$134; and on and on. There are
15 many social programs which give people basically good income
16 without working, and therefore -- and then there is a great deal
17 of justification, but therefore, they don't want to take these
18 jobs. They are beginning jobs.

19 MS. MIRON: Thank you very much. I would like to
20 turn it over to the Advisory Committee members.

21 CHAIRPERSON HATA: Mr. Goldstein, if you can't get
22 your employees, or your --

23 MR. GOLDSTEIN: I don't have any employees.

24 CHAIRPERSON HATA: -- employers can't get their
25 employees from these sources, state sources, where do they get

1 their employees from?

2 MR. GOLDSTEIN: Yes. From the street, and you would
3 be surprised. They find that you hire somebody and he brings
4 in his cousins and he brings in his friends, and this is true.
5 You can go down to any of the streets, San Pedro, Broadway, I
6 think this has been true for many years, but -- and they will
7 bring people in.

8 You contact the Department of Employment and you put
9 ads, you puts ad in La Opinion. You can pick up La Opinion any
10 day, and you will see the ads, and that is how they get their
11 employees.

12 In fact, most employers get employees from ads or
13 from walk-ins in a factory situation.

14 CHAIRPERSON HATA: Now suppose Mr. Spurlock walked
15 in off the street into one of your typical employers, and I did
16 and Mr. Montez, and Ms. Gomez, and I was going to use Ms.
17 Hilborn, who just walked out here, but I hope you will recall
18 what she looked like. If we all walked in looking for a job
19 in some garment factory, what kind of screening process would
20 each of us be subjected to?

21 MR. GOLDSTEIN: You would probably be handed an
22 application asking what your skills were, and if you had
23 previous skills, where you had worked.

24 CHAIRPERSON HATA: Would there be, in terms of pro-
25 viding documentation now, would there be any difference in the

1 kinds of documentation you would require of me as opposed to
2 Mr. Spurlock, as opposed to Ms. Gomez?

3 MR. GOLDSTEIN: It depends on if you -- whether you
4 answered a certain -- if you answered the question, are you
5 a U.S. citizen, and you all said no --

6 CHAIRPERSON HATA: What if we all said yes?

7 MR. GOLDSTEIN: You all said yes? I doubt if they
8 would ask you anything further. I think some companies might,
9 but I would -- you know, for the most part, and I am not
10 talking about just the apparel industry, because I think it
11 really is much broader.

12 If I thought that you had the prerequisite training,
13 you told me that you were an operator, and you had worked in
14 the industry, the apparel industry, or you told me that you
15 were a welder or a machine operator, I would probably just hire
16 you, if I needed -- I would probably hire you.

17 CHAIRPERSON HATA: I suppose what I am really getting
18 at is --

19 MR. GOLDSTEIN: I don't think there would be any
20 difference, frankly. I think that now, if Mr. Montez walked in,
21 I had a raid yesterday, a week ago, a month ago, I might, you
22 know, just say, well, you know, maybe I ought to ask him several
23 other questions. Now that is the case. But if I hadn't had
24 this traumatic problem, I doubt if, as a practical matter, they
25 would ask you anything.

1 CHAIRPERSON HATA: I have one question for Mr. Par-
2 sons. Mr. Goldstein talked about letters being sent by INS to
3 the employer after a factory survey. I guess INS likes those
4 euphemisms, after a --

5 MR. PARSONS: Yes.

6 CHAIRPERSON HATA: -- factory survey had taken place.
7 Does this happen --

8 MR. PARSONS: That is without a warrant, you say.

9 CHAIRPERSON HATA: Is that what you say? Would you
10 like to comment on these factory surveys? Is there a warrant?

11 MR. PARSONS: No, well I think the voluntary program,
12 I don't know whether Mr. Smith -- I didn't hear Mr. Smith's
13 testimony, so I don't know what he said.

14 CHAIRPERSON HATA: I am talking about Mr. Goldstein,
15 I suppose, here, in terms of --

16 MR. PARSONS: Well, prior to my testimony here, I
17 saw Mr. Smith present, and the Immigration Service has been
18 making a rather intensive effort in southern California to gain
19 acceptance from the management community of doing what they
20 call a low-profile voluntary survey as you will.

21 This is probably not much different than that which
22 occurs with a warrant or without a warrant, where the employer
23 does not permit them to come into the premises. I have not
24 encountered the lists that Mr. Goldstein is talking about. In
25 fact, this is one of the problems, among many, that after the

1 survey is concluded, probably within the next 48 hours, a good
2 many of those people will be back in the employment office
3 asking for their old jobs back, and it is not easy to ascertain
4 whether their detention by the Department of Justice resulted
5 in any clarification of their status, or whether they are just
6 as unclear when they come back after the survey than they were
7 before the survey, and to get a list, I have not, to answer
8 your question, by going through Milwaukee and back, I haven't
9 seen this letter format that Mr. Goldstein is talking about.

10 CHAIRPERSON HATA: Has your association requested
11 such a list, or some sort of accountability?

12 MR. PARSONS: No, we have not. We have discussed
13 with Mr. Sureck and Mr. Smith how an employer can, say, go
14 over the findings after a survey has been completed, and I
15 have not had any real clarification as to when this could be
16 done. I am sure that people who are apprehended in the survey
17 might possibly be several weeks before their status might be
18 clarified, so that to get a complete conclusion in the list
19 form or letter form or documented form from the local Depart-
20 ment of Justice Immigration and Naturalization Act is not
21 clear in our minds, no.

22 CHAIRPERSON HATA: Mr. Goldstein, how quickly do
23 members of your association get this list?

24 MR. GOLDSTEIN: Oh, I would say within a week. It
25 is a list of those people who are --

1 VOICE: Two to three weeks?

2 MR. GOLDSTEIN: Two to three weeks. By the way, this
3 is this is the application form that we have suggested to our
4 members, and it does ask the question, let us see, are you a
5 citizen of the United States, and if you do not have the legal
6 right to remain permanently, could employment with this country.
7 This is the suggested form of an application.

8 By the way, many of our members have requested, and
9 we have provided them at least with names of immigration attor-
10 neys who come to their plants and talk to people to try to
11 assist them in clarifying their status. Many employers have
12 contacted me individually because they have a valued employee
13 who has been here ten or 12 years who was picked up, and they
14 have asked to assist him in obtaining status to remain in the
15 country.

16 But it all gets down to really a question that has to
17 be answered, what is the -- there is an economic and human
18 question. The economic question, nobody seems to nobody seems
19 to want to face, and that is the question of where are you
20 going to get people to do these jobs? That is a fact that no-
21 body wants to face.

22 We say we have a large unemployment because of the
23 undocumented aliens. That is baloney. That is ridiculous, and
24 I think anybody who travels in southern California would probably
25 conclude that, and spend enough time with employers. It is very

1 unpopular to say that, but it is nonsense, and so the question
2 is why not have a system of taking -- certifying industries as
3 having shortages of manpower, and allowing those industries to
4 employ people who are undocumented workers, and it seems to me
5 then somebody says, well you are bringing up the old bracero
6 program, and that has a bad connotation up there someplace.

7 CHAIRPERSON HATA: What percentage of the workers in
8 your industry are women?

9 MR. GOLDSTEIN: God, I really -- it is very difficult
10 for me to answer that. I would say in excess of 50 percent.
11 That is just my own feeling.

12 CHAIRPERSON HATA: I am very curious, because we
13 keep talking about manpower --

14 MR. GOLDSTEIN: Oh, I am sorry to talk about manpower
15 and I -- usually in my contracts I say the feminine, you know,
16 includes the masculine, the masculine and the feminine, but
17 certainly at least 50 to 60.

18 CHAIRPERSON HATA: Just some sensitivity training.

19 MR. GOLDSTEIN: That is true. That is true.

20 MR. PARSONS: The word is personpower now.

21 MR. GOLDSTEIN: Personpower. Well, personpower. Okay.

22 Personpower.

23 MR. SPURLOCK: Mr. Goldstein, I am really not trying
24 to pry into your business.

25 MR. GOLDSTEIN: That is all right.

1 MR. SPURLOCK: I would like to know, do you bill for
2 advice regarding the Fair Labor Standards Act? -

3 MR. GOLDSTEIN: Oh, the Fair Labor Standards Act? Yes.
4 Fair labor standards, wage and hour --

5 MR. SPURLOCK: Yes.

6 MR. GOLDSTEIN: -- from employers?

7 MR. SPURLOCK: Yes.

8 MR. GOLDSTEIN: Oh, sure.

9 MR. SPURLOCK: Well then, if that is the case, then it
10 must be that Fair Labor Standards Act potential violations are
11 present within your industry, isn't that -- wouldn't that stand
12 to reason? Couldn't I --

13 MR. GOLDSTEIN: No, not necessarily, because if you
14 say something like that, that is -- somebody might call up and
15 find out are they exempt, or do they have to keep records, what
16 about their piecework system which is very complicated, and how
17 do you meet the piecework system. I would -- when you say, are
18 there violations within your industry, I would imagine that
19 right now there are at least 50,000 people in Los Angeles have
20 run through red lights, and if I get a call about that, I would
21 say that.

22 I mean yes. You are right. There must be people who
23 violate the Fair Standards Act within our industry, yes.

24 MR. SPURLOCK: Okay. Well, you know, my only --

25 MR. GOLDSTEIN: I also get questions regarding birth

1 control from people, and there are people in our industry who
2 have children, and I get questions from people in our industry
3 regarding adoptions, and a lot of them adopt, and charitable
4 gifts, and a lot of other things..

5 MR. SPURLOCK: Well, we are talking about labor law,
6 and --

7 MR. GOLDSTEIN: Okay, labor law.

8 MR. SPURLOCK: -- on a regular basis you give advice
9 in this area.

10 MR. GOLDSTEIN: Yes, I do.

11 MR. SPURLOCK: Isn't it something to issue that wage
12 and hour violations are a potential problem in your industry?
13 Isn't that the case?

14 MR. GOLDSTEIN: No. Just because I get questions,
15 because I get questions from almost every industry that I repre-
16 sent and members in the industry regarding wage and hour, and
17 that goes from people who employ engineers and scientists in
18 think tanks, and the question of engineers being professionals,
19 so to say that doesn't really indicate it.

20 The real question is something like this. The ques-
21 tion is, in the apparel industry, is it true that your industry
22 has a number of sweatshops, and is synonymous with the concept
23 of sweatshop, and therefore does not attract anybody but the
24 poor, humble, undocumented alien, and that is not true.

25 It happens that our industry pays an average wage

1 which is within the tolerance of the electronics industry, and
2 nobody in this room ever says the electronics industry -- by
3 the way, I also get calls from them, too, yes, that is a fact.

4 MR. SPURLOCK: Is that union as well as non-union --

5 MR. GOLDSTEIN: Absolutely. In fact, the union wage,
6 as purported in a recent article in the L.A. Times, was about
7 thirty-five cents less than the average paid by all of our
8 people in predominantly non-union area. I think the difference --
9 did a little presentation for the L.A. Times. It had a very
10 interesting article, and we found out as we went point by point,
11 the article was inaccurate, but that is nothing new.

12 CHAIRPERSON HATA: You are indeed a marvelous spokes-
13 person for your industry. Mr. Spurlock, any more questions?

14 MR. SPURLOCK: Yeah, I have a couple more.

15 MR. GOLDSTEIN: Well anyhow, I think the difference
16 was something like \$3.73 versus three something, \$3.40 or
17 \$3.24, for the unionized part of the industry, which in this
18 community makes up less than two percent.

19 MR. SPURLOCK: Just a couple other quick questions.
20 You have indicated that the law is a bad law.

21 MR. GOLDSTEIN: Yes.

22 MR. SPURLOCK: And that part of the problem is ambi-
23 guity.

24 MR. GOLDSTEIN: Ambiguity, that is a problem, yes.

25 MR. SPURLOCK: Have you as a spokesperson for your

1 group taken a position or has the group taken a position with
2 respect to the necessity for rules and regulations to clarify
3 some of the areas of ambiguity in the soft areas?

4 MR. GOLDSTEIN: We haven't in the immigration field.
5 We have with regard as you can read to President Carter's
6 proposal. We really have not gone in depth into the immigration
7 field, and I am not an immigration lawyer, and perhaps our
8 organization should. In fact, one of the problems that the
9 apparel -- I keep on calling it the apparel industry because
10 we are trying to change the image.

11 It has such a rotten image, and it is not justified.
12 That is the tragedy of the whole thing. It is not justified.
13 That we haven't gone into some areas. For instance, very few
14 of you know that the apparel industry has --

15 CHAIRPERSON HATA: Mr. Goldstein --

16 MR. GOLDSTEIN: Yes.

17 CHAIRPERSON HATA: I hate to interrupt this great
18 PR job for your apparel industry, but we don't have time for you
19 to tell your 25-minute spiel.

20 MR. GOLDSTEIN: That is all right. Well, quickly to
21 say that we have been trying to get funding for a day care
22 center, because we do employ so many women, and because we are
23 in the apparel industry and perhaps not in the aerospace indus-
24 try, we can't get City Hall to move on it, but very few people
25 know that, and there are a lot of other things. Or the training

1 programs we set up in East Los Angeles, or all of these other
2 things. Very few people know about it, and that is why a
3 question I am particularly sensitive, as a labor lawyer who
4 handles many industries, that has, you know, that particularly
5 piqued my ire only because there isn't an industry I know that
6 doesn't have questions regarding the Fair Labor Standards Act
7 which was enacted almost 50 years ago. Well, 50 -- it was 50.
8 Anyhow, any other questions, I will be more than happy to
9 answer them.

10 CHAIRPERSON HATA: I think not, and we thank you
11 gentlemen very much.

12 MR. GOLDSTEIN: Thank you.

13 CHAIRPERSON HATA: Ms. Campbell, would you like to
14 get your next panel together? And I think there are other
15 State Advisory Committee people sitting in the audience. If
16 they want to come up and join us, please do.

17 MS. CAMPBELL: Felipe Aguirre and Leslie Frank, would
18 you please come up and address the Committee? Would you each
19 state your name, please, and your occupation?

20 MR. FRANK: My name is Leslie J. Frank. I am an
21 attorney practicing primarily in the field of immigration.

22 MR. AGUIRRE: My name is Felipe Aguirre, and I am
23 the Coordinator of the National Coalition for Fair Immigration
24 Laws and Practices.

25 MS. CAMPBELL: Mr. Frank, what is your position with

1 the Los Angeles County Bar Association?

2 MR. FRANK: I am the Chairperson, if you will, of the
3 Immigration Section of the Los Angeles County Bar Association.

4 MS. CAMPBELL: Would you explain the Joint Committee
5 on Aliens to the Committee, please? Why it was formed and how
6 long it has been in existence.

7 MR. FRANK: Shortly after the proposals presented to
8 Congress by President Carter regarding his immigration legisla-
9 tion, the Immigration Section of the Los Angeles County Bar
10 responded to those proposals within a 30 day period.

11 Shortly after that, the President of the Los Angeles
12 County Bar Association, Sam Williams, met with Howard Baschevsky
13 of the San Diego Bar Association, as well as Jim Bresnahan of
14 the San Francisco Bar Association, and inasmuch as the immigra-
15 tion legislation that had a tremendous effect on the State of
16 California, it was the first time that three major bar associa-
17 tions in the state started a joint project, which is titled,
18 "The Joint Study on the Rights of Aliens," which is primarily
19 a study composed of six members of each of the three bar asso-
20 ciations into this legislative proposal, or this series of
21 proposals.

22 MS. CAMPBELL: With respect to Carter's employer
23 sanctions, could you please give the position of the Committee
24 on Aliens?

25 MR. FRANK: I would like to point out that the report

1 of the Joint Committee on the Rights of Aliens has not yet been
2 published, and I would really like to speak primarily as an
3 attorney in the field, and as Chairperson of the Section of the
4 L.A. County Bar, inasmuch as the report will be published proba-
5 bly within the next 30 days, and that certainly will be complete,
6 and something that will be made available to the Commission as
7 soon as it is distributed.

8 The Section Report on the employer sanction aspect
9 basically goes to a basic premise which our Section relied on,
10 and that is whether or not there really is an alien problem in
11 the United States, and whether the assumptions that the public
12 has generally been led to believe, those being that aliens
13 displace American workers, and that aliens are a drain on the
14 social welfare system, that aliens increase the crime rate,
15 are really true assumptions, and therefore it was based on an
16 analysis of whether or not there is data to support whether or
17 not there is a problem, based on those three areas.

18 If there is a problem, then there must be legislation
19 that should do something about it, but more properly, legisla-
20 tion which would be integral to the entire Immigration and
21 Nationality Act, rather than piecemeal amendments, which are
22 added on annually where the effect of such amendments really
23 don't tend to solve anything, but only tend to increase many
24 of the complexities and ambiguities and inequities which are
25 present in the Immigration and Nationality Act.

1 MS. CAMPBELL: What are the practical consequences
2 that you see with the employer sanction provision?

3 MR. FRANK: One problem that, in regard to that, is
4 whether or not some industries would actually be hurt greatly
5 by the implementation of employer sanctions. What I mean by
6 that is, Commissioner Castillo addressed the Joint Committee
7 at our first meeting regarding this legislation, and I asked
8 Commissioner Castillo his opinion in the discussion of this
9 proposed legislation of employer sanctions.

10 His answer to me is one that I somewhat concur with,
11 and that is that many industries may well be helped by some
12 employer sanction bill. The example he gave was the construction
13 industry.

14 However, a general employer sanction bill which is
15 comprehensive to the entire labor market of the United States
16 may well be very much disadvantageous in certain fields, and
17 have adverse economic consequences to the general economy of
18 the U.S.

19 In this respect, the suggestion was made in the Sec-
20 tion report that if there is going to be some form of employer
21 sanction bill, then it should certainly be done with a sunset
22 provision so that we can look back after a period of one year
23 or whatever designated period of time and review the results to
24 see what effect they have had.

25 Otherwise, I think once there was employer sanction

1 legislation implemented, it would be with us forever, and
2 possibly to the disadvantage of the American labor market.

3 MS. CAMPBELL: Okay. What other concerns do you have
4 with the employer sanctions?

5 MR. FRANK: There is obviously a problem of putting
6 the employer, any employer, in the position of determining who
7 is legally authorized to work in the United States, and who isn't,
8 who is authorized and who isn't.

9 There are many procedural problems, many of them
10 arising at Immigration out of the lack of manpower or the lack
11 of proper funding, in regard to timely adjudicating applications.
12 For example, one may not have authorization to work in the
13 United States, in any official form to present to an employer,
14 and merely advise the employer that he does have one application
15 or one type of application or another pending, or one may be
16 a lawful resident of the United States, but have lost his I-151
17 which was referred to earlier, which is the alien registration
18 receipt card, otherwise known as the green card.

19 But the time period to replace a lost green card may
20 well take one year from the time an application is made, and
21 that well could bar a person from working in the United States
22 for that one-year period, because the backlog is so great in
23 regard to replacing it.

24 Obviously, there will be a problem where certain
25 employers are just going to be afraid. Today there are aliens

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1 that have employment authorizations stamped on a form I-94,
2 which is an entry/departure record, and even upon showing this
3 form to an employer, they are afraid, because they are under
4 the impression that they must see a green card. Many employers
5 are surprised when they see it is blue, therefore thinking a
6 blue green card which has been the color since 1965 is fraudu-
7 lent document of one type or another, so they panic, and they
8 are afraid, and I think justifiably so.

9 Therefore, I think there are many people that are
10 going to be put in a position, if they look differently, if they
11 sound differently, if their primary language is Spanish or
12 Chinese or Thai or whatever, chances of the employer hiring
13 them may be somewhat difficult, and I think through that, there
14 could be many discriminatory practices which on the part of the
15 employer are not at all intentional, and somewhat incumbent
16 upon this type of legislation.

17 MS. CAMPBELL: What types of findings did the Committee
18 on Aliens reach in terms of legal problems with implementing
19 employer sanctions?

20 MR. FRANK: The actual text of that after several
21 meetings has been prepared by Michael Baller from San Francisco,
22 and one of the representatives from the San Francisco Bar
23 Association, and in regard to some of the other problems incum-
24 bent upon any employer sanction bill, and this particular bill,
25 I would really like to defer to the report which will be coming

1 out within a very short time period.

2 MS. CAMPBELL: Would you send us a copy of that report
3 when it is completed?

4 MR. FRANK: Of course.

5 MS. CAMPBELL: Thank you. Could you explain your
6 data gathering methods in writing this report?

7 MR. FRANK: I am sorry, I didn't hear the question.

8 MS. CAMPBELL: Could you explain your data gathering
9 methods in researching these issues?

10 MR. FRANK: The Joint Committee was somewhat of a
11 unique group, not only in that it was composed of three Bar
12 Associations, members of three Bar Associations, but it was
13 comprised of members of varying degrees of expertise in many
14 different areas.

15 For example, Michael Walsh, the United States Attorney
16 in San Diego, as well as Magistrate Ben Keeny (phonetic) from
17 the United States District Court in San Diego, were two of the
18 representatives from the San Diego Bar Association. Tom Tosdal
19 of the State Department of Agriculture was a member. From San
20 Diego also they had Robert Mautino (phonetic) who is professor
21 at Western States University School of Law, and they had a
22 professor of constitutional law in San Diego, Rick Williamson,
23 who is the coordinator of Federal Defenders, Inc., from Los
24 Angeles, Ben Aranda (phonetic) who is a member of the Board of
25 Trustees of the Los Angeles County Bar Association as well as

1 the President of the Mexican American Bar, was one of the repre-
2 sentatives, along with Brian McNeill, who has actually no real
3 experience in immigration but certainly some objectivity in
4 regard to what type of immigration law is needed to number one,
5 be in the best interests of the United States, and also one that
6 would be fair and consistent in the administration of justice
7 to aliens, as well as United States citizens that may have their
8 derivation from various latin countries or asian countries, what-
9 ever.

10 There were actually very few attorneys practicing
11 primarily in the field of immigration represented on this panel.
12 The actual procedure in regard to data collecting was done by
13 specific assignment given to each member of the Joint Committee,
14 at that point a circulation of each member's reports, and then
15 three general meetings that were held in regard to a thorough
16 discussion of each person's report.

17 Each Bar Association then was responsible for the
18 writing of one major issue, and that was broken down into the
19 updating of the registry provisions of Section 249 of the Act,
20 which has been labelled the amnesty portion of this legislation.
21 The second being the creation of a new temporary resident alien
22 status and the third, the employer sanction aspect.

23 The two reports I initially made to this Joint Commi-
24 ttee, I gave to your earlier this afternoon. One of those was
25 regarding the problems of the administration or administering of

1 discretion in the Immigration and Nationality Act as it could
2 potentially apply to the new temporary resident alien classifi-
3 cation, and the other were practical problems facing the alien
4 as well as the employer and funding difficulties and basic pro-
5 cedural problems that may exist within the Immigration and
6 Naturalization Service in regard to properly administering this
7 type of legislation.

8 MS. CAMPBELL: Have you reached all your points in
9 terms of your position paper on employer sanctions at this point,
10 or is there anything else you would like to hit?

11 MR. FRANK: Well, I think that should there be an
12 employer sanction bill implemented, it should be done hand in
13 hand with some type of extension of existing H-2 law, which is
14 a temporary working visa in fields in which employers cannot
15 find qualified, competent, ready, willing, available American
16 workers or lawful resident workers, and the -- quite often, I
17 think, the problem or the main issue there is finding -- an
18 employer getting a job done, he is willing to pay a fair wage,
19 and the labor certification process required in Section 212(a)(14)
20 of the Immigration and Nationality Act is somewhat unwieldy,
21 quite often somewhat arbitrary, time-consuming, and employers
22 are left with jobs that are undone, and work that can't be
23 accomplished when there are employees ready to be brought in,
24 qualified and trained to do the job.

25 If there was some fair way of administering this type

1 of program, with the sunset provision, protecting the employer
2 that in good faith is hiring based on his needs of production
3 or sales or whatever, with an expanded concept of an H-2 program,
4 then possibly it would be a concept to test, should there be
5 data at the present time justifying this type of legislation.

6 Another alternative may be to have individual studies
7 on an industry by industry basis, and test this sort of legis-
8 lation in the industries in which there is data to support that
9 the alien may have some effect on displacing American citizen
10 or lawful resident workers.

11 MS. CAMPBELL: Have you found any studies that talk
12 about that issue?

13 MR. FRANK: In regard to my personal research, I
14 haven't and I did present that specific question to Commissioner
15 Castillo. He didn't refer to any specific studies, but did
16 indicate that of the existing studies, it is quite possible
17 that the existing data may in fact contradict the theory that
18 there is a specific need for employer sanctions at this time.

19 MS. CAMPBELL: Okay. Thank you, Mr. Frank. Mr.
20 Aguirre, could you explain the work of the Coalition?

21 MR. AGUIRRE: The Coalition is a national organiza-
22 tion that advocates for the rights of undocumented workers, for
23 several years now, and is also participating in lobbying efforts
24 in Washington, D.C. against anti-immigrant legislation, and
25 also on various state legislations, particularly around the

1 issue of employer sanctions, so that is the work of the
2 Coalition.

3 MS. CAMPBELL: Could you explain the Coalition's
4 position on Carter's immigration proposals in relation to the
5 employer sanctions?

6 MR. AGUIRRE: Well, we are most definitely opposed to
7 the employer sanctions, not only in Mr. Carter's proposition,
8 but also employer sanctions as a concept that has been bound for
9 several years and that has been passed in the United States
10 House of Representatives for several years under Mr. Rodino's
11 guidance, and here in the State of California, we have also
12 had the Dixon Arnett Bill, which was passed several years ago,
13 and then was subsequently defeated in the courts, and we are
14 opposed to the concept of employer sanctions because we think
15 that employer sanctions are not going to be sanctions against
16 employers but they are going to be sanctions against the
17 people who are being victimized, you know, by the immigration
18 laws in this country, who are being victimized by the intense
19 exploitation that they suffer because of their status.

20 We are opposed to employer sanctions also because
21 they are discriminatory against Mexican Americans, against any
22 other citizens of Spanish surname or Spanish descent. We think
23 that as in the Dixon Arnett legislation here in the State of
24 California, the impact would be very, very extreme in terms of
25 unemployment, in terms of increased discrimination of latinos

1 and other minorities, and it would also not really resolve the
2 so-called problem that employer sanctions are supposed to be
3 solving.

4 I think it is based on a false premise, you know, it
5 is based on a concept that people without documents take jobs
6 away from United States citizens, and that has been proven over
7 and over again in the last few years by reports like Dr.
8 Cornelias's report that that is just simply not true. Undocu-
9 mented workers come into this country, and they produce for
10 the economy and become consumers in the United States, and the
11 type of jobs that they are employed at are not jobs that are
12 going to be taken away from United States workers, from U.S.
13 citizen workers, and the concept of employer sanctions, like
14 I said, is very faulty legislation, and even though that the
15 legislation has been passed in several states across the
16 United States, including the District of Columbia, it has not
17 been enforced because the various attorney generals have not
18 been able to find enough basis to defend employer sanctions if
19 awarded to go to court.

20 MS. CAMPBELL: What recommendations has the Coalition
21 made? What are the alternatives that they propose?

22 MR. AGUIRRE: Well, we propose that we do not even
23 look at the problem in terms of sanctioning workers who come
24 to this country to work. We think that it is necessary to
25 enforce several of the Sections of the labor law that have to

1 do with people who -- on workers without documents, particular-
2 ly since many of our people without documents are not unionized.
3 They cannot have protection in the unions, and many times the
4 type of industries they are working -- like the apparel industry
5 that we were, you know, hearing this person talk a little while
6 ago -- do not have to necessarily do direct employment of
7 people. They do a lot of subcontracting or what they call house
8 work also, which is supposed to be illegal in the State of
9 California, but which still goes on, and essentially that is
10 also true in many other types of industries.

11 We don't think that by sanctioning workers it is
12 going to solve the problem of immigration, and not by giving
13 type of proposals that are based on fallacious conceptions. We
14 think that the enforcement of the labor laws has to be something
15 that has to be developed towards the undocumented workers. We
16 think that more stringent contracts with employers who hire
17 people without documents have to be developed, but not in a
18 way that they are going to impinge upon the rights of people,
19 not in the type of philosophy that tries to say that workers
20 without documents come to this country to take away jobs.

21 We think that workers in this country who are without
22 documents should be extended a charter of rights so that their
23 rights at work can be defended, so that their rights in the
24 community can be defended, and so that their rights in wherever
25 they are living and going to school can be defended, and this

1 charter of rights essentially is no more than a bill of rights
2 for undocumented workers.

3 MS. CAMPBELL: Could you also explain the Coalition's
4 position on the amnesty provisions?

5 MR. AGUIRRE: Well first of all, I think that we
6 should redefine the issue of Mr. Carter's amnesty plan, because
7 I think even the word is sort of misleading, because we think
8 it is more of a false amnesty. Essentially, the way that it
9 is written up right now, as the proposal has been developed for
10 the Congress, it says that any person who has been living in
11 this country seven years or more, you know, can apply for this
12 amnesty provisions.

13 Right now, under the immigration law, there is a
14 Section called "Suspension of Deportation" which essentially
15 gives the same right to persons who are in this country for
16 seven years or more continuous residency, and can apply for
17 this provision and will not be deported.

18 Essentially, we have the problem first of all that it
19 is administered by the Immigration and Naturalization Service,
20 which is not a service, but it is more. It is a deportation
21 agency that whose main goal, main budget and main philosophy is
22 to deport people who are here without documents.

23 Second of all, the discretionary powers of the Immi-
24 gration and Naturalization Service are so great that you find
25 no uniformity amongst this type of application of the law

1 across the United States, and I have worked in several parts,
2 in several cities of this country, and you see that the law of
3 immigration is applied differently in different areas of the
4 country, so that you don't in essence have a uniform development
5 of immigration law, and this happens not only in applications
6 and the procedures for application, but it also happens in the
7 deportation hearings of people without documents.

8 We think essentially that the policy or the philosophy
9 of the Carter plan around the amnesty issue, of putting a
10 requirement of continuous residency, is not going to work.
11 Essentially, we see that it is not working right now under the
12 INS-administered program. Mr. Carter's proposal again puts
13 forth that the INS should administer it, with the tremendous
14 power of discretion that they have, we think they are going to
15 do the same type of job that they are doing now with other cases
16 of people who are trying to immigrate into this country.

17 Besides that, Commissioner Castillo himself has
18 stated that the amnesty proposal if it is passed will affect
19 only 50,000 people, if that many, and if we understand the
20 nature of the problem of immigration, it is not a problem, you
21 know, of just 50,000 or 100,000 people, but it is an immense
22 problem, and is a problem that cannot be solved unless there
23 is more studies done on the issue, unless there is more know-
24 ledge of the problem, because a lot of it is very technical.
25 It is a very technical issue, and we think that the proposal is

1 incomplete, and that it does not even take into consideration,
2 you know, the situation with people.

3 We think that Mr. Carter's proposal is only writing
4 into law what essentially is INS practice right now, and it is
5 an institutionalization of these practices that we fear the
6 most, and because most of immigration law has been developed
7 through this, and our direct experience, you know, with undocu-
8 mented workers has been that process.

9 So we don't think that his proposal on amnesty is
10 going to solve any problems at all.

11 MS. CAMPBELL: Mr. Aguirre, could you describe how
12 the Coalition has gathered information on which to base its
13 positions on the Carter proposals?

14 MR. AGUIRRE: Well, the Coalition is an organization
15 that is made up of many groups that are working with undocument-
16 ed workers, either agencies or organizations, unions, et cetera,
17 et cetera, and has been particularly through the input of many
18 of these agencies that do servicing, counseling of undocumented
19 workers, that we have been able to understand, you know, the
20 role of the Immigration and Naturalization Service.

21 It has been our work with unions that have been trying
22 to fight against the INS incursion into the factories, that we
23 see the effect of the employer sanctions. It has been our
24 campaigns in the past against the Dixon Arnett Bill and against
25 the Rodino Bills, and our constant daily contact with people

1 without documents that makes us very, very knowledgeable of the
2 problem, so I would say that our research, while it may not be
3 scientific in the sense that we go out and we count the numbers,
4 we live in the community, we participate with people who have
5 these problems. Many of us come from this background, and it
6 is that type of knowledge.

7 MS. CAMPBELL: Okay. Mr. Frank, could you give us
8 the views of the Joint Committee on Aliens in terms of Carter's
9 amnesty proposals?

10 MR. FRANK: The -- I am confident the position will
11 be, and certainly the position of the Immigration Section of
12 the Los Angeles County Bar is that, as previously stated, the
13 word "amnesty" is a phrase that apparently been picked up by
14 the press. It is not unique and it is nothing new to the
15 Immigration and Nationality Act.

16 Mention was made previously of the suspension of
17 deportation, which I think is close, but I think primarily what
18 we are talking about is something that was initially written
19 into American immigration law in 1929, which in today's Act is
20 Section 249, which is registry.

21 Today, anyone that has been in the United States
22 since June 30th, 1948 continuously is eligible for lawful resi-
23 dent status with few exceptions of excludability. However,
24 this law was last amended in 1965, and actually Congress has
25 been delinquent in updating the Registry Act now, in not having

1 reviewed it for a period of some 13 years. So therefore, what
 2 is being called amnesty is really an updating of an existing
 3 Section which has had no action since 1965 in law that has been
 4 an instrument of immigration, United States immigration policy
 5 since 1929.

6 The mention was made earlier of suspension of deporta-
 7 tion and in that Section, there is -- actually three primary
 8 requirements, one being physical continuous residence in the
 9 United States of seven years or longer. The period mentioned
 10 in the legislative proposals is also basically going back a
 11 period of seven years.

12 Now, if there is a line to be drawn, seven years is
 13 probably a fair period. There is a distinction between registry,
 14 however, and suspension of deportation, in that one is meant
 15 to apply to a general class of individuals. The other, based
 16 on a showing of extreme hardship, as is written in the regulation,
 17 which is Section 244, or the law, which is Section 244(a)(1) of
 18 the Act, a showing of good moral character and the seven years
 19 would allow one on an individual basis, in the discretion of
 20 the Attorney General, to grant one suspension of deportation.

21 The problem with the suspension of deportation is
 22 that the extreme hardship aspect of that case has been very --
 23 has been chiselled out through various court, both legal and
 24 administrative, decision, to the point that, the exact data I
 25 don't have, but I would guess that well over 90 percent of the

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1 applications made under this Section of law are ultimately
2 denied.

3 If we had an effective vehicle for using suspension
4 of deportation in a way in which it was administered fairly,
5 rather than extreme hardship excluding almost everything and
6 leaving the question of, well, you know, what does constitute
7 extreme hardship, and no one really does have the answer for
8 that apparently, if that was an effective vehicle, then I
9 think there are many good and beneficial alternatives that
10 could be used in regard to the updating of registry.

11 The alternative has been raised of having a rolling
12 date. If Congress has reviewed a cutoff date only three times
13 in almost 50 years, then it is apparently something that is not
14 a top priority of Congress and something that they really
15 shouldn't be bothered with. Maybe a seven year period or a
16 shorter or longer period wherever the line should be drawn
17 should be used so that the theory of registry not be based on
18 one specific cutoff date to later be reconsidered and studied
19 by Congress, but have it a rolling date so that you would al-
20 ways have some consistency in regard to who would be entitled
21 for this type of relief.

22 Another possibility would be to have some form of
23 mandatory review of what the cutoff date should be by Congress
24 so that if that -- so that there could be some input as to
25 various economic conditions in the United States, and general

1 attitudes of the United States in regard to whether or not the
2 cutoff date for registry should be advanced or not.

3 But in both of these situations it leaves suspension
4 of deportation a very important partner of registry, and that
5 if it is to be administered fairly in the discretion, again, of
6 the Attorney General, possible the word "extreme" should either
7 be redefined or deleted entirely as one of the requirements for
8 suspension of deportation, and at that point there could be a
9 great deal more flexibility regarding registry.

10 Economic hardship in and of itself has been held time
11 and time again not to constitute extreme hardship. Problems
12 of people from two different countries having met in the United
13 States, different religions, professional people with very
14 substantial earnings in the United States, having no -- you know,
15 being able to show in many situations that they could well
16 suffer some form of hardship due to whatever country they
17 select to go, one spouse or the other going to a country where
18 their religion is generally not practiced, all of these in the
19 aggregate, in some situations, do not constitute extreme hard-
20 ship, leaving one to say if the legislation, if the law is there
21 for suspension of deportation, why does it have to be so
22 reluctantly granted? If it is the legislative intent to have
23 suspension, if it is the legislative intent to have a Section
24 for registry for purposes of resident alien status, then enforce
25 it, but with the meaning in which it was drafted and implemented.

1 initially, rather than enforcing this type of law, be it sus-
2 pension, registry, independent or exclusive of each other in a
3 fair and more proper way than it is at the present time.

4 In regard to those concepts, I think that is really
5 the primary thinking regarding registry. Whatever law we have,
6 administer it fairly, either have a rolling date or a specific
7 time for review, and it should be in conjunction with a viable
8 suspension of deportation section.

9 MS. CAMPBELL: Okay, thank you, Mr. Frank. I have no
10 more questions.

11 CHAIRPERSON HATA: I have several questions for both
12 of you. Regarding amnesty, since we seem to be using that
13 general word, "amnesty," this morning one of our witnesses
14 voiced a concern that amnesty was in his opinion unfair to
15 those individuals who had obeyed the law, those who had legally
16 waited outside to come in, and I wondered if either of your
17 groups had taken a position with respect to that aspect of
18 amnesty.

19 MR. FRANK: If in regard to legal immigration to the
20 United States, that is a very old question and it is somewhat
21 of a chicken or the egg question in that adjustment of status
22 to that of lawful resident status here in the United States is
23 something that now applies to both the eastern and the western
24 hemisphere. Some quotas are very badly backlogged because of
25 the existing numerical limitations for both hemispheres and

1 independent countries of each hemisphere.

2 However, possibly that might then suggest a reevalua-
3 tion and redetermination of the existing criteria of 170,000
4 immigrant visas per year for the eastern hemisphere and 120,000
5 maximum immigrant visas per year for the western hemisphere.
6 Those are numbers that have been with us for a very long time,
7 and people in regard to qualifying for legal immigration, I
8 think in the best interests of the United States in general,
9 whatever that might mean, the Immigration and Nationality Act
10 must be consistent. It has many ambiguities right now.

11 There are, in my opinion, many inequities in the
12 administration of discretion or administering of discretion,
13 and in regard to the amnesty specifically, if one has been in
14 the United States for whatever period of time is determined,
15 assimilated into the economy and into the society, if the person
16 is one who can show that he is a person of good moral character
17 then this person probably would be an asset to the United States,
18 beneficial to the economy of the United States, and able to
19 contribute to the general welfare of his community.

20 CHAIRPERSON HATA: Mr. Aguirre?

21 MR. AGUIRRE: I think that the amnesty provisions are
22 going to be unfair to millions of people who are already here
23 in the country without documents, who have been working here
24 for several years. Maybe they have been here six and a half
25 years. Maybe they have been here five years. Maybe they have

1 been here four years, but they have been working. They have
2 been producing. They have been paying taxes, and they are
3 going to be getting discriminated against with this type of
4 legislation.

5 I think that it is important to look at the laws of
6 immigration as a whole as he was talking a little while ago,
7 because I think that most of the amendments or so-called reforms
8 that are being placed upon the immigration laws in the last
9 several years are reforms that are being placed essentially on
10 the Immigration and Nationality Act of 1952, the Walter
11 McCarren Act, which in essence, if people have read it or, you
12 know, I hope people will take the time to read a little bit of
13 it, is essentially an anti-immigrant law, so much to the extent
14 that President Truman refused to sign it, and he had the
15 Congress go over and pass it over his non-signing of the Bill
16 and his vetoing of this type of legislation, and essentially,
17 anything -- when you base yourself upon the type of legislation
18 of the Walter McCarren Act, which created so many restrictions
19 in immigration status for people who come to this country,
20 when you place reforms and amendments upon something that is
21 already bad, you are not going to get anything better.

22 And I can give you a concrete example of this. We
23 were talking about equality under the law. 1976, the Eilberg
24 amendments to the Immigration and Nationality Act were passed.
25 They were supposed to equalize the immigration quotas between

1 the western hemisphere and the eastern hemisphere. Well, they
2 did that numerically, but in essence they cut away the restric-
3 tions of countries like Mexico to be able to have more people
4 coming in, because a country like Mexico, their quota system
5 was cut down to 20,000 in essence, and there was a lot of
6 legal technicality that I think you could explain better, but
7 in essence it cut down the number of visas available per year
8 to 20,000, and other countries like Paraguay also get 20,000,
9 but a country like Paraguay does not need 20,000 visas, and
10 a country like Mexico could easily use 50,000, 70,000 visas,
11 so what happens, in essence, they are all equal.

12 All the countries have the same number of visas,
13 western and eastern hemispheres have the same number of visas,
14 but what happens is that we have the inequality of nothing.
15 I mean, everybody gets nothing. So what happens in essence is
16 that countries like Mexico and the Mexican undocumented workers
17 become more vulnerable coming into the United States, or workers
18 from other countries who have a high rate of migration to the
19 United States.

20 If in essence the laws of immigration, as they are
21 being legislated upon by the Congress and enforced by the
22 Immigration and Naturalization Service, are meant to give
23 people equality, then they should do away with many of those
24 type of restrictions, but we have to remember that we are
25 talking about a law, you know, that was passed during the

1 whole period of McCarthyism, within the whole wave of anti-
2 immigrant history in this country, and if we are dealing with
3 those type of laws, we are not going to get anything better,
4 and I think that that is at the root of the problem right there,
5 and there is all types of solutions being given, half-solutions
6 is what we call them, to the problem of immigration.

7 But in essence, you know, the laws in this country
8 in regard to immigration are made so that workers really need
9 to come to this country legally are more vulnerable to exploita-
10 tion, they are more vulnerable to not coming in, and the
11 immense bureaucracy that exists at the INS is not there to help
12 them. This we know by fact. This we know by practice, and in
13 essence, we don't think that the amnesty provisions right now
14 do constitute a solution to the problem.

15 We think they constitute another problem, more than
16 we already -- more than we need right now.

17 CHAIRPERSON HATA: I would like to go back to a few
18 of the comments that were made by the previous witnesses. Mr.
19 Goldstein noted that after a factory survey, the people in his
20 apparel business received a list of individuals who were picked
21 up by the INS. I was wondering of the Bar Association was
22 familiar with this, and if you were, as well, and how widespread
23 this practice was.

24 We had two individuals here, one who knew about the
25 practice of the list, and the other one didn't, and I wondered

1 if you two gentlemen would comment on this practice.

2 MR. FRANK: I am familiar with the fact that those
3 letters have been sent out to employers after their survey, as
4 it is called, or raid as -- it should be synonymous.

5 I don't know if the procedure is that one is sent out
6 to every employer after every raid, or whether there is some
7 form of selective determination as to who gets one of the
8 letters or not. Essentially, it is a warning letter to para-
9 phrase, really is that after conducting the survey, many people
10 were found to be employed there without authorization from the
11 Immigration and Naturalization Service.

12 It then, I believe, refers to the Dixon Arnett Bill
13 which -- or California Labor Code 2805 -- and advises the em-
14 ployer of the contents of that particular Section of the
15 California Labor Code.

16 CHAIRPERSON HATA: He seemed to indicate that there
17 was a list of individuals appended to that letter.

18 MR. FRANK: Normally that would -- as I understand it --
19 be the list of those individuals which -- who are ultimately
20 apprehended by Immigration during the course of their survey.

21 CHAIRPERSON HATA: Is this a widespread practice, in
22 your opinion, or --

23 MR. FRANK: Whether it is widespread out of this
24 Region or this particular District Office, I really don't know.

25 CHAIRPERSON HATA: Has the Bar Association and your

1 Immigration Subcommittee done any work on that?

2 MR. FRANK: At this point we haven't. It is something
3 which was basically discussed at one of the meetings, and
4 possibly that is certainly one of the areas that would be looked
5 into over the course of the next year.

6 CHAIRPERSON HATA: Mr. Aguirre, do you have any com-
7 ment on that?

8 MR. AGUIRRE: Well, I think that we can produce for
9 the Committee a copy of one of those letters, and as a matter
10 of fact, probably several of them, because they are existent,
11 and it is a practice of the INS, with or without letters, to
12 conduct factory surveys, to deport people without documents,
13 and essentially to try to intimidate employers by telling them
14 that Section 2805 of the California Labor Code is in enforce-
15 ment.

16 That is not true. That is a lie. Mr. Sureck knows
17 it. He signs the letters. Mr. Smith knows it. He is the one
18 who deports the people, and the INS knows it as a whole.

19 But like we said, these type of practices by the
20 Immigration and Naturalization Service will continue, you know,
21 until people start challenging their right. Essentially we are
22 dealing with an agency that has a fiefdom of its own, that
23 handles people without any discretion as terms of their rights,
24 and without any discretion in terms of what law they are
25 enforcing or what law they are breaking. You know, essentially

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1 it parts from this principle, people are illegal aliens, they
2 have no rights, okay, it doesn't matter what you do, whether
3 you go to a judge or you go to certain processes of the law,
4 to try to get protection under the law, we don't have that
5 protection.

6 The only way we have gotten any type of protection
7 under the law against these types of practices is by making
8 people aware that they do exist, showing them the concrete
9 proof that they do exist, and if the INS is not breaking the
10 actual law, they are breaking the spirit of the law.

11 CHAIRPERSON HATA: Well, I am sure the staff will
12 follow up on your offer, then. One final question. We had
13 some discussion earlier about employment screening processes.
14 Have either of your organizations taken any steps in terms of
15 making recommendations with respect to the screening of
16 employees or potential employees for undocumented workers?

17 MR. FRANK: At this particular point in time, the
18 Immigration Section hasn't, because there is no federal legis-
19 lation in the field at this particular time, and Section 2805
20 is not presently being enforced. Therefore, in regard to the
21 problem being a specific problem and adopting a policy for
22 employers in general, I know our Section has not considered
23 that to be an immediate priority.

24 MR. AGUIRRE: Our actions, I would, you know, hesi-
25 tate to say a little bit about our actions, but I would that

1 our policy is to be opposed to any type of screening of people
2 with or without documents. We think that practices that are of
3 investigation of the alienage or the citizenship of any person
4 is not the right of an employer.

5 Secondly, well, we don't think it is the right of the
6 Immigration and Naturalization Service to do that in factories,
7 and third of all, many times this practice constitutes union
8 busting, and essentially we have seen that happen in many, many
9 campaigns that we have been involved in, and people that we
10 have helped. So we try to tell people who come to us from the
11 different agencies that they should not collaborate with
12 employers who ask them questions. They should not collaborate
13 with the INS when they are asked about their citizenship.

14 We think it is an illegal practice, and we think that
15 if we have the brunt of the law supporting us, we could proba-
16 bly defeat that proposition.

17 CHAIRPERSON HATA: Thank you. Mr. Spurlock?

18 MR. SPURLOCK: Mr. Aguirre, just a couple questions.
19 I hope you don't saddle me with Pat McCarren, but I do want to
20 play a little devil's advocate with you. The picture you have
21 painted is, in attacking, I think, both the policy and the
22 implementation of the Act, is that there is a significant
23 degree of unanimity in the Mexican American community perhaps
24 with respect to this issue of the way in which this Act came
25 about, and how it is enforced, and I would like to ask you

1 whether or not your characterization of the union support
2 extends to rural areas as well as to urban areas.

3 MR. AGUIRRE: I don't understand. Why don't you try
4 and rephrase it?

5 MR. SPURLOCK: Well, does the United Farmworkers
6 organization support your basic characterization of the way in
7 which -- oh, golly.

8 MR. AGUIRRE: How the law was written?

9 MR. SPURLOCK: Well, how the law was written or how
10 in fact -- whether or not is being effectively enforced, and
11 that sort of thing.

12 MR. AGUIRRE: Well, the United Farmworkers at the
13 last constitutional convention took a position in support of
14 our conditional amnesty, which is a position that the Coalition
15 has also taken, and we have seen that in many instances where
16 the UFW has been involved in organizing campaigns, that the
17 INS has broken -- been able to break up some of those campaigns
18 by deporting the workers.

19 I wouldn't know -- I couldn't be able to tell you
20 about more instances in terms of the overall development of the
21 law, what they oppose, and you know, what they favor. I do
22 think that they are opposed to the type of discriminatory
23 practices that the INS has.

24 MR. SPURLOCK: Yes, I am sure that that is the case,
25 but with respect to the support which you have indicated unions

1 have provided your cause, has the farmworkers organization been
2 a part of that?

3 MR. AGUIRRE: The farmworkers union?

4 MR. SPURLOCK: Yes.

5 MR. AGUIRRE: Yes, and no. In a way they have. I
6 think that taking a position by a union so important as the UFW
7 here in the State of California has helped a lot the work that
8 we are doing, and I think that when we experience this, you
9 know, working with Immigration or encountering Immigration,
10 has helped us to be able to educate other people as to the
11 issues.

12 MR. SPURLOCK: Well, haven't they in fact taken the
13 position, though, that the use of undocumented aliens or how-
14 ever you want to characterize so-called illegal immigrants have
15 been utilized to defeat union purposes, legitimate union
16 purposes?

17 MR. AGUIRRE: No, I think that was their position
18 several years ago, but as of the last couple of years that we
19 know of, since 1976, excuse me, '75, their position has been
20 that these people are victims of exploitation, both by the
21 employers, and the INS is being utilized to break of the United
22 Farmworkers organizing campaigns, so they do not take the
23 position that undocumented workers come here to break strikes
24 or come here to harden the work of the UFW.

25 MR. SPURLOCK: Well, that those kinds of workers are

1 being exploited by wealthy farming groups or combines to defeat
2 union purposes?

3 MR. AGUIRRE: Well, you know, it is a situation that
4 happens not only in the rural areas, but happens also in the
5 cities, you know, where employers do know that hiring undocumen-
6 ted workers will in essence, you know, try to create a division
7 between workers who are trying to organize themselves and
8 people without documents.

9 But our experience, and I think this is the experience
10 of the UFW also is that people without documents, you know, are
11 workers, and if they have bad working conditions and living
12 conditions, they are going to try to organize to change that
13 reality in their lives, and the distinction that is being made
14 is losing that effect in terms of they are not organizable.

15 They are more easily exploitable because they are
16 becoming organized, and they are becoming unionized all around
17 the State of California, and in the rural areas it is very very
18 well-known that they are part of that movement.

19 CHAIRPERSON HATA: Yes, Ms. Fonda?

20 MS. FONDA: Mr. Aguirre, can you tell us what you know
21 about Project Denver?

22 MR. AGUIRRE: Well, like I was saying before, this is
23 one of the practices of the INS that has been utilized with
24 several employers to pinpoint factory surveys, you know, in
25 specific industries where government agencies have made a contract

1 with the employers to either produce a certain type of product
2 for contracting by the government, either the contractors or
3 subcontractors, and the INS has either an agreement or it is
4 a written or verbal situation where the INS will go in and raid
5 these factories after a production happens, or in a situation
6 where they think that people are working there without documents.

7 Project Denver was started about two-and-a-half years
8 ago in the city of Denver as a pilot program to work in con-
9 junction with employers as Ms. Hata was saying to screen out,
10 you know, people who are working without documents. It is an
11 agreement that is also entered into with the Department of
12 Commerce, the Economic Development Agency of the Department of
13 Commerce, to weed out undocumented workers in factories, and
14 we think it is an illegal practice, and as a matter of fact
15 right now, several attorneys who work with us are involved in a
16 lawsuit attacking Project Denver.

17 CHAIRPERSON HATA: One final question, Mr. Spurlock.

18 MR. SPURLOCK: Do you know of any instances in which
19 employers have turned in their own employees have turned in
20 their own employees?

21 MR. AGUIRRE: All the time. All the time. I think
22 that it is a widespread practice, particularly in the garment
23 industry, where regardless of what the person was saying who
24 spoke before us about the garment industry, we have concrete
25 examples about the garment industry. We know that many times

1 employers do fire people before, the day before they are paid,
2 or they call on the INS the day before they are paid, and I
3 would like to ask the Committee here to ask the INS if it is a
4 policy to raid factories the day before payday or the day of
5 payday, so many times employers do call up the INS to bring in
6 a new group of workers.

7 And we ask the question, what happens to the salaries
8 of many of these people? There is supposed to be a policy
9 implemented by the agencies concerned with this problem, like
10 the INS, to give these people back their monies, but many times
11 we know that that does not happen in the practice.

12 CHAIRPERSON HATA: I would not be surprised if the
13 question were raised tomorrow. Thank you both very much.

14 MR. AGUIRRE: Thank you.

15 MR. FRANK: Thank you.

16 CHAIRPERSON HATA: We are, amazingly, ahead of sched-
17 ule. Let us take seven minutes and then come back at five.

18 Off the record.

19 (Brief recess.)

20 CHAIRPERSON HATA: On the record. Before we get into
21 the next panel, we have another introduction to make, and I
22 would like Staffperson Miron to handle that, please?

23 MS. MIRON: Yes. At this time, we would like to
24 call Mr. Gibson, who was scheduled for an earlier panel, but
25 because of a misunderstanding didn't get an opportunity to

1 testify, and we apologize for that. Mr. Gibson, could you
2 please introduce yourself, and then add any remarks to the
3 panel that you heard on employment screening persons?

4 MR. GIBSON: My name is Walter J. Gibson, I am
5 Secretary of the Southern California Shoe Manufacturers
6 Association, and have been for 32 years. I am also Controller
7 and Secretary of firms that employ about 500 shoe workers in
8 southern California.

9 I won't belabor some of the things that have been
10 said in previous panels. There are three points, though, that
11 I would like to call the Committee's attention to that may
12 have not been emphasized sufficiently in the previous panel.

13 One is concerning the letters that Mr. Sureck had
14 sent out. Ms. Hata especially was interested in those letters.
15 I believe that all the shoe manufacturers that have been sur-
16 veyed have received such letters in recent months. The letters
17 are as explained by the previous letter, with a covering letter
18 of Mr. Sureck, explaining the Dixon Arnett Bill of California,
19 and also the risk that the employer is taking in hiring illegal
20 aliens, and enclosing a list of names that the Immigration
21 Service says are illegally employed in the United States.

22 That list that they send is meaningless to the manu-
23 facturer. It is meaningless because the names, in the most case,
24 have never been heard of. In the last list I saw, of 36 names,
25 4 names on that list were previous employers of that employer.

1 The other names were either fictitious names that the
2 worker had given the Immigration Service or names that they had
3 might have been their real names. I don't know what names there
4 were, but they were not people that had any Social Security
5 number in the files of the company that employed them.

6 That brings up the point of identification. Identifi-
7 cation has been atrocious. There is no way of knowing who is
8 who. We have people with Social Security numbers come in here
9 to work, with the documentation, with the green card, show us
10 the green card, show us their I.D., their Social Security, their
11 driver's license, go to work. Three months later that same
12 green card and that same Social Security card, that same
13 driver's license shows up someplace else in the industry. The
14 same card. The same man went to go to work --

15 What they do, they show it to us, we sign them up,
16 they mail it back to Mexico, somebody else comes in and uses it.
17 It is a very -- the second point I wish to make is the one of
18 identification, and as I told Ms. Miron, until the identifica-
19 tion problem can be solved, fining somebody for hiring some-
20 body when they don't know who they are is ridiculous. That is
21 the second point I wish to make.

22 The third point I wish to make has to do with what the
23 gentleman representing a bar association and also the gentlemen
24 representing the Coalition of Garment Manufacturers stressed,
25 but not stressed strenuously enough. There are certain jobs in

1 southern California that are creating jobs for a lot of other
2 people. In the shoe industry, the raids have showed that there
3 are some illegal aliens in the shoe industry. However, if
4 those people were not in southern California, if 7,000 people
5 that are in the shoe industry would be out of work, because 10
6 or 15 percent of people are filling jobs that no one else in
7 southern California will take, and so therefore the line of
8 production would be nil, unless we have a complete line of
9 production.

10 We can't make a shoe unless the heel is put on, unless
11 the sole is put on, unless all the operations are done. If we
12 can't find people to do certain jobs, we have to have someone
13 to do those jobs, and so it is up to the law to be changed to
14 permit prevention of a substantial amount of unemployment.

15 If they want to enforce a fine of \$1,000 a person for
16 every illegal alien that is hired in southern California,
17 southern California would be a desert within three years.

18 MS. MIRON: Thank you very much, Mr. Gibson.

19 CHAIRPERSON HATA: We apologize again for the misunder-
20 standing, and we thank you, Mr. Gibson. Mr. Dimas? I turn it
21 over to you.

22 MR. DIMAS: Yes, our next panel, if I may call them
23 up, Mr. Fernando Garcia from the Fair Employment Practices
24 Commission, Mr. Preston Wilson from the EEOC, and I don't know
25 if Ms. Colleen Logan from the Fair Labor Practice Commission

1 has arrived yet. She is scheduled to be here. She may join us
2 a little bit late. Would both of you please identify yourselves
3 for the Committee, please?

4 MR. GARCIA: I am Fernando Garcia. I am legal counsel
5 to the Division of Fair Employment Practices of the State of
6 California here in Los Angeles.

7 MR. WILSON: I am Preston Wilson, Deputy District
8 Director of Los Angeles District Office, Equal Employment
9 Opportunity Commission.

10 MR. DIMAS: And if I may ask each one of you to give
11 a very brief statement about what your agency does.

12 MR. GARCIA: Our agency accepts and processes complaints
13 involving employment discrimination on the basis of race, sex,
14 color, creed, national origin, ancestry, physical handicap,
15 medical condition, I don't know if I mentioned sex already,
16 and I can't remember any other bases at the time. We also
17 cover housing discrimination complaints in a number of areas,
18 and we also do discrimination in the area of public accomoda-
19 tions.

20 MR. WILSON: The Equal Employment Opportunity
21 Commission, under Title VII, works with the discrimination and
22 employment problems based on race, color, national origin, sex,
23 and religion, shortly to accept the responsibility of age.

24 MR. DIMAS: Mr. Garcia, I understand that you have
25 had some involvement in matters concerning employer screening,

Bowers Reporting Company

1 job screening for undocumented workers. Could you please
2 describe for us some of your past involvement, please?

3 MR. GARCIA: Yes. Our concern in this area comes with
4 the type of information that an employer solicits from the
5 prospective employee in order to ascertain that person's immi-
6 gration or legal status in this country, and disclosure of
7 evidence that those requests lead regarding that person's na-
8 tional origin or ancestry, which could be used in the pre-
9 employment screening process to screen out that applicant prior
10 to employment.

11 MR. DIMAS: What can, under your agency's guidelines,
12 be proper preemployment inquiries?

13 MR. GARCIA: Well, under our agency's guidelines, the
14 most current version, we have stated the position that an
15 employer may ask the prospective employee if they have a right
16 to remain legally in the U.S.. However, we consider it to be
17 a violation of our Act if an employer asks somebody, if for
18 example they are a resident or a non-resident or where they
19 were born.

20 In terms of where they were born, it is a direct
21 disclosure of that person's national origin and possibly their
22 ancestry. In terms of whether they are U.S. citizens or resi-
23 dents, if a person is not a U.S. citizen, with the exception of
24 a few instances in which a person was a U.S. citizen and subse-
25 quently changed their citizenship to something else, most

1 people who are present in the country who are not U.S. citizens
2 were born, indeed, in another country and therefore have a
3 different national origin than that of the U.S..

4 MR. DIMAS: Did I see Ms. Colleen Logan come in?

5 MS. LOGAN: You sure did.

6 MR. DIMAS: Would you care to join us, Ms. Logan?

7 MS. LOGAN: Yes. You changed rooms and I almost be-
8 came involved in a tour.

9 MR. DIMAS: Well, we apologize for the change and lack
10 of information. Would you please identify yourself and your
11 Commission for the Committee, please, Ms. Logan?

12 MS. LOGAN: Yes. I am Colleen M. Logan. I am the
13 Area Administrator for the Division of Labor Standards Enforce-
14 ment, which is a part of the Department of Industrial Relations
15 for the State of California. My area covers the greater part of
16 Los Angeles.

17 MR. DIMAS: And what is the area with which the
18 Commission deals, what laws specifically are the charged with
19 enforcing?

20 MS. LOGAN: Our specific laws cover employer-employee
21 relationships, the payment of wages, the misrepresentation of
22 labor, child labor violations, vacation claims, I mean just the
23 whole gamut of laws that are on the books between employers
24 and employees. We do have a great diversity of rules in that
25 the Legislature in the State of California has specifically said

1 that if there is a regulation that regards labor, it is not
2 specifically stated in the law that it goes to another Section,
3 that we take it, so we do have quite a large group of diversi-
4 fied laws that we regulate.

5 MR. DIMAS: Thank you. Mr. Garcia, back to you. You
6 have participated in a couple of conferences with employers
7 before, dealing on the Fair Employment Practice Act and possible
8 violations resulting from an employer sanctions law, is that not
9 correct?

10 MR. GARCIA: Yes, it is.

11 MR. DIMAS: Could you give us your impressions of
12 some of those?

13 MR. GARCIA: Well, I attended one that was conducted
14 at the Los Angeles area Chamber of Commerce. It was mainly
15 geared to advise employers on what they were to do regarding
16 illegal aliens and the type of things that they could and could
17 not do in terms of hiring, firing, promotion, pre-employment
18 inquiries, and so forth.

19 MR. DIMAS: Do you find a great deal of concern among
20 employers about violating your law?

21 MR. GARCIA: Yes, very much so.

22 MR. DIMAS: Is there a chance that they would in fact
23 violate your laws in trying to screen out undocumented workers?

24 MR. GARCIA: Well, there is a chance in that a lot
25 of the pre-employment inquiries, and the information which is

1 obtained as a result of them, could lead to possible violations
2 of our Act, in terms of receiving information which is used to
3 screen out applicants or people applying for promotions and so
4 forth. Mostly it concerns applicants.

5 In addition, there is the fact that even if there is
6 inquiries on the part of the employer, how are they going to be
7 administered. For example, if they are going to require docu-
8 mentation of status in the U.S., are they going to require that
9 of prospective employees, or are they going to only zero in on
10 certain groups that they find suspect? We are concerned with
11 the differential treatment that may result as a result of
12 picking out a group that they find suspect or they find a high
13 probability, and subjecting that particular group to more
14 rigorous inquiries, and the result that would be detrimental
15 to members of that group who aren't illegal, but nevertheless
16 would be subjected to more rigorous pre-employment screening
17 standards than would others.

18 MR. DIMAS: Specifically in this area, would this be
19 concerned with the hispanic and the Asian community?

20 MR. GARCIA: I would suspect that the hispanic commu-
21 nity would be the first, and the Asian probably second in
22 terms of -- this is -- I have no statistics to back that up,
23 but I would say that most of the complaints that we get invol-
24 ving this type of inquiry are from hispanics and Asians.

25 MR. DIMAS: Mr. Wilson, do you also deal with any

1 inquiries in that respect?

2 MR. WILSON: Yes. The Commission's position on pre-
3 employment inquiries is that we have had very bad experience
4 with them, and they have been used as potential vehicles for
5 screening out minorities and women, and by the very natures of
6 the question, we have insisted on the elimination of many pre-
7 screening questions because it does operate against the inter-
8 ests of the groups covered under Title VII.

9 MR. DIMAS: And do you foresee any increase in the
10 number of complaints that you receive --

11 MR. WILSON: Yes. We are already beginning to get
12 inquiries and expressions of concern from the community, and
13 again, I think, probably the largest portion of those are from
14 hispanic communities, although I would believe that anyone with
15 an accent or an observable color factor might just very well
16 have also an expression of concern about it along the same
17 bases, and that is that they feel that they are being singled
18 out.

19 MR. DIMAS: But you mentioned that you are already
20 receiving inquiries?

21 MR. WILSON: We are receiving inquiries.

22 MR. DIMAS: And is this because of the publicity re-
23 garding the employer sanctions provisions?

24 MR. WILSON: I believe in large part, except experi-
25 ence has always been that when people do have to justify and

1 even and especially where differences are noted, whether either
2 by, as I mentioned sight or accent or coloration, and sex, of
3 course, we have had immediate responses, but it is an ongoing
4 thing, too, from the areas who have immediate concerns all the
5 time, and that is our constant ongoing job, and we have many of
6 those, yes.

7 MR. DIMAS: Would you explain a little bit to the
8 Committee about your investigation procedures when you have a
9 complaint filed?

10 MR. WILSON: Yes. We have, of course over a period
11 of years, identified certain bases of discrimination, and we
12 have developed theories, and of course court cases addressing
13 those, and probably the largest portion of those, which are
14 most observable, is disparate treatment as against an individual
15 or a class of persons.

16 There is also this other, which I addressed more
17 probably specifically, which is the pattern of practice type,
18 which even a policy that is given out neutrally on its face,
19 if everyone was required, for example, to furnish certain basic
20 proof, if it still had an adverse impact against specific
21 groups, then that would constitute, in our opinion, one of the
22 problems.

23 Now, those are the kinds of investigative things that
24 we look for, but the problem that I see inherent in this kind
25 of a thing unless it is clarified, is what we do with not only

1 those charges that may be filed as a result of this, but what
2 we call a chilling effect of respondents who rather than get
3 into a position of perhaps getting involved where there is a
4 liability, of even avoiding it by really not considering people
5 who may have an accent or a certain coloration, so that it would
6 be simpler for them to simply ignore, and we are right back
7 again where we started from at square one, because they just
8 don't want to do anything that might get them involved
9 financially.

10 So it is not a question, even though the number of
11 charges may be increased, an already horrendous backlog. We
12 have 118,000 cases in the Commission, although Chair Norton
13 (phonetic) hopefully will be able to deal with that. I think
14 our concern goes beyond that of those charges will never be
15 filed because of the people who are never considered.

16 MR. DIMAS: Assuming in that case all the complaints
17 you had could be promptly processed, you would still be pro-
18 jecting a number of other violations that simply would not have
19 complaints filed. Is that right?

20 MR. WILSON: The charges filed would be only the tip
21 of the iceberg as to the actual practice.

22 MR. DIMAS: How big a tip?

23 MR. WILSON: It is hard to say. Our basic premise
24 just in the hispanic community, and some quick figures on
25 percentiles, I would say the county is about 18.5 hispanics

1 that would be victimized, really, by this other reporting re-
2 quirement, in a sense, according to the reports that we get and
3 the concerns that are felt by the community, and this is what I
4 am basing these things on, but in 1980, will constitute over
5 25 percent of the population in L.A. County, so I think you
6 could just project, based on the assumption that it would be
7 in conformance with those, and it is difficult to make a pro-
8 jection.

9 Again, too, you must realize this, that in some of
10 the segments of the coverage of people that we have, there is
11 a reluctance on the part of the people to approach governmental
12 agencies, again, not only those who will never be in a position
13 of filing charges because they were never considered, but also
14 of a group or individuals who have a real concern about approach-
15 ing a governmental agency for assistance, and that includes not
16 only the ones we have talked about, but like the American
17 indian, many of whom don't have Social Security numbers, and
18 who are coming into the cities on relocation from reservations.

19 Identification for even the basic American doesn't
20 seem to have been sufficient or from what I have been able to
21 read, so I have some personal express concern in that particular
22 area as well.

23 MR. DIMAS: Ms. Logan, have you had similar experiences
24 with your agency with the reluctance of certain individuals to
25 come forward?

1 MS. LOGAN: I am certain that we do. I feel certain
2 that we do have that problem, in that when our people go out
3 to speak to groups, you will find that there are always ques-
4 tions asked by the hispanic people there, and they say, do you
5 report people to Immigration if they come in to see you? What
6 do you do to punish someone who you find is not legally a
7 citizen?

8 I give a lot of lectures, and those are always the
9 questions that I get. Now, I know that when we have gone
10 through the garment industry and other specific industries
11 that have large amounts of people from Mexico who are not
12 documented citizens, that they really are fearful of coopera-
13 ting, for fear that we will turn them over to Immigration,
14 which we don't do.

15 We are not -- we are there to see that if a worker
16 works, that he collects his money, and we are not -- we do not
17 turn people in to other agencies, because first of all, we
18 don't have the time to even get out in the workplace and do
19 the work that we are supposed to do, and so we don't go a step
20 farther and see that everyone is documented before we assist
21 them. We don't ask them that and we don't -- we provide a
22 service of always having Spanish speaking people in our offices
23 in this area, and two of my Spanish speaking deputies came
24 with me today, because they were concerned too about this
25 problem, but I don't think that we even get maybe five percent

1 of the workforce that should come to us, because they are
2 fearful.

3 MR. DIMAS: Not even five percent?

4 MS. LOGAN: I don't think that we get any more than
5 maybe five percent, and I would say that 20 percent of our
6 cases are from people who have a language barrier, and that is
7 the only way that I can -- we don't ask them, so I don't have
8 any documentation, but I know that we have a large percentage
9 of people who do have a language barrier, and it is presumptu-
10 ous on my part, but most of these I believe are Mexican
11 American, or people from the Mexican portion of America.

12 MR. DIMAS: Do you mean by that undocumented?

13 MS. LOGAN: Certainly.

14 MR. DIMAS: Do you ever run into any cases where
15 the person who files a complaint has retaliation against them?

16 MS. LOGAN: Yes, we do. We have had cases of --
17 quite a few cases, of the defendant in a matter, who would be
18 the employer, threatening that if they come up to testify on
19 their own behalf against them, that they will see that they
20 are immediately picked up, and in a couple of instances in
21 the last ten years, we have had Immigration authorities come
22 to our offices to actually take someone, and you know, being
23 Irish and a fighter for the rights of the workingman, I --
24 get out. You can't come into the offices. You have to wait
25 in the hallway, and you know, we don't let them pick them off

1 right' there, but just think, if that happens even once or
2 twice about how that is spread around the area, that they could
3 indeed be picked up and taken, and so we do have, I know, a lot
4 of people that are not documented, that do come in, but I am
5 sure that it isn't even -- I estimate five percent because of
6 the great amount of them that are out in the meat packing
7 plants and the garment -- you know, garment industry, and the
8 different industries in the area, so I think they are just
9 afraid to come in and there has been great retaliation, I
10 think, from employers who just say to them, if you report me,
11 you know, I will then report you to Immigration, because there
12 is no retaliation against the employer, you know. The person
13 is just taken.

14 MR. DIMAS: So, would in your opinion, the participa-
15 tion by the Immigration Service in picking somebody up at your
16 offices reinforce that belief on the worker's part?

17 MS. LOGAN: Oh, I am sure it would reinforce it, but
18 we have only had two cases that happened like that, and
19 Immigration -- we don't work with them. They are busy and
20 doing what they are supposed to do, and we do not report any-
21 body to them, so we are not even friendly with them. I don't
22 even know anybody over there, you know, but I did have a couple
23 of them come to pick people up that were in hearings, and the
24 hearings were when people actually had the money due them.

25 MR. DIMAS: Mr. Garcia, do you have any feeling for

1 the number of complaints which are filed with your agency by
2 undocumented workers?

3 MR. GARCIA: To my knowledge, we have had very few
4 complaints by undocumented workers for the same reasons that
5 were stated before. First of all, many are not even aware that
6 they are entitled to protection under the law that we enforce.
7 Second of all, is the retaliation problem, and the general area
8 of employment discrimination on all bases that we cover, we
9 have a big problem with retaliation. We keep a separate docket
10 on retaliation cases, and I couldn't give you the numbers, but
11 for example, we docketed three this afternoon alone, in one
12 day, in just half of the day.

13 Therefore, I would assume that that has a chilling
14 effect on coming in and filing a complaint. Our process is
15 generally lengthy for the same reasons that were stated before.
16 We do have a backlog also, and we have problems processing our
17 charges, and basically there is a lot of time for the employer
18 to retaliate against the employee before any meaningful ac-
19 tion can be taken by the agency to protect that employee from
20 retaliation.

21 MR. DIMAS: You mention that some people might not
22 be aware of their rights. Would there be any way to take care
23 of that?

24 MR. GARCIA: Well, there would be. We have attempted
25 to publish information regarding what we do and so forth, and

1 spread it through the community. I think lack of knowledge is
2 a problem, but I think retaliation is the biggest problem.

3 For example, I had a call from somebody who would not
4 identify himself about a week ago that said that she referred
5 workers to the garment district, and that they felt that they
6 were being subjected to discrimination, and I said, well, un-
7 less these people come in and file, there is nothing we can do.

8 Now, there is a provision in our statute that we can
9 file a charge and withhold the name, but in reality it is very
10 difficult. The provision is intended to provide protection
11 from retaliation, but it comes useful in pattern practice type
12 situations, to protect the person who originally brought the
13 charge, but when you are investigating an individual case,
14 especially involving a small employer, it doesn't take too
15 long for the employer to put two and two together and figure
16 out who did it.

17 So in essence, it is a protection, but it has got
18 very limited use and its practical use is dubious.

19 MR. DIMAS: Mr. Wilson, would you have similar
20 experiences like that?

21 MR. WILSON: Yes, and I think probably because you
22 know the correlation of operations between our federal and the
23 state agencies, that there is a great deal of similarity as
24 relates not only to the reprisal handling charges and so on.
25 We contract with the state as well as having a deferral process

1 to them, and --

2 MR. DIMAS: Would you please explain the referral
3 process for us?

4 MR. WILSON: Well, under the law, of course, we defer
5 to any state agency, this is recognized 706 agency meeting
6 certain criterias under title VII, and give the opportunity of
7 the State to process those charges within a given length of
8 time, 61 days.

9 Also, we have a contract in which they do X amount of
10 cases with the Commission within a period of time.

11 MR. DIMAS: Ms. Logan, your agency had a rather uni-
12 que role in the state with the employer sanction law that was
13 passed in California. Would you please explain what that was?

14 MS. LOGAN: Well, that was in 1971, when Assembly
15 Bill 2805 was passed. The law stated, and I better read it to
16 you because -- well, I can tell you in essence it stated that
17 an employer who knowingly hired an undocumented alien would be
18 subject to from a \$200 to a \$500 fine.

19 Before the law went into effect, it went to the
20 Legislature in about June or July, and it was to become law 61
21 days after the closing of the Legislature, which at that time
22 would have been March of '72. Before it came into effect,
23 we were enjoined from enforcing it, on the basis that it was
24 vague and faultily written, and indeed it was vague and fault-
25 ily written, in that if you tried to decide what is knowingly,

1 an employer knowingly hires an illegal or undocumented alien,
2 you are getting into a very difficult enforcement problem, in
3 that you would have to maybe find him hiring that same person
4 more than one time before you could say, now he knew that was.

5 So it was a very faultily written enforcement proce-
6 dure, however, it was greatly published in the area, in the
7 state, and from the time that went before the Assembly to first
8 be voted on, like in June, the phones and the people coming in-
9 to our place was unparalleled at any other time. There has
10 never been a time that we had that many people calling us and
11 asking us, how long do we have to keep these illegal, pardon
12 the expression, aliens, before you will come out and arrest
13 us, or you will come out and penalize us?

14 People would call. People would come to the counter
15 and actually face us and say, now, I have got eight people that
16 are not registered working in the United States, and how long
17 is it going to be before somebody comes out and finds me? Now,
18 we want to know what the date is, and others would say, I am
19 going to fire them today, because I don't want to be in jeopar-
20 dy, you know, and the phones just rang off the hooks.

21 We figured that we had some 4,000 calls a day. We
22 had everybody in the office, and it is a large office, trying
23 to answer these phone calls, and I had no idea that the problem
24 was as deep and deeply entrenched, and that employers actually
25 knew they were hiring people, I mean, knew to that extent. I

1 know that they know. I am not naive. I know they know they
2 are hiring undocumented workers, but I didn't know that there
3 were that many of them that really knew it and still went ahead
4 and did it, and you see, when we make these drives, we find
5 that they are being underpaid, work long hours, and told to
6 check in and out in eight hours, and, they are working ten and
7 12 hours.

8 So, when this 2805 was going to become a law, a fact,
9 our phones and even people coming to counter, it was like
10 turning themselves in almost. They would come and say, now,
11 give us an exact date. You wouldn't tell us on the phone or
12 we couldn't get through to you on the phone. Give us an exact
13 date of when you are going to come out, and others would even
14 say, how many people do you have in the field? How long do
15 you think it will take to get to me?

16 You know, it was unbelievable, but it was really an
17 eye-opener.

18 MR. DIMAS: Most of these complaints, most of these
19 telephone calls, rather, that you were receiving, from your
20 description, appeared to be from employers.

21 MS. LOGAN: From employers. They were totally from
22 employers. We did have -- not totally. I would say that we
23 had some small percentage, but every day maybe a hundred calls
24 from other people in the community who also were Spanish, who
25 would say, hurry up and get them out so I can get a job, even

1 them, but poorly, helps us poorly, but we do -- does help with
2 maybe a couple of dozen a year. That is the only place that
3 we get any help.

4 MR. SPURLOCK: Do unions file complaints with you
5 about companies that are not -- they are obviously non-union
6 employers, but who are violating --

7 MS. LOGAN: No, they are -- let me tell you, there
8 are a great many union members who are undocumented. A great
9 many.

10 MR. SPURLOCK: Oh, I know that, but I mean, do
11 unions turn in employers? Do you get many complaints by unions
12 that minimum wage violations are present in the company?

13 MS. LOGAN: Well see, under union contracts, usually
14 they amend the contract to comply with the minimum wage. We
15 do get some calls, very few. These are mostly selective on
16 the spur of the moment calls that our investigators make when
17 we find large groups like this. We just go through an
18 industry.

19 MR. SPURLOCK: Yeah.

20 CHAIRPERSON HATA: I just have one-and-a-half quickie
21 questions, one question for all three of you. What kind of
22 relationship, either official or unofficial, exists between
23 your agency and INS?

24 MR. GARCIA: None on our behalf.

25 CHAIRPERSON HATA: Neither official nor unofficial?

1 though it -- and I will tell you where ten of them are, or I
2 will tell you where six are, and of course we didn't, you know,
3 we didn't have any way of taking book on it at that time, and
4 we would say, well, you will have to call back after the law
5 goes into effect.

6 I wasn't going to be given any more people, you know,
7 to enforce the law, and it was so vague that it was really a
8 relief when they enjoined us from enforcing it, because there
9 was no way to enforce it.

10 MR. DIMAS: When did that injunction take effect?

11 MS. LOGAN: In I think February of '72, and it was to
12 go into effect in -- the law was to go into effect in March. I
13 will look for sure, the exact date.

14 MR. DIMAS: Well, the exact date I don't think would
15 be of great significance. Is it being enforced right now?

16 MS. LOGAN: No, we had a permanent injunction. The
17 Labor Commissioner in '76 when the Supreme Court said that the
18 State could have dual responsibility in seeing that there was
19 this enforcement of illegal or undocumented aliens, we received
20 from our Commissioner a letter saying that they were going to
21 go and try to have the injunction removed, but it was not
22 removed, and the Court said that it still remained faulty and
23 vague, and there has been no new legislation that I know of
24 statewide.

25 MR. DIMAS: Did you make any preparations for the

1 enforcement of this law, Ms. Logan?

2 MS. LOGAN: Oh, sure. We made tremendous preparation
3 because we always -- if we are going to enforce something, even
4 if we don't have the people, we have to at least, you know,
5 try to find out how we could possibly enforce it, so I did send
6 to Immigration, and I got copies of the booklets they had for
7 employers.

8 I kept pieces of paper of everything I had, and this
9 is my folder from that particular little incident -- episode,
10 but I did get this revised in '66, M-97, documentary require-
11 ments for aliens in the United States, and we had instructions
12 for our clerical and -- our clerical staff as well as our
13 professional staff, and in here it tells exactly, you know,
14 what documents they have to have and what the documents look
15 like, and we did get some 50,000 of these and pass them out to
16 the employers in the area.

17 MR. DIMAS: So you were trying to train employers in
18 how to distinguish those who were legally entitled to work and
19 those who were not?

20 MS. LOGAN: Even though it was a fact that they had
21 to be hired, really, before they could question them. We
22 understood that they had to be hired before they could be
23 questioned about their citizenship.

24 MR. DIMAS: Is that correct, Mr. Garcia?

25 MR. GARCIA: No.

1 MS. LOGAN: Yes.

2 MR. GARCIA: We take the position that they can at a
3 pre-employment stage ask if they have the right to remain here
4 legally, but that is the full extent of the inquiry. Now, we
5 feel that that protects both the employer and the employee.
6 We can ask that they hire them conditional upon their ability
7 to document that evidence later.

8 The reason why we take that position is because if
9 the people submit the documentation before the hiring takes
10 place, it leads to the disclosure of information that I earlier
11 stated, so it is true to the extent that they can ask -- they
12 can hire conditional upon their ability to show documentation
13 later, but they do have the right to ask at a pre-employment
14 stage if they have the right to remain here legally, and that
15 does not disclose anybody's national origin.

16 MS. LOGAN: Well, that is a new regulation that you
17 have got there, sir, because I have something from the Fair
18 Employment Practices Commission here, that --

19 MR. GARCIA: What is it?

20 MS. LOGAN: -- it is dated 1971, that is when this --
21 that is when this went into effect, see. Now, I am talking
22 about 1971. I am not talking about today.

23 MR. DIMAS: Well, Ms. Logan, you had occasion, then,
24 to talk to employers regarding the screening that they had to
25 do. Would you say that they understood properly what they had

Bowers Reporting Company

1 to screen for?

2 MS. LOGAN: No, I can't say that they did, because I
3 really didn't understand it totally. You know, I read all the
4 documents, but at that time, Immigration advised us that they
5 were going to have to come up with some kind of a new -- new
6 cards, because there had been so many printed up in East Los
7 Angeles that were exactly the same as theirs, even the same
8 type of paper.

9 They told us how to look at the paper. It had little
10 dots all over it and everything.

11 MR. DIMAS: What kind of an educational effort do
12 you feel would be necessary to enable employers to make this
13 kind of a determination?

14 MS. LOGAN: Well, I really don't know.

15 MR. DIMAS: Massive or very little?

16 MS. LOGAN: It would be pretty -- you would have to
17 either have some kind of a document that could be given to them
18 that would be clear-cut. You know, there are a series of docu-
19 ments here. There are about eight or nine, ten, eleven docu-
20 ments, any one of which would be all right, and I think that
21 that really is quite a few, and I think at the particular time
22 that this law was going to go into effect, Immigration was
23 going to come out with some kind of a new document that couldn't
24 some way be copied, and I don't know what it would have to be,
25 but one single document that would be easily identified by both

1 my investigators, my Commissioners, and an employer, but be
2 that as it may, a lot of these employers that called knew they
3 had undocumented. They knew it.

4 I don't think that when we went out into the field
5 to enforce it that we would have had really firm documentation
6 that they knew it, but the ones that called us, the four to
7 five thousand a day that called for several months knew that
8 they had.

9 MR. DIMAS: On the other end, did you have any people
10 calling in that they had been improperly screened out?

11 MS. LOGAN: We had people calling in that had been
12 terminated, you know, that said that it wasn't fair that they
13 be terminated. I didn't have anybody to my knowledge that was
14 actually a citizen that had been terminated, but they were
15 subjected to the same questioning, I am sure, that the undocu-
16 mented workers were, by the virtue of the color of their skin
17 or their having had some kind of a, you know, speech accent
18 that would say that they were at least from that origin.

19 MR. DIMAS: Employers were questioning their
20 employees based on their appearance? Is that what you are
21 saying?

22 MS. LOGAN: Certainly. I am sure that is how they
23 were doing it, because at that time, they told -- there were
24 several kinds of documents going around the state, where they
25 would say, see how many people you have in your business, tell

1 us how many that you have that are of hispanic background, you
2 know, black, indian, you know, caucasian, but don't ask them,
3 just do it with a physical viewing, you know.

4 There was that kind of thing about that time, about
5 1969 and '70, when EEOC and some of the affirmative action
6 programs were really building up to where people -- employers
7 were becoming aware of them.

8 MR. DIMAS: If a federal employer sanctions law came
9 into effect, would you project that the response from employers
10 would be similar to what it was when your state law was enacted?

11 MS. LOGAN: I can't see how it would be any different.

12 MR. DIMAS: Mr. Wilson, assuming that Ms. Logan's
13 projection is correct, and you had an increased number of
14 complaints filed with your agency, would that severely back-
15 log you?

16 MR. WILSON: Yes, because again, we would have to go
17 back to the type of charge that we are talking about. To me
18 it would be a pattern of practice or a class impact. It nor-
19 mally wouldn't be a one-on-one, and those kinds of cases are
20 the real very difficult ones to get involved with, and can take
21 some considerable time, because they are normally litigated
22 and go to the courts, and we have got in the works now provi-
23 sions for new staffing patterns in the District Offices to have
24 the involvement of attorneys, together with the investigators
25 in compliance, to develop extended processing of pattern of

1 practice cases, but it is a laborious, tedious, lengthy kind
2 of thing, which would limit the Commission or any other enforce
3 ment agency to the numbers of which they could be reasonably
4 expected to pursue, and would be dependent on a lot of hard
5 data which really is lacking from this kind of an operation.

6 I don't know what kind of an impact undocumented
7 immigrants has on employment. We don't know, really, all of
8 the information we should know in order to start pursuing some
9 of these things, so we don't know yet what kind of documenta-
10 tion we are talking about having to take a look at, and once
11 having gathered that, and evaluating it and making determina-
12 tions and then the kind of a position, particularly in federal
13 service or in the outside, what we might reasonably expect the
14 defenses to be, so that we are acting, really, on just a whole
15 lot of hypotheticals, and I am sorry, but I couldn't project
16 anything.

17 We might reasonably anticipate, yes, a large backlog
18 resultant from that. It happens every time, initially there is
19 something going into effect that will broadly negatively impact
20 or in the belief of the community being a negative impact on
21 them.

22 In this case, too, even though it would be an indi-
23 vidual filing, because I was not considered, or because I
24 spoke with an accent and I was turned away and this and that,
25 still, we would have to take a look in many instances as to if

1 it was a patterned practice, so that that would be a decision
2 that we would have to make. In talking about the amount of the
3 level of complexity and difficulty, while it is true that we
4 can and do have anonymity to protect reprisal action against
5 an individual so that they can file in behalf of, still, when it
6 gets down to litigation, those names are no longer anonymous,
7 and there is very many ways that reprisal can happen without it
8 ever being an overt act.

9 There are some very subtle, and there are sophistica-
10 ted things, and they are a very difficult thing to prove,
11 although, we too give that a priority.

12 MR. DIMAS: Mr. Garcia, among the proposals that
13 President Carter has put forth, is one to provide what is called
14 popularly amnesty, for many of the people who are presently
15 undocumented. If such a law is enacted, do you feel that more
16 people would be filing complaints with your agency, and if so,
17 what kind of an impact do you think that would have?

18 MR. GARCIA: I could only speculate on that, but I
19 assume that if a lot of the fears of retaliation in terms of
20 being turned in to Immigration or deported as a result thereof,
21 it would seem to me that that would encourage people to file
22 complaints. Of course, I couldn't give you any specific num-
23 ber.

24 Now, we have one problem any time that our complaint
25 system is increased, or the volume of complaints, is that in

1 addition to all the concerns that were expressed before as to
2 the difficulty and length of processing charges, effective
3 1978, there was a provision that was added to our law that we
4 have one year within which to complete our investigation, and
5 three months to proceed to hearing.

6 Now, if -- we are not going to get a backlog as a
7 result of that, but as a result of which we are going to lose
8 jurisdiction over large numbers of charges, and it is going to
9 leave a number of people unprotected, in the sense that if they
10 don't have private counsel, or some other type of counsel, to
11 seek the prior right of action in court, our agency will lose
12 jurisdiction over the charge and they will be left unprotected
13 effective one year from the time that the charge was filed if
14 at that time we have not issued an accusation in the matter.

15 MR. DIMAS: I have many more questions that I would
16 like to pursue, and I think at this time I will turn it over
17 to the Advisory Committee.

18 CHAIRPERSON HATA: Thank you. Are any questions from
19 this side of the table? Mr. Spurlock?

20 MR. SPURLOCK: Mr. Wilson, in fact, EEOC under its
21 new procedures is not investigating pattern of practice or
22 class allegations, right? Haven't you gone back to the one --

23 MR. WILSON: As I mentioned, it is on the paper, and
24 it is developing into a pattern of practice both in headquarters
25 and eventually in the field. Right now you are absolutely

1 correct. We are dealing with an effort to eliminate the backlog
2 and take care of rapid processing on the front end, and then
3 DeCharanordah's (phonetic) intent is to then pursue pattern of
4 practice. The only pattern of practice now being pursued in
5 the District Office level are those in which there is a pre-
6 ponderance of evidences already in the case and it requires
7 very little additional effort to complete it.

8 MR. SPURLOCK: Gross statistical disparities and --

9 MR. WILSON: Yes.

10 MR. SPURLOCK: -- Burgess (phonetic) type stuff?

11 MR. WILSON: Right.

12 MR. SPURLOCK: All right, now, Mr. Garcia, does the
13 FEP use SSA as the designation for describing Spanish -- no,
14 I guess it is not Spanish speaking. Mexican Americans, let us
15 say, or Mexican nationals, or anybody?

16 MR. GARCIA: Well, the way our statute is phrased,
17 it is phrased slightly different from the federal statute.
18 Title VII contains the provisions, state of his national origin
19 under which all hispanics would come under or any other -- our
20 Act, in addition to national origin, has a provision which
21 states that it is ancestry and national origin, so theoretically
22 our statute has wider coverage, or possibly.

23 The problem has been is that that particular provis-
24 ion has never been interpreted by the California courts.

25 MR. SPURLOCK: Well, when you ask employers or unions

1 to submit the statistical breakdown of their minorities, do you
2 ask for black, Asian, SSA, don't you?

3 MR. GARCIA: SSA.

4 MR. SPURLOCK: Okay. Isn't that part of the problem?
5 I mean, because SSA means, the concept was simply devised for
6 the purpose of trying to identify persons, Mexican American
7 persons or persons who had Spanish surnames, and those persons
8 who had Spanish surnames were presumed to be of a national
9 origin in Mexico, or in Argentina, Brazil, or anywhere else,
10 isn't that correct, and isn't that the reason why most of the
11 employers would focus in on people who had those kinds of
12 surnames, rather than -- I mean, isn't that a more logical
13 explanation than the fact that they might be discriminating
14 right off the bat in terms of asking people about their origin?

15 MR. GARCIA: Well, it is part of it, but if you look
16 at the fact, there are many people who are Spanish surname, or
17 people who even have names of anglo derivation and nevertheless
18 are at least partly of hispanic.

19 MR. SPURLOCK: Sure, but --

20 MR. GARCIA: And it is just -- what you are getting
21 at is a problem which is inherent in trying to find a term --

22 MR. SPURLOCK: That is right. That is exactly right.

23 MR. GARCIA: -- which accurately describes the situa-
24 tion, and so far I don't know of anybody that has come up with
25 a term that doesn't lead to one dead end or another.

1 MR. SPURLOCK: Yeah.

2 MR. GARCIA: I am afraid there is not much we can do.

3 MR. SPURLOCK: Yeah. I understand that. I am just
4 trying to intimate that perhaps one of the reasons why there
5 is so much of a problem in asking for documentation and that
6 sort of thing is the fact that this is the way the definition
7 has been formed by EEOC and by the FEP.

8 MR. GARCIA: Well, I think it stems beyond that. At
9 some of the meetings of this nature that I have attended, I
10 have had people representing employers get up and address the
11 question, and they say well, why would you say that it isn't
12 reasonable for us to presume that somebody who has a Spanish
13 surname --

14 MR. SPURLOCK: Yeah.

15 MR. GARCIA: -- is undocumented. Isn't it true that
16 most people who are undocumented in the country have a Spanish
17 surname? The question is, nobody has ever taken time to see
18 how many people are Canadian and are undocumented.

19 MR. SPURLOCK: Right.

20 MR. GARCIA: So I think there is a tendency on parts
21 of many segments of our population including employer groups
22 to single out people of hispanic origin or with Spanish surname
23 and assume single-handedly that there is a high incidence of
24 illegality or whatever you may want to state as the term, and
25 focus in on that group as a particular target, and I think

1 that also holds true for Asians.

2 MR. SPURLOCK: Okay.

3 MR. GARCIA: So I think that it does have aspects of
4 discrimination and stereotyping, which is very closely related
5 to discrimination.

6 MR. SPURLOCK: Ms. Logan, do you -- let me just give
7 you a hypothetical. You go into a plant, small plant. There
8 has been a complaint about violations of minimum wage and
9 overtime, and all of the workers, or virtually all of the work-
10 ers who have been undocumented have been whisked away by INS.

11 Now, can you prove and collect -- prove the
12 violations of the Act and collect, even though you may not have
13 those people there who are -- to whom that money is owed?

14 MS. LOGAN: Well, it does happen that they are not
15 only whisked away, but they run away.

16 MR. SPURLOCK: Okay. Yeah.

17 MS. LOGAN: But if the employer on our -- this is the
18 first visit we have ever visited to this employer, has the
19 proper payroll records, we look at the records, and we take
20 the names off of the records, and then take the names of the
21 people who are there, and either have our auditors go through
22 it if we find that there are problem, we have the auditors go
23 through, but we have hearings, pre-hearing conferences with
24 our investigatory Deputy Commissioners, and then if we find
25 that there are real problems, we have a formal hearing with

1 our Deputy Commissioner twos, and if at the end of that hearing
2 if it has been determined that that employer owes this money,
3 we collect it for everyone.

4 Now, sometimes we have a difficult time paying every-
5 one.

6 MR. SPURLOCK: What happens to that money?

7 MS. LOGAN: That money goes to the State Revolving
8 Fund after seven years.

9 MR. SPURLOCK: What kind of money are you talking
10 about in the fund right now?

11 MS. LOGAN: In that fund right now, I really don't
12 have any idea. All I can tell you about is my Los Angeles
13 office. Last year, we sent some \$23,000 to the fund, which is
14 not a large amount, considering that we collected over a million
15 and a half.

16 MR. SPURLOCK: Would you actively pursue --

17 MS. LOGAN: We do actively --

18 MR. SPURLOCK: -- those violators, those employers
19 who are violators, even though you may not have anybody to
20 initially disburse that?

21 MS. LOGAN: Oh, certainly. Oh, certainly we do, and
22 we usually have found one or two of the victims who have re-
23 mained --

24 MR. SPURLOCK: Yeah.

25 MS. LOGAN: -- whether they are the brother-in-law or

1 whoever they are, of the owner, or they are citizens who feel
2 that they have nothing to fear from anyone, and certainly we
3 actively pursue these and we do not ask about citizenship, but
4 many times you can see that if you go into, say, a garment
5 factory, and our men went into one -- we have a new law on
6 worker's compensation that we enforce, and we go in and we have
7 to get the name of each person there, because if the man
8 doesn't -- the employer doesn't have worker's compensation to
9 cover these people, why we need the name and the address of
10 each person that is working there, because we close his place
11 of business, and fine him \$100 for each of the people, but he
12 has to pay a full day's wages for up to ten days, until he gets
13 that insurance, so we have to see that all of those people
14 are paid.

15 Now, in one garment industry that had 82 people, the
16 men got 38 names because everybody started taking off out of
17 windows and back doors, and there were no documents, so we
18 still -- we went back there seven times before -- and taking
19 our investigators who are Spanish speaking, or whose national
20 ancestry is Mexico, so that they can relate to the people better
21 and we do all kinds of good things like let them wear their
22 jeans, you know, so that they don't look like cops, and we do --
23 I think we do a pretty good job that way in getting the money
24 to these people.

25 Now, the Mexican consulate sometimes helps in finding

1 MR. GARCIA: That is correct.

2 CHAIRPERSON HATA: Ms. Logan?

3 MR. WILSON: Same.

4 MS. LOGAN: None.

5 CHAIRPERSON HATA: And one final question for Ms.

6 Logan, just to clarify my own notes. I have down here that you
7 stated that 20 percent of the people, I guess, who make com-
8 plaints to your office come from Mexico.

9 MS. LOGAN: Well, they need help with the language,
10 and that is the only thing. That is about the amount of
11 people that do need help with the language problem, from Mexico
12 or from a Spanish-speaking country. We also have people who
13 now more and more from Korea and Vietnam and South American
14 countries that have a different language barrier, but we do
15 have people to accomodate them now.

16 CHAIRPERSON HATA: So you were determining in your
17 receiving of the complaints what their national origin is, or
18 are you suggesting --

19 MS. LOGAN: No, I am just saying these are people
20 that need assistance, about 20 percent need assistance with
21 their complaints because they do not speak English. They
22 speak Spanish, some kind of Spanish.

23 CHAIRPERSON: But then you said you made the assumption
24 that because they speak Spanish, they therefore come from
25 Mexico.

1 MS. LOGAN: No, no. No, I said the ones that speak
2 Spanish are about 20 percent. The biggest percentage of them
3 are from Mexico.

4 CHAIRPERSON HATA: How do you know that? Do you ask
5 this in your --

6 MS. LOGAN: No, the people that -- my people that
7 work as Commissioners that do interview them, like the two
8 gentlemen that are with me today, their original country was
9 Mexico, and they have no difficulty speaking with them, and in
10 talking to them, I have made that assumption, that most of these
11 people are from Mexico, and I have often had to call -- I have
12 a gal from -- two people from South America who come out some-
13 times to try to help, if it isn't, but usually my Mexican
14 American people that were originally from Mexico can help
15 these people, so it is presumptuous on my part to say that they
16 are people from Mexico, but I believe that they really are, in
17 this area.

18 CHAIRPERSON HATA: You also made the assumption based
19 on that assumption, in response to a staff question that there-
20 fore, these people are "undocumented."

21 MS. LOGAN: Oh, no. No, I didn't make that assumption.
22 I didn't. You know, I said that when they have a language
23 barrier and we have a difficult time helping them with the
24 complaint, it is -- and I said at that time, I presumed that
25 they were from Mexico, and that they possibly were not citizens

1 because they could not read or write the -- well, a lot of them
2 can't read or write the Spanish either, so -- we have a Spanish
3 document. Does that satisfy your answer?

4 CHAIRPERSON HATA: I am still a little bit perplexed
5 but I suspect perhaps we will follow this up with a staff
6 inquiry later on.

7 MS. LOGAN: All right.

8 CHAIRPERSON HATA: Are there any staff questions that
9 you would like to ask, pressing questions?

10 MR. DIMAS: No, I think I will leave it at that.

11 CHAIRPERSON HATA: Thank you very much, and our
12 hearing stands recessed until 9:00 o'clock tomorrow morning.

13 (Whereupon, at 6:07 o'clock p.m., the hearing in
14 the above-entitled matter was recessed, to reconvene the next
15 day, June 16, 1978, at 9:00 a.m.)