

TEXAS ADVISORY COMMITTEE
UNITED STATES COMMISSION ON CIVIL RIGHTS

FORUM ON IMMIGRATION REFORM -- EMPLOYER SANCTIONS
FRIDAY, AUGUST 14, 1987

MARRIOTT BY THE GALLERIA
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1 MR. CHAIRMAN: This meeting of the
2 Texas Advisory Committee to the United States
3 Commission on Civil Rights will now come to order.
4 We are convened here today to receive information
5 concerning the employer sanctions provisions of the
6 new Immigration Reform and Control Act of 1986.

7 We are specifically interested in Civil
8 Rights issues relating to the employment sanctions
9 portion of the new Immigration Act.

10 The advisory committee receives
11 information and makes recommendations to the
12 commission in areas which the committee or any of
13 its subcommittees is authorized to study. I'm
14 Adolfo Canales, Chairman of the Texas State
15 Advisory Committee to the United States Civil
16 Rights Commission.

17 Other members of the committee present
18 today are: The Vice Chairman, Dr. Tobian. I'll go
19 down to the left, Denzer Burke from Texarkana. Dr.
20 Tobian, incidentally, is from Dallas, and I'll get
21 to the staff in a minute. On my right is Lynn
22 Lipshy from Dallas, Manuel Pacheco from Laredo and
23 Mr. Velarde from El Paso, Texas.

24 With respect to the staff members present,
25 we have John Foster Dulles, Civil Rights Analyst,

1 and Arthur Palacios. Also, we are very happy to
2 have with us today our former regional director,
3 Richard Avena.

4 This consultation is being held pursuant
5 to the Federal Rules applicable to state advisory
6 committees and regulations promulgated by the
7 U. S. Commission on Civil Rights.

8 The Commission on Civil Rights is an
9 independent agency of the United States Government,
10 established by Congress in 1957 and directed to

11 1. Investigate the complaints alleging that
12 citizens are being deprived of their right to vote
13 by reason of their race, color, religion, sex, age,
14 handicap, or national origin, or by reason of
15 fraudulent practices;

16 2. Also to study and collect information
17 concerning legal developments constituting
18 discrimination or denial of equal protection of the
19 laws under the constitution, because of race, color,
20 religion, sex, age, handicap, or national origin or
21 in the administration of justice;

22 3. Further, to appraise federal laws and
23 policies with respect to discrimination or denial
24 of equal protection of the laws.

25 4. Also, to serve as a national

1 clearinghouse for information about discrimination;

2 5 And to submit reports, findings, and
3 recommendations to the President and Congress.

4 I would like to emphasize that this is a
5 consultation and not an adversary proceeding.

6 Individuals have been invited to come and share
7 with the committee information relating to the
8 subject of today's inquiry. Each person who will
9 participate has voluntarily agreed to meet with the
10 committee.

11 Since this is a public meeting, the media,
12 the press, radio, television stations, as well as
13 individuals, are welcome. Persons meeting with the
14 committee, however, may specifically request that
15 they not be televised. In this case we will comply
16 with their wishes.

17 We are concerned that no defamatory
18 material be presented at this meeting. In the
19 unlikely event that this situation should develop,
20 it will be necessary for me to call this to the
21 attention of the persons making these statements
22 and request that they desist in their action. Such
23 information will be stricken from the record, if
24 necessary.

25 If the comments a person is offering,

1 however, are of sufficient importance, the
2 committee will hear the information. In that event,
3 the persons against whom allegations are made will
4 have ample opportunity to respond by making
5 statements before the committee or submitting
6 written statements if they so desire.

7 Every effort has been made to invite
8 persons who are knowledgeable in the areas to be
9 dealt with here today. In our attempt to get a
10 well-balanced picture about employment sanctions,
11 we have invited federal officials, immigration
12 attorneys, representatives of the business and
13 labor community, as well as neighborhood and other
14 community groups concerned with the issues under
15 review.

16 In addition, we have allocated time this
17 afternoon at 4:00 p.m. to hear from anyone who
18 wishes to share information with the committee
19 about employer sanctions. At that time, each
20 person or organization will have three to five
21 minutes to speak to the committee, and may submit
22 additional information in writing.

23 Those wishing to participate in the open
24 session must contact staff members before 4:00 p.m.
25 today. Those that are parking in the hotel, if you

1 will write "The U. S. Commission on Civil Rights"
2 on the back of your ticket, you will get free
3 parking today.

4 I want to emphasize, again, with respect
5 to the open session, that anyone wishing to testify
6 later, they should check in with the staff and be
7 interviewed by them prior to 4:00 p.m. And anyone
8 on the agenda that does have or will take more than
9 five to seven minutes, because of the number of
10 people we have scheduled to speak, I would ask them
11 to please summarize their statements if they go
12 beyond five or seven minutes.

13 At this time, I believe I see our speaker,
14 guest, Lionel Castillo, Former Commissioner of the
15 Immigration Service. Welcome to our meeting today,
16 sir. If you would just speak by the microphone.

17 MR. CASTILLO: Thank you for having
18 me, I'm delighted to be here. I am impressed that
19 you're looking at this and I'm very hopeful that
20 you have some success in determining where we're
21 going with this employer sanctions aspect of the
22 Immigration Reform and Control Act. I have two
23 essential points to make and let me state them at
24 the outset and then return to them in just a little
25 bit of detail.

1 The first point is that the employer
2 sanctions aspect of the Immigration Reform and
3 Control Act, the so-called "amnesty package," has
4 been very slow getting off the ground and has been
5 erratic.

6 The second major point I want to make is
7 that there's been inadequate public information
8 about the provisions of the employer sanctions
9 aspects.

10 And then I'll detail a little bit of each
11 of those points. But before I do, I thought it
12 would be helpful to look at a report produced by
13 the U. S. Commission on Civil Rights in September
14 of 1980 called "The Tarnished Golden Door," in
15 which some of us participated.

16 Some of you as the interviewers and some
17 of us as the interviewees, and some would say
18 victims and victimees, if there is such a word.
19 But repercussions of this report are still being
20 felt throughout the Immigration Service, and I
21 think some personal relationships have still not
22 been reconciled. Some individuals are still
23 unhappy about what was published, because the
24 report said a number of things that were very
25 unpleasant.

1 It said some things about the Immigration
2 or Naturalization Service and about U. S.
3 Immigration History that were not very polite, but
4 that were true.

5 I won't go into all of those specifics. I
6 will remind you of what the commission found in
7 regards to employer sanctions in 1980. It's really
8 important to remember this because President Ford,
9 and then President Carter, both came to conclusions
10 different from those of the U. S. Commission on
11 Civil Rights. Both of the presidents recommended
12 employer sanctions, as did later President Reagan.

13 But the U. S. Commission on Civil Rights
14 found that Congress should not enact an employer
15 sanctions law. Essentially, because there were so
16 many problems in terms of the research at the time,
17 with implementing such a law without trampling on
18 civil liberties of many, many people.

19 And then in a number of pages of reporting
20 and findings, the Commission suggested that there
21 would be serious civil liberty problems with such
22 legislation and spoke very clearly, very directly
23 against the idea of a national ID card and talked
24 about the effect of law enforcement duties being
25 imposed upon private persons and corporations with

1 "undesirable consequences," not only for the
2 employer, but for due process rights of job
3 applicants.

4 And then the Commission added that this
5 would lead to increased employment discrimination
6 against U. S. citizens and legal residents who are
7 racially and culturally identifiable with major
8 immigrant groups, and this could be an unintended
9 result of an employer sanctions law. Then for
10 pages, the Commission mentioned some of the dire
11 possible consequences of employer sanctions.

12 Now, obviously, the Commission is quite
13 independent, because this was not the view of the
14 Presidents that had appointed the staff and the
15 national leadership of the Commission.

16 But what's happened? The Congress went
17 ahead and developed such a plan, the President
18 signed it, now we have the bill. And basically,
19 what happened is that after the program was
20 announced on November 6, 1986, very little happened.

21 The Congress told the government to begin
22 drafting regulations, the government moved quickly,
23 by government standards, to develop regulations and
24 developed them actually in the period of only eight
25 months, which by government standards is, I repeat,

1 quite fast. But immediately found that even though
2 there were some general regulations, there was very
3 little knowledge about how to do this.

4 The Immigration Service found it could not
5 hire the people that the Congress had authorized
6 them to hire, so the Immigration Service is still
7 short over a thousand staff members that were
8 authorized under the bill for the enforcement
9 provisions, because they simply can't bring those
10 people on fast enough, train them, and prepare them,
11 and so on.

12 So as a result, staffing didn't come on
13 board to enforce employer sanctions, nor did it
14 come on board to enforce other provisions.

15 The other thing that happened was that for
16 reasons that only the administration could detail
17 for you, the administration moved very slowly to
18 hire the individuals who would oversee the
19 employment discrimination aspects of employer
20 sanctions.

21 So, while the legislation called for a
22 special counsel, such special counsel wasn't even
23 identified by name until very, very recently. And
24 the enforcement mechanisms and the procedures for
25 implementing and monitoring employment

1 discrimination still are not in place.

2 I think you'll hear testimony later today
3 from the enforcement monitoring agencies and groups,
4 that they still don't have the mechanisms and the
5 staff and the forms and the procedures to receive
6 complaints of discrimination.

7 So while there was great concern in the
8 debate over the last decade about possible employer
9 discrimination as a result of this new proposed
10 employer sanctions, in fact, when employer
11 sanctions passed, everybody seemed to forget about
12 it. And the staffs of the monitoring agencies,
13 such as the Commission on Civil Rights, were
14 actually cut and the budgets were reduced.

15 So there's very little monitoring that's
16 taken place at any level, state level, federal
17 level, local level. In addition to all of these
18 problems of staffing, and no mechanism, and so on,
19 we found that this program has had the same
20 problems of other programs like it in other parts
21 of the world. And that because there was not
22 adequate public information, the employers and the
23 aliens did not know what to do. I don't believe
24 it's necessarily evil intention on the part of
25 employers, but it's very clear that they didn't

1 know what to do.

2 So employer sanctions conferences sprouted
3 up over the country. In this city we've had one
4 almost every week, sometimes four or five a week.
5 And we've had employer sanctions conferences for
6 every imaginable group of employers. We have a
7 whole new industry that provides nothing but
8 employer sanctions conferences.

9 A whole industry that provided forms, even
10 though the forms are free and may be duplicated,
11 xeroxed, there were people selling the forms, and
12 making a very good business out of that. So a
13 whole new thing has developed and it isn't clear,
14 because there hasn't been public information as to
15 what it meant.

16 The form, the basic form, to be used by
17 the employer, called the I-9 in hiring an employee,
18 wasn't even ready until very recently. And even
19 now, people call persons like myself because they
20 can't get into the phone at immigration. They
21 can't get anyone to answer the phone to give them
22 the form or order the form.

23 The "Houston Chronicle" and some other
24 publications have run copies of the form and have
25 announced that you can Xerox it, but even then a

1 lot of folks have simply not seen it.

2 So there's been relatively little
3 compliance with employer sanctions because of this
4 shakey startup. My guess is that within another
5 couple of years people will begin treating it as a
6 routine aspect of hiring someone, the way you do a
7 W-4.

8 The other side of this is that because the
9 immigrants knew they now needed to show some form
10 of evidence that they were here, they then began
11 looking for other ways to get Social Security cards.
12 And you can go to a number of flea markets here in
13 Houston and find four or five operations that
14 laminate or do certain things with your Social
15 Security card or Social Security number, and that's
16 generally public. Just as you can buy rifles here
17 at the flea market, you can also buy cards.

18 So we have this really shakey start-up
19 with all sorts of problems, and no where to call
20 for information.

21 We then have some abuses, but the truth of
22 it is that we have not monitored these abuses very
23 well, so we don't know exactly how many, how deep
24 it goes. I don't think anyone really knows. We're
25 sort of like a patient who sees that he's ill but

1 hasn't had a doctor in yet to assess the nature and
2 seriousness of the illness. We know there are
3 problems, because every day there's another meeting,
4 another conference, another discussion of another
5 group.

6 At the moment, the discussion has to do
7 with whether persons who qualified under the first
8 aspect of amnesty are eligible for training under
9 the JTPA Program, The Joint Training Partnership
10 Act, the job training program, son of CETA Program,
11 Comprehensive Employment Training Act. Whether
12 these individuals are qualified, because the card
13 says that this individual is now entitled to work
14 in the United States -- it might here somewhere --
15 it says that the individual is entitled to work,
16 but is not entitled to receive federal benefits.

17 And so, understandably, some city
18 administrators, don't know if that means you can
19 enroll them or not. So some programs enrolled and
20 some don't. They're waiting for guidelines and
21 interpretations from the State Department of Human
22 Resources.

23 And we have this sort of thing happening
24 almost daily where people just don't know. And you
25 can make a call to some authority in Washington, or

1 you can call Al Velarde, you can call somebody, and
2 try to get some latest interpretation. Sometimes
3 you can and sometimes there is no later
4 interpretation or current interpretation.

5 So in brief, the program of employer
6 sanctions which was expected, if you read all the
7 testimony over the last ten years of debate, to
8 result in some erosion of civil liberties for
9 U. S. citizens and residents and employers may or
10 may not have actually caused this erosion.

11 We literally don't know because we don't
12 have the monitoring mechanisms in place. We know
13 that there's been some serious dislocation. We
14 know there's serious lack of information. But I,
15 for one, could not say directly, except in a few
16 instances that I know of particularly that there's
17 been a tremendous erosion of civil liberties.
18 Hopefully, other persons who testify can speak to
19 specific cases or to patterns that they have
20 already identified. I have not seen that. I have
21 seen mostly inadequate information, a lot of
22 confusion, and late starts as we push the start
23 date back and forth or as the Congress did.

24 And I'll close with one last item. That
25 is, that since last November, a group with which

1 I'm a member called the Consejo Espano De
2 Assoserias Sobre La Nueva Ley De Migracion,
3 Hispanic Council on New Immigration Law, has
4 conducted a radio show every Monday night, like a
5 "Dear Abby", on immigration.

6 And a lot of the questions have to do with,
7 "Can I work now that I've got my temporary card,"
8 or "My employer is going to fire me if I don't have
9 permission to work by--" it was at first July 1,
10 then it was August 1, and now it's September 1.
11 Some people said it was June 1 or we've even had
12 some that said it was going to be January 1 of '87.

13 So every month it's been someone calling
14 saying, "we're going to be fired if we don't have
15 permission to work within a certain number of days,
16 how do we get that permission to work"? And if the
17 radio show is an indication, there's still a lot of
18 confusion as to when and how the new law will be
19 enforced.

20 I really hope that if nothing else comes
21 of this series of discussions you have here today,
22 that you make a big effort to educate the general
23 public as to the provisions of this new employer
24 sanctions law. Even that will help remove a lot of
25 the uneasiness that people have about it.

1 MR. CHAIRMAN: Maria Berriozabal,
2 City Councilwoman from the City of San Antonio

3 MS. BERRIOZABAL: I apologize for
4 being late. Our original flight was canceled in
5 San Antonio, so then we had to figure out how to
6 get here.

7 I have two questions of Mr. Castillo. The
8 first: The issue of employer sanctions seems to
9 have gathered a constituency out there in our
10 country that has previously not been together on
11 such issues.

12 And I'm talking about the traditional
13 groups who serve immigrants and are interested in
14 the immigration issue, but then also the business
15 community, The Chambers of Commerce, and so on.
16 That you know of, are there any organizations or
17 coalitions, strong coalitions, that have formed as
18 a result of the interest of business people to know
19 what the law is because of the sanctions? But also
20 with the traditional groups that have been
21 interested in this issue, that's one question.

22 The second question is: There was the
23 deaths of the aliens near El Paso in July, and in
24 the past week I read news stories of two other
25 instances where aliens-- Well, people coming from

1 Mexico have been found in U-Haul trailers or trucks
2 and so forth. Do you feel that there has been a
3 stronger effort or a more widespread effort to hide
4 people in ways that maybe they would not have done
5 it prior to the immigraion bill? Those two
6 questions?

7 MR. CASTILLO: Sure. Thank you.
8 I'll try to make my answers brief, because I know
9 you're on a tight schedule.

10 First, as to the coalitions of the groups
11 that deal with immigrations, or with immigration
12 issues, the groups that are traditionally involved,
13 or have been traditionally involved with
14 immigration, social service agencies, the Catholic
15 charities, and other groups like that have been so,
16 so busy preparing for legalization and trying to
17 get all of that information together and those
18 forms and those procedures and so on, that they
19 really have not had the energy or time to devote to
20 the employer sanctions. They've been really
21 swamped with just the enormous problems of startup,
22 and it's been constant.

23 In this area, Houston has been one of the
24 busiest places in the country. So there's just
25 always a problem of trying to get that ready.

1 The business community has had numerous
2 meetings, but to my knowledge there's not been any
3 major opposition group. Mostly, there's been
4 groups trying to find out what's going on. Where
5 do we get the forms, or how do we comply? There's
6 been that sort of concern.

7 I have not heard of any major group, a
8 business group or a coalition, that's organized to
9 oppose employer sanctions. I have heard a lot of
10 grumbling about, "do I have to fill this out for
11 everybody? "This is a family-owned business, I'm
12 hiring my son and my daughter and my wife, I need
13 forms for them, now"? The law, of course, says
14 "yes." And some people didn't realize that when
15 they were supporting it.

16 So I don't see that that coalition has
17 developed yet. I think it will as the information
18 is gathered. The information is not gathered.

19 The other question, has there been an
20 increase in the level of bringing people over that
21 involve methods that involve hiding? My experience,
22 and I've talked with many, many Border Patrol
23 experts and others who deal with immigration reform
24 over the last decade, as recently as last week, you
25 know, I was visiting with some of them, is that

1 there's no difference. There is no difference.

2 What is different is that one dramatic
3 incident -- the incident of the boxcar in Sierra
4 Blanca-- has heightened the tension. But the
5 number of deaths and near deaths of persons trying
6 to enter into the U.S. doesn't appear to have
7 changed appreciably. Sort of like there's a
8 dramatic automobile accident and ten people die
9 because of car wrecks, that makes the news, but the
10 fact that one dies every day, so the total figures
11 probably won't change much.

12 About ten years ago, we did a study where
13 we had someone that went all through the whole
14 border of the United States and Mexico and found
15 numerous deaths, numerous deaths, all up and down
16 the border through the desert and the river, and so
17 on. And it's simply being reported now.

18 One note that might give you some sense of
19 how this is going, is that the Mexican peso has
20 been declining at approximately a hundred percent
21 per year since Presidente Echeverria was in office.
22 If this continues, in five years it could easily be
23 16 thousand to one, peso to the dollar. Now, at 16
24 thousand to one, even if we get the thousand
25 additional Border Patrol Officers, there will still

1 be enormous pressure. And there will still be
2 pressure to produce Social Security cards at flea
3 markets and elsewhere. A solution has to involve
4 economic development issues.

5 MR. CHAIRMAN: Mr. Velarde.

6 MR. VELARDE: Mr. Castillo, I also
7 have two questions and one of them deals with the
8 question of this permit to work. There's a lot of
9 aliens right now that have kind of been putting off
10 filing their amnesty applications because there is
11 this September the 1st deadline that they don't
12 have to file anything with their employers and if
13 they do, they just have to say, "I'm an applicant
14 for amnesty." But come September 1st, and I think
15 you mentioned that date, I feel there may be a rush
16 to this legalization center here in Houston.

17 With the amount of people that are going
18 in daily, do you think that the service is going to
19 be able to handle all of those aliens who are
20 eligible for amnesty, whose employers have told
21 them, "You better have something in hand by
22 September 1st or you don't have a job?" That's the
23 first thing.

24 The other thing you mentioned is that
25 there has been some conferences going on here in

1 Houston to educate the employer more than the
2 employee. I'm aware that in El Paso the
3 Immigration Service has attempted once a week to
4 put on a public awareness program to employers.
5 And the first one they held was very poorly
6 attended. The closer we get to September the 1st,
7 the more people are showing up.

8 We also have seen that the Immigration
9 Service in El Paso -- I'm just wondering if it's
10 happening in Houston -- is now detailing their
11 enforcement branch, the investigations of some of
12 the Border Patrol people to visit ten employers a
13 day per individual enforcement agent. And so that
14 the public education is more a one-on-one type of
15 thing. Is that going on here in Houston?

16 MR. CASTILLO: One of the most
17 refreshing things that has happened in Houston in
18 the last several years has been the work being done
19 by the local immigration district director, Ron
20 Parra. For a while I thought he was running for
21 Mayor, he gave so many speeches, but he and his
22 staff have given several hundred talks already.
23 It's fantastic, they've been out everywhere,
24 speaking to every group, some groups of hundreds of
25 people, but just constantly.

1 However, as good as that is in terms of
2 informing the public, and they've also had these
3 other problems of one on one as well, they have
4 done an enormous public information job, a
5 beautiful job. As good as that is, though, just as
6 you can't run for mayor anymore in a big city like
7 Houston by simply going door to door, you can't
8 inform the public by going door to door. You have
9 got to go mass media. And the mass media campaign
10 has not developed from Washington.

11 And since the Houston District extends all
12 the way to Louisiana, they simply, for as much as
13 they've worked, and they've done a tremendous job,
14 as have the community groups and some of the law
15 groups and some of the other groups, they've done a
16 tremendous job of informing the public, they simply
17 can't go far enough.

18 So we've had a lot of problems. And the
19 people just aren't informed, despite this massive
20 attempt by the part of the local community. In
21 some other communities that hasn't happened. I've
22 spoken to other communities where people are just
23 really not informed at all.

24 So public awareness has happened in this
25 fashion, but realistically we haven't reached

1 anywhere near the number of people that we should
2 reach. For instance, this district covers about
3 one quarter of all the people in Texas and that's
4 just a very hard area to reach. I'm sure that if
5 you add this district and the Dallas district you
6 have huge numbers.

7 Now, the special rule problem, or the
8 deadline problem of September 1 becomes more
9 serious every day, because initially when
10 legalization began immigration here was swamped and
11 the regional office in Dallas sent additional
12 personnel; that helped quite a bit. But since then
13 those personnel have been removed, and the number
14 of hours of overtime allotted to the Houston
15 District Office has been cut.

16 So that yesterday, for example, after some
17 people had been waiting all day in line from 7:00
18 a.m. until 4:00 p.m., they were told that
19 immigration service simply had no staff or
20 resources to see them, to go home. And we are
21 looking at people who will wait a long time in line
22 to get into the office to get this card.

23 Have you seen this card, the new temporary
24 resident card? Well, it's not really a temporary
25 resident card, it's the first step of temporary

1 resident card process. This is one with my picture
2 on it. It's one of the first where the district
3 office used this. But there's no way they'll be
4 able to get into the office by 9-1-87. Unless we
5 get another infusion of staff and money, the
6 district office here, which has been working
7 sometimes until eight, nine, ten at night, trying
8 to process these people and some Saturdays, simply
9 won't be able to handle these numbers.

10 So, there'll be more confusion in the
11 marketplace and more employers will wonder if they
12 are violating the law because their employees can't
13 get this letter or this permission to work. Also,
14 some employers just don't know.

15 I have a niece who was born in the
16 Philippines of a U. S. citizen father and a U.S.
17 citizen mother. She couldn't get to work because
18 no one would hire her because everybody figured she
19 probably wasn't a U. S. citizen. She was born
20 abroad. And I had to call the U. S. Congressman
21 and the district director and a number of other
22 people to get her to even be considered for certain
23 jobs. But that's more ignorance, rather, than
24 discrimination, I think; although I guess
25 discrimination is in a large part ignorance. But I

1 guess many people have stories of that sort that
2 someone just couldn't get hired.

3 I don't know see how they can deal with
4 the September 1st deadline, unless there's an
5 infusion of staff and resources. Well, now it's
6 not as bad as before. Before we had people staying
7 in front of the legalization office here from
8 midnight or some days even earlier the night before
9 in order to be seen the next morning. That was the
10 size of the line we had here in Houston, people
11 trying to get in.

12 Now, they've got a better system. You
13 come and you get a card for four days later. But
14 still it's a long wait. And if we are already
15 backlogged now, by September 1st, we'll never do it.

16 MR. VELARDE: I've been traveling the
17 Southern Region, and I noticed in a place like
18 Austin that has a large group of personnel where
19 only 40 people walked in. The day that Mr. Avena
20 and I walked into the San Antonio legalization
21 office with a client, there was 14 people in there
22 with a huge staff.

23 MR. CASTILLO: We have that at 2:00
24 a.m.

25 MR. VELARDE: Now, why do you feel

1 that-- and I know that they have shifted personnel
2 from San Antonio and Austin to Houston to take care
3 of the crunch. Now, all of a sudden they've
4 removed them. Is that a money problem or what's
5 going on?

6 MR. CASTILLO: Well, I'm told it's a
7 money problem. See, what happened is Congress
8 authorized the Immigration and Naturalization
9 Service to actually spend money to hire new staff
10 and run this program. But the Department of
11 Justice decided they didn't want to do that, that
12 they wanted to be fiscally responsible, their
13 definition of fiscally responsible, and make this
14 program totally self-supporting. By that the fees
15 of the aliens were to pay the total cost of the
16 program.

17 So when the alien pays a \$185 adult number,
18 \$420 family package, that money was then to go and
19 run the enterprise of legalization or amnesty. And
20 it hasn't worked out because some offices are very
21 inefficient, in the sense that they don't have the
22 work, and other offices are swamped, like Houston.
23 And they haven't been able to shift the resources
24 because of all the problems in the government.
25 Bureauracracies are moving people who might be in

1 Oklahoma City or even as far north as Austin all
2 the way to Houston or San Antonio.

3 And as a result, some cities like ours,
4 end up being swamped and unable to get the staff or
5 the resources. And the program is now becoming
6 self-supporting. But the way to become
7 self-supporting is to cut out the overtime and cut
8 out these extra things, and the aliens will wait.
9 And while they wait, they can't get their
10 permission to work.

11 So we've got it going in all directions.
12 And because the program only has one year, the life
13 of the program is only one year, we see some major
14 problems developing in this. I hope they can find
15 the resources, again. I'm hopeful that they can
16 send some more staff people and authorize overtime
17 for Houston in the near future. But the last time
18 we did that we had to go through a major political
19 effort to get it.

20 The employer sanctions side of it is
21 directly related to the amnesty or legalization,
22 because if they can't get permission to work, then
23 they have problems with the employer. And if the
24 employer gives them problems, then later they are
25 caught in the Catch 22, because to qualify for

1 amnesty they've got to show they're not likely to
2 become a public charge. So if you can't work, how
3 can you qualify for legalization and so on? You
4 end up with a Catch 22.

5 MR. CHAIRMAN: We have time for two
6 more questions. Ms. Lipshy.

7 MR. CASTILLO: Yes, sir.

8 MS. LIPSHY: Mr. Castillo, the cover
9 of the "I-9 Handbook," published by the Justice
10 Department, a statement from the commissioner says
11 that "the new law seeks to preserve jobs for those
12 who are legally entitled to them, American citizens
13 and aliens who are authorized to work in our
14 country." Do you believe that that statement is a
15 valid reflection of the intent of this law?

16 MR. CASTILLO: I think the intent of
17 the law is very clear. As a matter of fact, that's
18 almost the same language used in the
19 "Tarnished Golden Door," that the U. S. Commission
20 on Civil Rights found that there was some adverse
21 effect on U. S. employees by the presence of
22 noncitizens. They didn't say how much, and the
23 Commission came to a different conclusion, but had
24 the same initial statement that Commissioner Nelson
25 has.

1 MR. CHAIRMAN: Dr. Tobian.

2 DR. TOBIAN: Mr. Castillo, I've read
3 press reports within the last week or ten days,
4 indicating that people in their effort to obtain
5 the right to work, to obtain amnesty, were unable
6 to get the documentation from former employers, who
7 according to the legislation were said could supply,
8 but, on the other hand, were not required in any
9 way to be helpful. Is this something that has come
10 to your attention, and how widespread is it?

11 MR. CASTILLO: Again, we don't have
12 any really good ways of measuring it because we
13 don't know, we don't know how to collect this
14 information yet, and there's no one collecting it
15 in a systematic way. But certainly every Monday
16 night on the radio show and then certainly a lot of
17 meetings where we go with different people
18 preparing legislation packages, we hear weekly,
19 daily, of an employer who will not grant the letter
20 stating that individual worked there, or in even
21 some cases of employers who actually charge \$100,
22 \$200 for that letter.

23 And we've also had some cases, of course,
24 of people who work as household help, maids, cooks,
25 gardeners for wealthy people, and the wealthy

1 people don't want anyone to know that they've never
2 paid taxes, they never paid any benefits, that they
3 really exploited them. And so we heard that
4 constantly.

5 My difficulty today is that I can't give
6 you any documented figures that indicate just how
7 deep that goes. But certainly we've heard it a lot
8 and it's on the tapes at the radio station. It's
9 all anonymous, but I know that many of the people
10 who will testify here today, will indicate specific
11 cases that they've had.

12 MR. CHAIRMAN: Thank you very much.
13 Mr. Castillo, we appreciate very much your
14 appearing here today. We hope that you will
15 continue to keep us informed, even though this is
16 only a short session today, of any concerns that
17 may arise in the future. Please keep us informed.

18 MR. CASTILLO: Thank you.

19 MR. CHAIRMAN: Thank, you, sir. We
20 will proceed with the agenda.

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1 MR. DULLES: We would like for
2 everyone to sign in these two rosters. One is just
3 for guests. If you will give us your mailing
4 address, if we come up with the little report we'll
5 mail it to you. Then separately sign in on the
6 other log, those of you who would like a copy. We
7 would like everybody to sign.

8 MR. CHAIRMAN: At this time we will
9 go into Mr. McMahon. Mr. Parra is delayed at the
10 airport, he will be appearing.

11 MR. MCMAHON:: He will be appearing.
12 He asked me to come in and just inform you that he
13 will appearing.

14 MR. DULLES: Has Mr. Salinas or Mr.
15 Scanlan arrived yet from the Equal Employment
16 Opportunity Commission?

17 MR. SCANLAN: I'm here.

18 MR. CHAIRMAN: Are we ready to
19 reconvene? Will everyone take their seats, please.

20 Mr. McMahon, if you would just go ahead
21 and take a seat. Or for now, let's let Mr. Jerry
22 Scanlan, Regional Attorney for the Equal Employment
23 Opportunity Commission.

24 We are going to begin with Mr. Scanlan at
25 this time with the understanding that when Mr.

1 Parra arrives that we will interrupt at that point
2 and go back up on the agenda, and then go back and
3 drop back down again, if that's all right with Mr.
4 Scanlan?

5 MR. SCANLAN: Fine. We have another
6 representative of our office to be here. We were
7 scheduled for 10:30, so he's not here yet. He is
8 Marcos Salinas, Deputy Director. Actually, he was
9 going to do most of the talking but I know pretty
10 much what to say.

11 We're an agency that's been around for a
12 long time, as most of you know, since 1965. And we
13 enforce employment discrimination laws, one of
14 which is Title 7 of the 1964 Civil Rights Act.
15 Part of what that statute prohibits is national
16 origin discrimination.

17 And I guess our major concern with the new
18 immigration statutes is to make sure that in
19 complying with it, employers don't commit
20 violations of Title 7 that they wouldn't otherwise
21 commit.

22 Our statute remains entirely enforced and
23 in fact, it's even mentioned in the immigration
24 statute that it has no effect on enforcement of
25 Title 7. There's a slight exception to that, with

1 regard to the nondiscrimination provision that I'll
2 get to in a few minutes. But for the most part,
3 our statute remains as is and it prohibits the same
4 things regarding national origin and discrimination
5 as it has always prohibited it.

6 There's no real inconsistencies between
7 the two laws, there's no real reason why in
8 complying with the immigration statute and
9 amendments, that Title 7 should be violated. But I
10 can think of a number of situations in which it
11 might happen, and what I think I'll do is go
12 through those.

13 One is because employers can be penalized
14 for hiring people who are not either citizens or
15 aliens who are eligible to work, they might try to
16 avoid these problems entirely by just not hiring
17 foreign-looking people. And, of course, that's a
18 clear violation of Title 7.

19 You've got to treat all applicants
20 for employment the same regardless of race,
21 religion, sex, or national origin, or age.

22 A second problem that might arise is.
23 imposing more stringent documentation requirements
24 on foreign-looking people. The immigration
25 statute and the regulations are very clear, a

1 particular regulation, that there's certain
2 documentation that is required, but the same
3 documentation must be required of everyone.

4 There are three categories A, B, and C.
5 If you have something under "A," that's all you
6 need. If you don't, you need something under "B"
7 and "C" and then a list of documents that are
8 sufficient to meet those categories. You can't
9 require one "B" and "C" from one person and two
10 "B's" and one "C" from another. You can't require
11 a different document under "B" or "C" from one
12 individual than from another.

13 The problem might be that employers,
14 again, because they're worried about the sanctions
15 and penalties that someone that they think suspect
16 might not be eligible to work. They'll impose more
17 documentation requirements on the individual
18 than another. And that, again, is going to violate
19 Title 7. That's going to constitute national
20 origin discrimination.

21 A third is with the grandfathered
22 employees, employer sanctions do not apply to
23 people hired prior to November 7, 1986.

24 We don't have to document those people.
25 If those people are documented, it doesn't

1 necessarily violate the immigration law, but it
2 might well violate Title 7. In fact, I think it's
3 almost always going to violate Title 7. You can do
4 it in two ways:

5 One is if only foreign-looking people are
6 picked out to document.

7 The second, even if everyone is documented,
8 it's going to have what's known in Title 7 law as
9 the desparate impact on people of various national
10 origins.

11 Let's take in this area, Hispanics. If
12 you impose documentation requirements on all pre-
13 November 7, '86 hirees, it's more likely that a
14 larger percentage of the Hispanics are going to be
15 less likely to meet those documentation
16 requirements than the non-Hispanics. That will
17 happen, even though it's applied neutrally, it has
18 a desparate impact on that group, and it violates
19 the law.

20 The reason it's going to be a problem, is
21 you have no Immigration Act defense in that
22 situation. People hired since November 7, have to
23 be documented. And if that has a desparate effect
24 on Hispanics, well, it just does. It's required
25 under the immigration law, and that's going to be

1 the defense. But the people hired prior to that
2 date do not have to be documented, and if they are
3 documented, I think it's going to cause problems
4 for employers.

5 The immigration law has a sole
6 non-discrimination provisions and enforced by the
7 Department of Justice. As I understand it, and
8 while we did quite a bit of work on this a few
9 months ago, we haven't done much recently, but as I
10 understand it, the only office the Justice
11 Department now has is in Washington, DC, and
12 there's a phone number and an address. But let me
13 just explain how their nondiscrimination provisions
14 affect ours.

15 Their's applied to national origin
16 discrimination and citizenship discrimination, and
17 that's all. The only citizens that are protected
18 under these nondiscrimination provisions, and again,
19 these are the ones that are in the Immigration
20 Statute, are American citizens or people who are
21 intending to become American citizens.

22 So that's kind of a narrow protection, but
23 it also prohibits national origin discrimination in
24 hiring and referrals. That's a more narrow
25 prohibition under Title 7, which applies to all the

1 terms and conditions of employment. But it only
2 applies under the immigration statute.

3 The national origin of discrimination
4 provisions, under Title 7, are much broader in
5 regard to the types of things they prohibit than
6 those under the immigration statute. The
7 immigration statute only prohibits discrimination
8 hiring and referrals on the basis of national
9 origin. Under Title 7, it's hiring, promotion,
10 discharge, anything in terms of conditions of
11 employment; harassment and things of that sort.

12 In addition, the immigration statute, as
13 far as national origin discrimination goes, applies
14 only to employers from three to fourteen employees.
15 Title 7 applies to all employers with fifteen or
16 more employees. So, if there's jurisdiction under
17 the immigration statute, there won't be under Title
18 7 and vice-versa with regard to national origin
19 discrimination.

20 There will be a mechanism set up, and it's
21 in the process of being set up for referring people
22 from one agency to the other when somebody files a
23 charge with the wrong agency. The one possible
24 conflict is in the citizenship requirement. There
25 is a provision in the immigration statute that says

1 an employer may prefer a citizen over an equally
2 qualified noncitizen.

3 Now, Title 7 doesn't expressly prohibit
4 discrimination on the basis of citizenship, but it
5 almost always does in practice. There was a
6 Supreme Court decision in 1973 called " Espinoza
7 vs. Farah Manufacturing Company" that had a clear
8 holding, that citizenship discrimination in itself
9 does not constitute national origin discrimination.
10 But it made it clear that where a citizenship
11 discrimination has a purpose or effect, an effect
12 means "neutral," it can be applied neutrally, but
13 where it has a purpose or effect of national origin
14 discrimination, it's going to violate the law.

15 And the Commission's position is that even
16 if preferring citizens is not done for the reason--
17 for the purpose of national origin discrimination,
18 it almost will always have the effect. Simply
19 because, again, let's take this area of the country,
20 you're going to have a larger percentage of
21 Hispanics who'll be noncitizens, and non-Hispanics.

22 So, even though you have a neutral rule,
23 you have no discriminatory purposes if you apply it
24 to everyone. If you have such a citizenship
25 requirement, it's almost always going to have a

1 desparate impact on a particular group.

2 And the conflict there is that the
3 immigration law is telling you that you can use
4 that criterion in specific situations where two
5 people are equally qualified, you can prefer the
6 citizen over the noncitizen. And, again, we think
7 this will almost always constitute a violation of
8 Title 7.

9 Again, this possibly will be worked out
10 between the Department of Justice and the EEOC and
11 hopefully we'll come to some agreement where we can
12 interpret-- Well, we're going to interpret our
13 statute the same way we have been interpreting it.
14 But, hopefully, we'll come to an agreement where
15 they can interpret the nondiscrimination provisions
16 of the immigration law in a way that possible
17 conflict won't arise.

18 That's pretty much it. I'm open for
19 questions, if we have time.

20 MR. CHAIRMAN: At this time our
21 prior panel has just arrived. If you don't mind
22 waiting again for awhile, we'll get right back to
23 you.

24 MR. SCANLAN: Not at all.

25 * * * * *

1 MR. CHAIRMAN: Thank you. Ron Parra,
2 is that correct?

3 MR. PARRA: Yes, that's correct.

4 MR. CHAIRMAN: District Director of
5 the U.S. Immigration and Naturalization Service.
6 Thank you for coming.

7 MR. PARRA: Thank you very much for
8 inviting me, Mr. Canales. I appreciate the
9 invitation. On behalf of Houston Immigration, I
10 apologize to the panel and to the guests for being
11 late. We had three other speaking engagements, of
12 course, someone invariably got ill, so I had to
13 pitch-in for him. So, thank you for your patience
14 and your consideration.

15 MR. CHAIRMAN: If you have a
16 statement to make, go right ahead.

17 MR. PARRA: Well, thank you very
18 much. I, of course, would like to thank everyone
19 for coming here today and certainly appreciate the
20 fact that you chose Houston to hold such a
21 distinguished panel.

22 I would like, of course, to clarify that
23 as the District Director for Houston, there are 36
24 districts throughout the entire world, Houston
25 being one of the leading ones, ranking behind Los

1 Angeles, Chicago, Miami and New York.

2 We believe that we service the major Texas
3 districts by virtue of the size of the actual
4 Houston Metropolitan area. We also rank as one of
5 the leading districts as far as having a major
6 seaport, which will then service major a
7 international airport as well as 31 counties, which
8 are the most populated in the State of Texas.

9 We also like to think of ourselves as a
10 very international district, and although we are in
11 the heart of Texas, we do have a large Hispanic
12 constituency and the diversity in the various areas
13 of oil and industry certainly gives us a lot of
14 credibility to other nationalities which have
15 chosen to make Houston their home and to visit.

16 So we are extremely diverse in Houston.
17 We would like to think of ourselves as the Los
18 Angeles of Texas and the Miami and New York of the
19 East Coast. And we certainly have the immigration
20 issue before us. And as evidenced by the speakers
21 who have preceded me and certainly who are to
22 follow on the agenda, we take a very active role in
23 the issues evolving and resolving around
24 immigration.

25 Employer sanctions in the Houston area has

1 proceeded very, very rapidly and very aggressively
2 in the sense of a public educational program. With
3 the passage of the law in November, we embarked on
4 pretty much an entrepreneur road as far as media
5 relations with the entire community.

6 Among our accomplishments are over two
7 hundred seminars to date and speaking engagements,
8 and public appearances on the new legislation. A
9 combination of these forums and engagements have
10 been both on the legalization portion and the
11 employer sanctions provision.

12 We feel that we have been very successful
13 in our efforts to calm the anxiety of the general
14 public and to get out the necessary information
15 during the interim when the regulations were being
16 prepared and reviewed as well as we were receiving
17 additional positions.

18 We've been very fortunate in Houston that
19 the program has taken on a partnership with the
20 community. It is not immigration and the community;
21 it is immigration with the community.

22 The focus of our intention in my brief
23 tenure here in Houston, as a director, just over a
24 year now, has been to bring Houston Immigration
25 from being part of the problems and concerns of the

1 community, to being part of the solutions to other
2 concerns in the community. We felt that we have
3 been very successful, thanks to the overall
4 leadership in the community.

5 These two hundred seminars were addressed
6 primarily in a dual role; from the English
7 standpoint and Spanish they were conducted. There
8 was a seminar for the employers during the
9 afternoon when there seemed to be a lull in their
10 business activity, and then follow-up with a
11 similar form designed for the employee or the
12 potential applicant, and primarily in the Houston
13 area in Spanish.

14 This format seemed to be very daring and,
15 of course, very risky, in that no one with the new
16 legislation knew exactly where we should go, what
17 our focus should be, but we felt that that was our
18 responsibility to the community.

19 We started and joined in the first
20 endeavor with the Houston Community College System.
21 We felt that we wanted to maintain the new
22 immigration legislation on a fairly neutral level
23 as well as an educational level. We felt that the
24 Houston Community College System was best suited
25 with over 37 locations throughout the Metropolitan

1 area. We had considered utilizing some of the
2 universities as we have in previous endeavors, but
3 we felt that it was a viable option in that they're
4 over one hundred learning institutions in the area.
5 However, we felt that the potential legalization
6 applicants, and certainly if immigration were to be
7 sincere in its efforts to provide an educational
8 forum for the community, that we had to go to the
9 community. And, of course, the placement of the 37
10 locations throughout the community gave us the
11 ideal conduit that we felt to get the word out.

12 Our baptism was in the neighborhood where,
13 ironically and coincidentally, we ended up locating
14 our legalization center. And part of that seminar
15 was in the evening and it was the very first one to
16 be addressed to the undocumented population in the
17 area.

18 We had been asked what size, we were going
19 to do it in the local elementary school, we had
20 been asked what we should utilize, being it a small
21 classroom or a medium-sized classroom. We asked
22 that they provide us either with a cafeteria or a
23 gymnasium. They looked at us with rather a
24 jaundiced eye thinking that maybe our expectations
25 were a little great.

1 The capacity for the cafeteria-- Along
2 with that, we felt that the media, as active as it
3 is in Houston, and as investigative as it is in
4 Houston, we felt that we must incorporate them into
5 what we were doing to help drop the veil that has
6 existed around immigration in the past.

7 So, once again, in a risk-taking effort,
8 we invited all members of the media, both local and
9 national and international, to come to the center
10 for our first seminar to the undocumented aliens.

11 The scheduled time was 6:00 o'clock, and
12 at 6:00 o'clock we may have had 30 people in there.
13 And as the time grew on and the media's concern
14 began to develop, interests also began to peak in
15 that we're noticing that even though there was much
16 apprehension in the community, the potential
17 participants at our seminar, the need to know and
18 the desire to be informed brought these individuals
19 into the cafeteria.

20 The capacity for the cafeteria was 300.
21 We were forced by fire regulations to stop
22 admitting individuals when we had standing room
23 only at approximately one thousand-plus individuals.
24 We also had about another anticipated three to 500
25 that wanted to come in, but we could not

1 accommodate them. It went very well.

2 We had the opportunity to have a
3 government attorney present the legal aspects of
4 the new legislation, with myself as the district
5 director charged with the implementation of it in
6 the Houston area. And we thought in order to
7 provide a balance, that we should bring in a
8 private attorney who specialized in immigration law
9 to give a balance to the presentations. From,
10 hopefully, an objective prospective, the success
11 was tremendous. It was a geometric progression
12 from that point, whereby we conducted many, many,
13 seminars, as I have pointed out, with the help of
14 many other members of the community in a leadership
15 capacity.

16 So, utilizing the media as an ally instead
17 of as an enemy in the past, and also in joining the
18 communitiy in this project, it certainly gave
19 everyone a very meaningful role in the
20 implementation, which, I think, if I may say so in
21 all sincerity, that I feel that in Houston if the
22 educational program was a success, it certainly was
23 epitomized in Houston by virtue of the fact that on
24 May 5, and continuing since that point, we have had
25 virtually the largest number of applications for

1 legalization. We've just exceeded the twenty
2 thousand application in our office, maintaining
3 less than a ten percent denial rate. We also
4 represent over 89 countries from around the world
5 that have applied for legalization.

6 In our seminars, we included the aspects
7 involving the employers. We felt, of course, that
8 there was much concern in the employer community as
9 to what their liability would be in complying with
10 the new law. So at that time we asked the
11 employers that if they felt they had someone who
12 qualified for legalization, certainly they should
13 send them forward and assist them in every way
14 possible. Simultaneously, at the seminars for the
15 employees, prospective legalization applicants,
16 we've told them that if they had any problems with
17 their employers that they could feel free to call
18 us.

19 It appeared to be a paradox, in the sense
20 that the telephone number for Immigration was next
21 to impossible to reach. It was virtually
22 ineffective. So what we did was give out the phone
23 number of our administrative office or the office
24 of the district director and the deputy director.
25 Our phone calls since November went from

1 approximately 50 a day to over 300 a day. So, that
2 took on a new perspective as far as what our needs
3 were.

4 We then felt the need to have a seperate
5 phone number for our normal business, not related
6 to the new bill. At that time, of course, employer
7 sanctions was going into effect. Although there
8 was an 800 number in service, we felt that still,
9 once again, that the personal touch of the local
10 district and local management team from the
11 district, mandated us to give up our second private
12 phone number that we were going to use for our
13 office for employer sanctions. And now we number
14 well over one hundred to two hundred calls a day on
15 people asking specifically for employer sanctions.

16 We are very fortunate in Houston, and,
17 once again, I attribute it tremendously to the
18 media and to the community. Because, ironically,
19 even though Houston ranks as the fifth major
20 district in international immigration, it has about
21 50 percent less staffing. So it's virtually
22 impossible for us to continue our normal operations
23 and be able to conduct a necessary and a viable
24 educational program.

25 And without the community's support and

1 without the media's support, we would not have been
2 able to do it. What I think is especially
3 important is that the community, even though they
4 weren't very supportive, they were very
5 investigative and inquiring in their response to us.
6 And which I think was extremely tremendous that
7 they did ask the difficult questions that needed to
8 be asked, that the public had a right to know, and
9 certainly deserved to know. And they expanded it
10 by providing their own forums. There were many
11 many television stations, major networks, locally
12 produced programs, directly addressing the
13 Immigration Reform and Control Act. In fact, one
14 as recently as May, where there was even a call-in,
15 both in English and Spanish for both employees and
16 employers. So it's been very successful.

17 In fact, we were very fortunate with the
18 government agencies as well. You need to realize
19 that this was not just an Immigration Bill, but it
20 was a national piece of legislation. And we were
21 able to utilize the efforts of the Federal
22 Executive Board to conducting, and as far as I know,
23 the only such seminar where we had the directors of
24 the Internal Revenue Service, the Equal Employment
25 Opportunity Commission, the Department of Labor,

1 the Social Security Administration, the Texas
2 Employment Commission, and I'm sure I've left out
3 some of the other agencies that participated.

4 But that just kind of gives you a sampling
5 whereby we conducted a seminar both again in even
6 format, English and Spanish. And we had over--
7 What was it, do you remember, Jerry?

8 MR. SCANLAN: About 500.

9 MR. PARRA: About 500 participants
10 during the day, and about another 800 in the
11 evening. So we have found that that has been a
12 very effective form, in that the law is so
13 encompassing, that we are unable to look into all
14 the facets relating to the Social Security card,
15 tax liability and so forth.

16 So those are just some of our efforts as
17 far as the Employer Sanctions Provision. We've
18 also engaged the Hispanic organizations who are
19 very, very interested, of course, in the
20 discriminatory provisions of the new legislation.
21 In fact, I had spoken at a G-I forum with a
22 representative from MALDEF, who as myself, is very
23 concerned about the potential for discrimination,
24 what provisions were being handled by us as far as
25 an interim method to address any potential

1 discrimination complaints of the new law.

2 We had no formal complaint form drawn up.
3 MALDEF had, and we asked that MALDEF,
4 Mexican-American Defense Educational Fund, provide
5 us with that form, also, to have their legal staff
6 available for any type of counseling. We've also
7 met with the Equal Employment Opportunity
8 Commission, a very dynamic group, far more dynamic
9 than I've seen in other areas. There's some very
10 strong leadership. They immediately sought their
11 national-- actually tasked their national
12 headquarters to come out with a statement to see
13 exactly how the law meshed with the existing Title
14 7 requirements. So it's been a very challenging
15 period, but certainly a very, very successful time
16 for all of us.

17 The one slight stigma on the entire
18 program was an incident out of Pasedena, a small
19 suburb of Houston, where there was the dismissal of
20 four employees, who then filed discrimination
21 charges. Fortunately, one of the immigration
22 attorneys that we have in the area, and some of the
23 other agencies took up the case and addressed it,
24 and it was found in favor of the employees.

25 But I think as with any effort, when you

1 are dealing with a city the size of Houston in the
2 area of Houston, geographically and politically, as
3 far as sensitivity to international issues, to have
4 one case come forward with so much potential out
5 there for misinterpretation. I think it's a great
6 commendation to the overall Houston area.

7 And that pretty much addresses what we've
8 done, Mr. Canales, in this area.

9 MR. CHAIRMAN: Do you have some time
10 for some questions?

11 MR. PARRA: Certainly.

12 MR. CHAIRMAN: Ms. Liphsy.

13 MS. LIPHSY: Thank you very much.
14 What would you say is the greatest area for the
15 potential of abuse of the employer sanctions? And
16 the second part of my question is: What do you
17 feel the greatest need of your office is, if any
18 regulations are to be equitably applied?

19 MR. PARRA: The first part of your
20 question is: I believe in the potential for abuse
21 of the employer to exploit the new law to not hire
22 an individual that they don't particularly want to
23 have. That has always been a problem, whether
24 prior to the Immigration Bill, and certainly now
25 with it.

1 The other point that I think would be the
2 dismissal of an employee, which has been seen
3 previously and existing in EEOC legislation, as
4 well as union activities. So, I think the
5 potential is no different than what it was in the
6 past, but certainly it's a different tool that the
7 employer has for potential abuse.

8 To counter that, I believe, that our
9 agency must definitely come forward with a very,
10 very aggressive educational program to the employer
11 community in the sense that, (1) with any new
12 legislation, let's say the new tax bill, of course,
13 you require new and extensive amount of education.
14 But the problem is compounded with Immigration,
15 because of the existing perception, and not
16 existence of a relationship with a community.
17 Based on that, we have to overcome many, many
18 things in Immigration that several other agencies
19 would not.

20 So, it's going to take some aggressive
21 leadership on our part. We just finished
22 interviewing for our employer relations position
23 yesterday, and made a selection. We hope that that
24 will certainly supplement what we've done. We've
25 not waited for those positions to come out.

1 I think, also, it is going to take the
2 personal commitment of local management of
3 Immigration to go out. We found that in many, this
4 was from input throughout the community, that the
5 success of the educational program throughout the
6 community was by virtue of the visibility of the
7 management team of Immigration in Houston. I don't
8 think any of us can really identify with Washington
9 personalities or individuals.

10 I think that Immigration is such a
11 personal agency, that the management group of
12 Immigration has to be visible and accesible to the
13 public to be able to take the questions, to be able
14 to take the criticisms, to be able to come out and
15 show that we are people as well and we are members
16 of the community.

17 So, I think that that is what is going to
18 really help make the program a success, is the
19 involvement of local management throughout the 36
20 districts.

21 MS. LIPSHY: Do you believe you are
22 getting the support you need from Washington on the
23 area of media support? For instance, I commend
24 you for your attitude that the media is an ally
25 rather than an adversary on this issue. Do you

1 believe you are getting support from Washington in
2 perhaps media campaigns, or would you like to see
3 more?

4 MR. PARRA: Definitely. I would like
5 to see more. I would like to see it brought to the
6 local level, once again. We've now become a
7 society of television. We've found that if there's
8 a story to be told, that the best way to tell it is
9 to visualize it. And I don't think-- I've heard
10 it said that it's directly proportional to the
11 educational background of the individual. I think
12 everybody in this room is certainly well above the
13 norm as far as intelligence and education.

14 And I think we all find ourselves, because
15 we're all so busy, we really don't have time to sit
16 down and go through a journal, go through a
17 newspaper. Where that is an effective media, I
18 think we still need to utilize the visual and the
19 audio means of communication. We've been extremely
20 effective utilizing the international media from
21 the standpoint of the radios, and it's phenomenal.

22 We will do a new program in Spanish for
23 one hour where we take questions and answers. By
24 the time we get back to the office, once again
25 there are at least a dozen phone calls on the

1 particular topic. I think visually what we've seen
2 is a person can identify with the case and they can
3 really empathize with it once they've seen the plan
4 on TV and see the actual officials that are
5 required to administer it.

6 What I like about the newspaper is that it
7 is something that can be memorialized. It's
8 something that you can come back and check on the
9 following day and keep with you as a foundation or
10 a record; where, of course, once you hear it or
11 once you see it, it's gone.

12 So I think you have to address all three.
13 But I think we've must definitely addressed the
14 international media, especially in this area.

15 MR. VELARDE:: Mr. Parra, I have a
16 question for you.

17 MR. PARRA: Yes, sir.

18 MR. VELARDE:: To the extent that you
19 wish to speak to this area, if you could tell us
20 what form the employer sanctions might take after
21 September 1. And will it be in an immediate
22 startup, an aggressive type of faction, or will it
23 be a phasing in or in what type? Feel free to
24 talk about it.

25 MR. PARRA: Well, thank you very much.

1 It's a very, very good question. As I pointed out,
2 each district pretty much has its own
3 interpretation and impression of how the law should
4 be implemented. I think what we have found for the
5 very first time in immigration, is a very dynamic
6 national and regional leadership, which shows a
7 real sensitivity to the overall community.

8 We certainly have more authority than we
9 ever envisioned that we would have under the new
10 law. But, as with anything else, the national
11 leadership and our regional leadership -- When I
12 say "regional" I speak of the Southern Region which
13 which encompasses New Mexico, Texas, Florida,
14 Louisiana, Georgia, Arkansas, Mississippi, Kentucky,
15 and Tennessee. I believe those are all the states.
16 So, that is the regional perspective that we have
17 on it.

18 Both Commissioner Nelson in Washington and
19 Commissioner Martin in Dallas realize that we have
20 to work with the community. The new law is
21 extremely traumatic. It's going to take some time
22 to make some transitions. It's going to take a
23 totally new thinking as far as what-- To realize
24 that this law now impacts on every single
25 individual, virtually in the United States.

1 We're starting to see manifestations of
2 that, in fact, in significant increase in
3 applications for citizenship; the passport office,
4 significant increase in applications for United
5 States passports, and Social Security
6 Administration, in their increase for new cards.

7 So, it really, really comes down to the
8 entire scope of the community, not just the
9 business world, but other government agencies as
10 well. And our leadership has said we must come in
11 on a phase-in process, whereby extensive education,
12 then on-site education, and then followed up by the
13 actual implementation of the citations, the fines,
14 and the actual criminal sanctions.

15 So, I think that is something that is not
16 within the thinking that, "Yes, we do have the
17 authority, but we're not going to abuse it, we're
18 going to do it on a very tiered level."

19 I think, though, there is going to come a
20 point in time where we must make a definitive
21 statement that the law will be enforced and
22 implemented to its letter. I say this because of
23 the recent phenomena along the Southern Border.

24 Initially, at the passage of the new law,
25 we experienced a dramatic decrease in the number of

1 apprehensions, which directly corresponds to the
2 number of entries, unlawful entries along the
3 border. Now, as we debate whether the actual
4 implementation date, we have seen that we have not--
5 we're starting to experience an increase in entries
6 and activity along the Southern Border, an increase
7 that was initially thought that there would no
8 longer be a need for the antismuggling program,
9 which former Commissioner Castillo, who was here in
10 Houston, brought to the Immigration Service. But
11 what we have experienced with the cases in Sierra
12 Blanca and recently ourselves, in Nacogdoches,
13 where we've encountered an increase in smuggling,
14 again.

15 I think that is an indicator that the
16 world does not perceive us as being sincere in
17 actually enforcing the new legislation. So, I
18 think there will come a time. I don't believe it
19 will be September 1st, I think probably maybe
20 October, maybe more realistically November, and
21 even January before a definitive and significant
22 case is brought forward. But there will come that
23 point in time where there must be a statement made.

24 MR. TOBIAN: Mr. Parra, we have
25 taken testimony that suggested, that due to the

1 late start-up and the late availability of the
2 paper and the right forms, plus a serious case of
3 understaffing, that it has been difficult to gear-up
4 and to give the implement, much less educate on
5 this matter.

6 You've indicated that twenty thousand
7 persons, a milestone has now been passed which
8 leads the country, if I understood you correctly.
9 Can you give me a hippocket estimate of how many
10 you think might be in the Houston area and what
11 percentage of that, the twenty thousand represents,
12 and do you find any activity underway to relieve
13 your understaffing situation?

14 MR. PARRA: Thank you, sir. I
15 believe that we are basically ahead of schedule. I
16 had projected that we would receive between fifty
17 thousand and one hundred thousand applications in
18 the twelve-month period. I had not anticipated
19 that we would really be in full capacity, which is
20 approximately 300 interviews per day that we are
21 required to due per office size, until the first or
22 midpart of August.

23 I think that goes, again, to show the
24 tremendous interaction between the community and
25 Immigration. I think that is what has really

1 accounted for the phenomenal success.

2 The problem of education and forms in
3 personnel are ubiquitous to government service.
4 We've always had that thrill, and I'm sure we'll
5 continue to. I don't think, though, that we can
6 rest on the rhetoric that we're overworked and
7 understaffed. We were under a mandate by Congress
8 to implement. I think as public servants, it is
9 our responsibility, our moral responsibility, to
10 implement the law as compassionately as possible
11 and as efficiently as possible.

12 I think that it gets frustrating with the
13 system not to have the staffing, and not be able to
14 bring on personnel as soon as we would like. But
15 the checks and balances involved in security
16 clearances, I think, tends to offset that delay.

17 I think part of the delay that we have
18 been accused of is the regulations formulation.
19 Yet, for the first time, especially for Immigration,
20 once again to go out two or three times to ask for
21 public comment, I think that a tremendous input.

22 I would also like to say that that input
23 by virtue of the extensive educational program in
24 the Houston area, that the very changes that were
25 made, many of them were transmitted from Houston to

1 Washington and incorporated even at the last moment,
2 and the 45-day departure period being one of them,
3 that those changes really showed, I think, a
4 sensitivity of the fact that we were not dealing
5 with an intimate object, but we were actually
6 dealing with people with feelings.

7 So I think that was to our credit. But,
8 of course, other than the regulations came out in a
9 much greater delay.

10 The situation with the handbooks on
11 employer sanctions is another question. When I
12 first appointed our deputy, his first assignment
13 was to go to Washington and sit on the Planning
14 Committee for the implementation part of Employer
15 Sanctions. What that cost was some additional
16 concern. I think the dividend in the long run has
17 certainly paid off. The I-9 went from being one
18 page document to, if I remember correctly, he had
19 said 26 pages and then back down.

20 So I think for a government document to
21 come out where completely on one side with half
22 being-- or the employee half for employer sanctions
23 certainly was a major accomplishment.

24 And, once again, I think meeting the needs
25 of the community, I can fantasize that under the

1 regulations where you must keep it from one year,
2 from the time a person leaves your employment or a
3 maximum of three years. Retaining the I-9 for 21
4 years is going to create a real storage problem, so
5 having it condensed to one page, I think, to me,
6 seems very significant right now, but, I think,
7 time will tell.

8 So there were many things that we were
9 criticized for in as far as the delay. But I think
10 to be criticized for being conscientious, to be
11 criticized for being deliberate, and to be
12 criticized for having too much input; I think
13 certainly the Immigration Service can live with
14 that criticism.

15 MR. CHAIRMAN: I think we have time
16 for one more question.

17 MR. VELARDE: Mr. Parra, you seem to
18 indicate that because of the imbalance of trying to
19 get the reform act, that you all put a lot of
20 emphasis at the beginning on amnesty. And now it
21 is swinging the other direction, that you have also
22 been mandated by Congress to also educate and
23 enforce this whole question of employer sanctions.

24 I think that because of your efforts and
25 those of the media, people have come forward to

1 file for amnesty and you have got this twenty
2 thousand number. Yet, in the planning of setting
3 up these legalization offices, both the national
4 and regional offices of the service were based on
5 planning on guesstimates. And as a result, we see
6 where Los Angeles hasn't processed as many cases as
7 you have.

8 Fifteen legalization offices, San Antonio,
9 which is barely scratching the office in the very
10 four legalization offices, and yet you have one.
11 You say that September 1st is going to be the
12 upbeat date now for employers to start making
13 themselves aware of the fact that they are
14 forgetting to get these I-9's. Many of your
15 applicants are also employees who know of this
16 September 1st date.

17 Is there any plan to go here locally in
18 your district to take care of those fellows who
19 have been told by their employers, "come September
20 1st, you better have your card in hand"? When you
21 can't meet the three hundred, if there's three
22 hundred people in front of your door knocking at
23 8:00 o'clock and there's another seven hundred
24 behind them, have you been talking with the region
25 about possibly getting another legalization office

1 or more people to handle this possible crunch of
2 people? You say you know we are caught in the
3 middle. "I need this card to keep on working and
4 my service is willing to accept my application, but
5 I can't get to the door." Is there any regional
6 and local planning by the service to meet this
7 government mandate?

8 MR. PARRA: Yes, very good question.
9 I'm afraid this one definitely falls on my
10 shoulders, and not on anyone else's. The decision
11 as to the number of legalization centers and the
12 location of legalization centers were left pretty
13 much to the discretion of the local director.
14 Speaking in generalities, I think, was really a
15 tremendous idea on the part of Immigration who has
16 always been starved for resources to have enough
17 foresight to open 107 offices. Those offices, some
18 of them have not been as productive as others, but
19 I think, once again, we did not know.

20 As you pointed out, the numbers that we
21 would be dealing with, I think, it was imperative
22 that we have too many offices at the start, rather
23 than not enough. Houston later laid four offices
24 back in 1981, '82 when there was a plan underway at
25 that time.

1 When the bill was passed, we were slated
2 for two offices to be located in the Houston area.
3 It was my decision, and my decision alone, which
4 was a minority decision -- no pun intended -- to
5 have just one central legalization center.

6 My reasoning for that was because of the
7 local conditions in Houston. The size of the area
8 made it very difficult to do any type of on-site
9 monitoring, and that is pretty much my style, in
10 that I like to be with the people to find out what
11 problems they are encountering, look at workloads,
12 and so forth.

13 We currently have three operations, one at
14 the international airport, one at our detention
15 center and one at our district office. By virtue
16 of the traffic patterns in Houston, driving time
17 between those locations is probably very commonly
18 an hour plus, depending on the accidents and so
19 forth, construction.

20 So, I felt that by having two legalization
21 centers or three or four, it was going to be a
22 problem to manage on-site. And I make it a point
23 to go by the legalization center, at least two or
24 three times a week. The first two weeks I was on a
25 daily basis to look at the situation.

1 The other point that concerned me is I did
2 not want to get into the situation where a person,
3 an applicant had the option of going from either
4 "Site A", or "Site B" or "Site C", by virtue of the
5 personalities of management, I wanted to maintain
6 continuity, I wanted to maintain uniformity, and
7 decisions. And I felt that the only way that that
8 could be maintained and that could be closely
9 monitored was by having one large center.

10 I also felt that it was necessary for the
11 applicants to be able not to have to decide or
12 figure out where they should go. But they should
13 have one center that was well publicized, centrally
14 located, pretty much accessible by any means of
15 transportation, and an area where they felt very
16 comfortable. So I felt that that was of major
17 importance.

18 I also felt that the story of the
19 legalization program would be told by the media.
20 The media, I felt should not, once again, have to
21 decide, with all their other duties that were going
22 on, whether they should go to legalization center
23 "A" or legalization center "B" for some type of
24 press conferences or some type of activity.

25 This way it focused attention and

1 concentrated all the efforts in one area. Anytime
2 during the day, during the week or whenever, the
3 media has the opportunity to come in and look at
4 the operation, to be able to interview applicants
5 if they want, to be able to interview personnel, if
6 they want, and just to sit and observe.

7 The fifty-six foreign counsuls that we
8 have in the Houston area have the opportunity to
9 come in at any time, to one location. I can come
10 in at any time of the day and bring any group of
11 people in to look at the operation.

12 So I felt that one center would be the
13 ideal method, at least for Houston. It doesn't
14 necessarily hold true for the rest of the districts.
15 And I would not, you know, venture a comment on
16 those. But I think that what I did want was a
17 larger staff, a larger office, so that there would
18 not be the waiting lines. We were experiencing, as
19 you pointed out, seven hundred waiting since 6:00
20 p.m. in the afternoon of the previous day to come
21 in. We finally structured ourselves where we were
22 able to get additional staffing down on a detail
23 basis, whereby we virtually eliminated the lines
24 and still are pretty much being able to handle the
25 normal daily traffic.

1 Another unique situation that we had in
2 Houston was that the number of qualified designated
3 entities, numbered well over 40. We had to be able
4 to provide time for them. And I think that was
5 extremely important, for them to be able to fulfill
6 their responsibilities to the people they serve.

7 Also, Houston has an extremely active and
8 large immigration attorney practice. And that was
9 another entity that I felt we needed to address.
10 So being able to come in and have everyone appear
11 at one door, one center, I felt that that was the
12 way to go on it. We definitely need more resources
13 and I understand that we are going to get that
14 additional staffing. And we called for that detail
15 specifically with the point that you had in mind,
16 because of the September 1 date that everyone was
17 concerned with.

18 Locally, in Houston, that September 1 date
19 is going to be flexible. Even though we have been
20 able to accommodate virtually everyone that has
21 wanted to apply, there's an inherent problem with
22 the system.

23 You have to have the medical exams. The
24 medical exam form did not come out early, so
25 there's still a lagtime there. I think the

1 qualified designated entity program, which was a
2 very, very solvent idea, especially dealing with
3 immigration, I think where we have many, many
4 concerned and well meaning people, I don't think a
5 lot of people realize how complex it could get. I
6 think a lot of people didn't realize, also, what a
7 transient population we are dealing with. That
8 someone may be applying in Houston, but they had to
9 get documents in California or Idaho or Chicago.

10 So that system, which is very sound, and
11 it has been a great contributor, in the Houston
12 area, still like anything else is virtually in its --
13 I wish it was passed its embryonic state, but it's
14 now where we're off crawling and walking very well.
15 And it is going to be a major contributor to the
16 success of the program.

17 MR. CHAIRMAN: Thank you very much,
18 Mr. Parra, for your time and showing up here. We
19 appreciate your time here and your comments, this
20 information has been very helpful to us.

21 MR. PARRA: Well, thank you all very
22 much. And had I had the opportunity, and certainly
23 that is still available to you, I would have liked
24 to have given you the opportunity and the panel to
25 come to the legalization office and have a chance

1 to view our operation, view the location. That
2 still holds-- I can probably try and make a quick
3 call, if your schedule permits. I see that it is
4 pretty ambitious.

5 MR. CHAIRMAN: Probably overly
6 ambitious.

7 MR. PARRA: And it may be difficult
8 for you. But certainly those of you that-- we
9 normally had a Saturday operation, but we have
10 curtailed that operation because of a cutback in
11 overtime expenditures. But, once again, any time
12 you're through the Houston area, please, by all
13 means, feel free to come by and visit Immigration
14 or visit the legalization center.

15 I'm very impressed by the -- and I
16 appreciate it -- I'm very impressed by the
17 foresight of the panel. I see other people that
18 you have asked to participate in it are a very
19 diverse group and a very competent group that will
20 give you probably the most comprehensive overview
21 that you can possibly obtain.

22 So, I commend the panel and yourselves for
23 having chosen these individuals to participate.

24 Once again on behalf of Houston
25 Immigration, I thank you all very much for having

1 me here today.

2 MR. CHAIRMAN: Thank you very much.

3 MR. PARRA: If anybody needs some
4 additional booklets they are here, and you're
5 welcome to have them.

6

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9 MR. CHAIRMAN: Marcos Salinas and
10 Jerry Scanlan, regional attorney for the Equal
11 Employment Opportunity Commision.

12 MR. SALINAS: Thank you very much,
13 Chairman and the rest of the Texas Advisory members.

14 The EEOC has been actively involved in
15 investigating complaints that may relate to the
16 Immigration Reform and Control Act. We have met
17 several times with Mr. Parra's group, and we have
18 attended several conferences and seminars with
19 employers and also with potential citizens.

20 We have gone out, both speaking in English
21 and Spanish to make sure that the individuals, both
22 the employer and those persons that are seeking to
23 become citizens; that the EEOC will investigate
24 complaints of discrimination based on one's
25 national origin, race, color, religion, or age.

1 We have received a number of complaints
2 that are related to the Immigration Act, and we
3 have identified those, and we have made them as a
4 priority assignment. So far, we have had seventeen
5 complaints, that we think may have been related to
6 Immigration or perhaps overreaction by employers.

7 Out of those ten complaints, we have
8 resolved ten of them successfully. We were able to
9 reinstate the individuals with back pay and made
10 the employer publish a notice, which also included
11 that they would not discriminate against those
12 individuals or other individuals based on one's
13 national origin. And, also, there's a provision in
14 that notice that includes the sanctions-- not
15 sanctions, but the nondiscrimination part of the act.

16 The Houston office has done this. And
17 also we have met with the San Antonio District
18 Office and also the Dallas District Office of the
19 EEOC. We did this in that Texas is one of the
20 largest states, as you know, and with a lot of
21 concentration of Spanish speaking and other
22 nationalities. We wanted to make sure that if one
23 of the cases that may relate to the immigration
24 ever goes to court, that we want to make sure that
25 we, all three offices, are coordinated in their

1 efforts.

2 Jerry Scanlan, and I, and the other
3 directors and regional attorneys met, and we
4 discussed all those issues to make sure that we
5 were handling those cases the way we think we
6 should. One office may handle one differently than
7 the other.

8 The Commission has also issued, and I'll
9 leave copies of this immigration policy, the EEOC
10 policy statement, which was issued or adopted
11 February 26, 1987 by all the Commissioners.

12 It really reemphasizes that EEOC will
13 investigate and process those complaints dealing
14 with national origin in particular. Well, all of
15 them, but in particular those. As you know, the
16 Immigration Act will give us complaints that they
17 receive if the employer has fourteen or more
18 employees. And we'll assume jurisdiction on those,
19 there's an agreement like that at the national
20 level that we will process those complaints.

21 I would like to also mention, for example,
22 some of the problems that the complaints that we
23 are receiving, although we try to educate the
24 employers, at the same time that Mr. Parra's group
25 went out there. There are many employers that

1 perhaps are not aware, at least at the inception,
2 the beginning of the talk on this Immigration
3 because most of the complaints that we receive are
4 against smaller companies. And, of course, it's
5 hard, I guess, for all of those employers to become
6 aware of what the new act is and what our laws are,
7 the EEOC laws.

8 Most of them pertain to terminations, if
9 not all of them. So far we haven't received any
10 where someone was denied a job because they either
11 didn't have documentation or they did have it and
12 they were actually American citizens. But some of
13 the reasons that have been given to the complainant,
14 at least at this stage are allegations strictly.

15 But one individual indicates, "The
16 employer told me the reason for my discharge was
17 because of my excessive absenteeism. He also asked
18 me if I had citizenship papers on the date of my
19 discharge. I firmly believe my national origin was
20 a factor in the employer's decision to discharge me.
21 To the best of my knowledge, none non-Hispanic
22 employees were asked if they had citizenship
23 papers."

24 This is something that we consider to be
25 somewhat related to the Immigration, otherwise the

1 employer, perhaps, wouldn't be asking those types
2 of questions.

3 We had one individual who had worked for
4 this company for about six or seven years, and when
5 he heard about the new Immigration Act, he was
6 asked to provide documentation on whether he was a
7 citizen. He told them he was, he had been for two
8 or three years. He wanted the papers right then
9 and there.

10 The individual, of course, didn't have
11 them on his possession, so he was terminated. He
12 had to go home and got his attorney and his
13 attorney gave him copies of the necessary papers
14 that he had to be naturalized. So when he returned,
15 it took him two days to go through the paperwork
16 and through his attorney, the employer did rehire
17 the individual, however, we in the meantime during
18 those two days, he did come by our office to file a
19 complaint. After the two days, he went back to the
20 employer and showed him the documentation. He was
21 reinstated, however, he wasn't given the two days
22 back pay. We continue with the investigation, and
23 it's not finished at this time. But we want to
24 make sure that those kind of charges are given high
25 priority and investigated to make sure that this

1 types of complaints don't occur again.

2 The others also dealt similarly with
3 termination. And as I mentioned before, we haven't
4 gotten too many, if any, really, that they weren't
5 hired. But the policy statement that the
6 Commission issues reminds employers that, if you
7 comply or try to comply with the Immigration Act,
8 let's say in order not to get into trouble with the
9 Immigration Service, there may be some potential
10 discrimination on other individuals, simply because
11 if the person, the applicant, appears to be foreign-
12 looking or perhaps speaks with an accent, perhaps
13 those employers may not be hiring, which, of course,
14 would be a violation of our laws.

15 I'm not sure if Jerry Scanlan discussed
16 the citizenship part, but that's going to be
17 something that may be in conflict with the
18 Immigration Act. And if Jerry hasn't mentioned it--
19 He did discuss that, okay.

20 One other step that we're going to do, or
21 that we have done, we have alerted our intake staff,
22 all of our investigators, to make sure when someone
23 comes in to file a complaint; that if it's related
24 to Immigration that they make sure that they read
25 our policy statement and inform those individuals.

1 Also, I plan to have two of my supervisors
2 visit the qualified designated entities. Those are
3 the ones that will process those individual
4 applications. We plan to do that to advise and
5 inform those organizations that if they know of any
6 applicants or persons who felt that they were
7 discharged for not having the documentations or
8 required papers; to tell us and we'll leave our
9 name and telephone number where they can reach us.

10 We also have conducted radio shows in
11 Spanish to alert the public of what our office is
12 doing. Is there anything that perhaps I didn't
13 cover?

14 MR. DULLES: It seems to me that
15 employers have their associations, they have their
16 attorneys, they have their resources. I'm
17 concerned about the victims of the intentional or
18 unintentional discrimination or misapplication or
19 misunderstanding of the new Immigration Law coming
20 from employer sanctions.

21 What I'm concerned about is: Who's
22 making the outreach to this community, the victims
23 of discrimination, as a result of the new law or
24 potential discrimination? And in all deference to
25 Mr. Parra, I know that not everyone is going to

1 feel comfortable picking up the phone and calling
2 La Migra, so to speak. There's that reluctance,
3 for obvious reasons.

4 My question is: Doesn't the Equal
5 Employment Opportunity Commission have, if not a
6 knew constituency, at least a new responsibility, a
7 new mandate for aggressive education and outreach
8 to this community? And it's a hidden community and
9 it's a silent community, and it's a community of
10 victims. And if you do have that responsibility,
11 could you tell us what special resources, funding
12 and staff and programs are being put in place to
13 meet this responsibility?

14 MR. SALINAS: I don't think there's
15 any additional staff that we'll get, although in
16 the past we did have a freeze on hiring, but we are
17 fully staffed at this time.

18 For many years, I guess, historically we
19 have tried many efforts, really, to reach out at
20 those individuals and in particular the Spanish
21 speaking Hispanics. I don't know where we failed,
22 but very few complaints are received by our office,
23 not necessarily relating to the Immigration; but in
24 national origin-type charges.

25 As I mentioned, the three offices are

1 ' getting together to find out why those individuals--
2 We know that the discrimination is out there. How
3 to reach it, is something that we'll have to work
4 on a little bit harder. As you know, in order for
5 us to pursue a complaint, an individual must file
6 the charge with us.

7 I thought that by going to the qualified
8 designated entities that at least we would make
9 those individuals that seek citizenship and those
10 that were discriminated or felt discriminated, we
11 could probably reach them. As I mentioned, we've
12 gone to talk shows in Spanish.

13 When we went to those seminars, I was a
14 little surprised, especially those in the afternoon
15 where we spoke with the individuals. There were
16 packed houses at Ripley, at the Magnolia Center and
17 so forth. And I had two or three of my Spanish
18 speaking investigators and supervisors to answer
19 their concerns.

20 I was suprised, that even though we
21 emphasized to them what our offices were there for,
22 only two or three individuals came forward. And
23 perhaps maybe it was fear that we would either pass
24 the names on to someone else, which we don't, it's
25 prohibited within our law. I don't know what else

1 we could do. But we did talk to those individuals
2 and perhaps they didn't really want to come forward.
3 Two of them did file with our office but there are
4 perhaps others in the audience that really didn't
5 want to speak with us for whatever reason.

6 If someone files with us, that
7 individual's name will go on the complaint form.
8 So maybe that's one reason why many of them will
9 not want to file.

10 We can pursue problems dealing with
11 discrimination if a third party files with us, such
12 as LULAC or MALDEF, or someone else files with us
13 and then we can pursue it and those individuals,
14 the aggrieved parties, won't be identified until
15 later, if there's some type of remedy. But that is
16 a problem, not only at this time, sir, but it has
17 been since I've been employed with the Commission.
18 For some reason, Hispanics really don't come
19 forward that often.

20 MR. CHAIRMAN: Ms. Berriozabal.

21 MS. BERRIOZABAL: About two years
22 ago, Commissioner Gallegos with the Equal
23 Employment Opportunity Commission, and I believe
24 another Hispanic on the Commission, came to San
25 Antonio to hold some hearings on why it was that

1 there was such a low number of Hispanics filing
2 claims at EEOC throughout the United States. And
3 you have indicated that that still is a problem.

4 Mr. Dulles is asking about complaints, as
5 it relates to the new provisions of the Immigration
6 law. And that's an added burden, an added
7 responsibility to EEOC, and you are very right,
8 that we never solved the problem of just the
9 existing law prior to the Immigration Act.

10 What I remember was that the Commission
11 after its hearings, found that one of the problems
12 was that the fear of retaliation was so great, and
13 the Commission didn't have the the resources to do
14 anything in this area, well, they had never done it,
15 and people were scared. And we received testimony,
16 and it pointed to that direction.

17 The other was that people got so
18 disheartened because it took so long. There was
19 such a backlog. At that time there was a backlog
20 of two years, if I recall.

21 Anyway, the point is: There was a report
22 that was done by the Equal Employment Opportunity
23 Commission, and it would be a good thing to do to
24 go back and see what the EEOC found back two years
25 ago when they did those series of meetings and find

1 out what recommendations were suggested.

2 One of the feelings I have and strong
3 opinions, is that the commitment to equal
4 opportunity and employment, has been diminishing in
5 our country. The funding of EEOC is not adequate,
6 and one answer is funding, but I'm sure there are
7 other things that could be done. And my suggestion
8 is that the Commission go back to those, the
9 product of those hearings, and see what that
10 self-study shows.

11 MR. SALINAS: Thank you very much.
12 I'd like to make a couple of comments here. You're
13 absolutely right. Two years ago, we certainly
14 didn't have the staffing, we have had increases in
15 our budget since that time, and we have hired
16 several more investigators. In fact, the San
17 Antonio office, as a result of those hearings, it
18 was upgraded to a district office, and now they
19 have a district director.

20 In the past, that used to be one of our
21 area offices. It was a little smaller staff. Now,
22 they report directly to headquarters, and I think
23 it happened exactly right after that hearing was
24 done. There used to be a backlog of two years.
25 And it's not happened in except for a few cases

1 that are real broad and complex that it just takes
2 us longer. We're averaging approximately two
3 hundred and some days to complete a case. With
4 respect to the Immigration-type charges, though, as
5 I mentioned before, we are giving those charges top
6 priority, at least in this office.

7 In addition, on the retaliation charges
8 that we get, especially those individuals who are
9 still employed, we immediately assign those cases
10 to investigators and get someone on them. Of
11 course, this is the district director's policy.

12 As far as the cases in other offices, I
13 think, Houston is doing a good job at least to, I
14 don't know if the numbers mean anything, but when
15 we met in San Antonio in July, the directors and
16 the regional attorneys out of Houston, had the most
17 Immigration-type charges. We had about seventeen.
18 The San Antonio office had about three or four and
19 Dallas only one or two. So either we're doing
20 something right, or there are more problems here.
21 And we are vigorously trying to do that.

22 And with respect to litigation, Houston
23 has filed twice as many or three times as many more
24 lawsuits than we had in the last two years. So
25 hopefully we're in the right track, and I think we

1 are. We will make every effort to continue to go
2 out to the communities and find out if there's any
3 problem. Of course, the individual has to come to
4 us to file the actual complaint, but we'll do our
5 job as far as informing them of what our office
6 does.

7 MR. TOBIAN: Mr. Scanlan, when he
8 was before us before, suggested that the cases are
9 divided into two parts, that is, those that have
10 three, fourteen and then the fifteen and over.

11 Also, he suggested that there are two
12 separate readings of the law. That is the EEOC law,
13 Title 7, is a much broader coverage, if I've got
14 that right, than the new Immigration Law.

15 I foresee in the separateness of number
16 and jurisdiction and the separateness in the
17 reading of responsibility of being potentially a
18 Catch 22. Where you can be on the right side of
19 one set of regulations and the wrong side of the
20 numbers game, and a case fall between the cracks,
21 is what I'm saying. Do you understand what I'm
22 talking about, Mr. Scanlan?

23 MR. SCANLAN: Yes. And I don't think
24 that's a problem. The Commission has always had
25 jurisdiction with respect to employees with fifteen

1 or more employees, and that jurisdiction, as you
2 mentioned is much broader with regard to national
3 origin discrimination.

4 The Immigration Statute, all it really
5 does is extend prohibition against national origin
6 discrimination from small employers, employers with
7 three to fourteen employees.

8 So, we're really covering-- we've got a
9 different agency who is covering employers that
10 weren't covered before. I am not talking quite as
11 broadly, but they're being covered. So, I don't
12 really see-- What confusion that could occur would
13 be people filing with the wrong agency. And
14 assuming that the agencies can get together and
15 send those complaints where they're supposed to be,
16 I think there should be more coverage than before
17 rather than any cracks opening up and people
18 falling into them. Hopefully, that will be the
19 case.

20 MR. CHAIRMAN: I'm going to ask a
21 short question, this may be a question impossible
22 to answer. I'll ask it anyway. I wonder if you
23 have conducted any studies or have had through past
24 experience, managed to evaluate the magnitude of
25 the problem or the potential problem through the

1 implementation as far as sanctions? Do you have
2 any idea of what may be involved in the Houston
3 area or maybe in South Texas?

4 MR. SALINAS: It's very difficult. I
5 can only say what has happened in our office,
6 shortly after all the talk about the Immigration.
7 We had several complaints come in all at one time
8 within a two-, three-month period. In the last
9 month or two, we haven't gotten any. Perhaps,
10 coming up, maybe closer to August, September, maybe
11 those type of complaints we'll be getting more, but
12 to answer your question, no, sir. We wouldn't know,
13 unless we did a poll of some kind and we have our
14 hands full, we receive over three thousand
15 complaints regarding all the other ones. And it's
16 very difficult, I would think.

17 MR. VELARDE: Mr. Salinas, two
18 questions with real quick answers, and then
19 hypothetical. What area of jurisdiction do you
20 cover? Is it just Houston or a bunch of states, or
21 what?

22 MR. SALINAS: I'm glad you asked that.
23 It's in the Gulf Coast area, thirty-two counties,
24 like from here to Wharton, all the way to the
25 triangle area in Beaumont to Dallas.

1 MR. VELARDE: What kind of staffing
2 do you have in numbers?

3 MR. SALINAS: We have a total of
4 hundred and six members, including legal compliance
5 people.

6 MR. VELARDE: Okay, now, if -- this
7 is the hypothetical question -- if you were going
8 to go to the QDs, just to the Houston area, Mr.
9 Parra told us there was forty, and each one of
10 these QDs was able to come up with one person
11 complaining per month, over a six-month period you
12 get 240 complaints, how long would it take you to
13 get a decision on those 240 complaints?

14 MR. SALINAS: Hopefully, they
15 wouldn't all come at the same time. But if they
16 were staggered, of course, we'll be able to handle
17 them. If we give them priority, as we have been,
18 it would take anywhere from maybe thirty days to
19 our average, two hundred days, depending.

20 MR. VELARDE: What does the
21 individual in the meantime do where he doesn't have
22 a job for ten days or two hundred days?

23 MR. SALINAS: Right.

24 MR. VELARDE: What does he do in the
25 meantime?

1 MR. SALINAS: The only thing from our
2 experience with other employers, is that it's -- in
3 most situations, employers really don't want to
4 hire the individual or rehire the individual.

5 In this particular case that we were able
6 to reinstate ten persons, it was almost a clear
7 violation of our Act, and also perhaps the other
8 one. And they recognized it, we spoke with them.
9 We certainly would try to resolve it through
10 settlement if we could get the relief that is very
11 appropriate.

12 In the meantime, like the other 50 percent
13 of the complaints that we have are terminations, so
14 there's a lot of people out there without jobs and
15 looking for employment.

16 MR. VELARDE: Where you found in favor
17 of the individual, and like those kind people that
18 were rehired, did you get back pay for them?

19 MR. SALINAS: Yes, sir. They were
20 fully backpaid. It was a full-type settlement, and
21 I forgot to mention, on these Immigration-type
22 charges, every charge that we resolve, Jerry
23 Scanlan will review it, and whereas the other ones,
24 we just process it.

25 And we think this is very important, that

1 we don't want to settle a complaint or close a
2 complaint, simply because maybe we forgot something.
3 And we want to make sure that we make the right
4 decision. So we do touch base with Legal.

5 In this particular case, an attorney from
6 Jerry's staff was assigned from the inception, and
7 we processed them all the way. If we're going to
8 dismiss a complaint that we find no discrimination,
9 we also, before we issue the determination, we also
10 ask Jerry for his input from his attorneys.

11 So I think we're very thorough, whereas,
12 on the other ones, we allow the investigator to
13 make a recommendation, and it goes up through the
14 managers.

15 MR. CHAIRMAN: Thank you, Mr. Salinas.

16 MR. SALINAS: Thank you, sir.

17 By the way, let me make one quick announcement. I
18 will leave the EEOC policy statement here. We have
19 about thirty, forty copies. In addition, there's a
20 satellite seminar that's scheduled for September
21 15th. It covers the issues dealing with employment.
22 I'll leave these little fliers here. Although the
23 subject of Immigration-type charges are not in here,
24 but you can call in and perhaps some of your
25 concerns could be answered by the Commissioners

1 themselves. Thank you very much.

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MR. TOBIAN: Will, Doctor Sanchez,
Mr. Gee, and Ms. Hernandez, please take the table?

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MR. SANCHEZ: I don't have a
statement, except, perhaps, I wear two hats here
today. One is as a representative with the
Mexican-American Chamber of Commerce. Our function
with the new Immigration law has been to educate
our members to the extent of the law. And we have
many, many meetings dedicated to the law, we are
very much concerned with it. And KLAT radio, for
example, this week on our station we are conducting
our third immigration week.

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In other words, we are trying to give the
public a medium to talk to La Migra, which is the
Immigration officers, in a way that they are open.
They don't fear, they can ask anything in Spanish,
and that is something that we have been doing, this
is our third week. Education, I think, is the
problem here.

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By the way, one comment that I want to
make about the EEOC, one of the problems that I see

1 is that the lack of information about the procedure
2 and the function of the Equal Employment
3 Opportunity Commission. A lot of the Hispanics who
4 come here don't understand the bureaucratic
5 problems. They used to go to a judge and accuse
6 somebody of something, and obtain a sentence or a
7 decree, an opinion there. And they are not used to
8 all these investigations, and at the end, there's
9 nothing. You have to obtain kind of an agreement
10 on that.

11 So, it's something that perhaps, this
12 explains why some of the people don't complain,
13 even though they have been the victims, because
14 they don't understand it. This is perhaps one
15 reason. This is a personal note. And I think that
16 it's my time to let one of my colleagues speak.
17 Thank you very much.

18 MR. CHAIRMAN: Mr. Gee.

19 MR. GEE: Thank you, Mr. Chairman,
20 members of the Advisory Committee.

21 My name is Harry Gee, Jr. and I come
22 before you testifying on behalf of the Houston
23 Chamber of Commerce, a business association
24 representing some 6,500 member companies.

25 For many years, the Houston Chamber has

1 been observing and participating in the development
2 of regulations and legislation which affect area
3 businesses. We have monitored closely the
4 implementation of the Immigration Reform and
5 Control Act of 1987, and have submitted comments to
6 the Immigration and Naturalization Service on the
7 proposed rules, and have conducted an educational
8 campaign for our members on the employer sanctions
9 portions of the Act.

10 The Houston Chamber appreciates the
11 opportunity to appear before you and to share with
12 you our observations on the impact of the
13 implementation of the employer sanctions provisions
14 of the new law on our membership.

15 Historically, the Houston Chamber has
16 supported employer sanctions since 1982, when
17 testimony was presented to the Senate Subcommittee
18 on Immigration and Refugee Policy and the House
19 Subcommittee on Immigration, Refugee and
20 International Law.

21 At that time, the Chamber went on record
22 as recognizing the need for employer sanction as a
23 realistic means of discouraging employment of
24 illegal aliens; however, the Chamber urged Congress
25 to note that "sanctions are acceptable, only if the

1 employer is not forced to become part of the law
2 enforcement system. Sanctions and verification
3 systems should not provoke undue hardships or
4 delays for either employers or employees."

5 So while the Chamber has supported
6 employer sanctions in the past, we are now
7 concerned that the current law and regulations have
8 imposed on the employer more burdens and
9 responsibilities than necessary.

10 Although the Chamber does not agree with
11 all provisions of the new Immigration and Reform
12 Control Act, because it is now the law of the land,
13 the Chamber has sought to inform and to educate the
14 general public and especially our members on the
15 provisions of the Act and the regulations to
16 implement it. In March of 1987, the Chamber, in
17 conjunction with the INS, conducted a seminar to
18 educate the employers on their responsibilities
19 under the new law.

20 We publish articles in our monthly
21 newsletter summarizing the law and its implications.
22 Prior to the INS's distribution of Form I-9 to the
23 general public, we secured the document and made it
24 available to our members.

25 With respect to the assessments of the

1 government's role in the implementation of the Act,
2 we have noted a vast difference in the government's
3 handling between the INS's local involvement and
4 also the national efforts; and the legalization
5 program and the employer sanctions provisions of
6 the Act.

7 We have observed that the national efforts
8 to disseminate information to employers and
9 employees about the change in the law, has been
10 woefully inadequate. The government's delay in
11 publishing and distributing forms is a major
12 illustration of the failure to provide employers
13 timely and in a timely manner with instruction and
14 information, which they need to comply with the new
15 law. Because of this delay, Congress wisely
16 revised the initial enforcement date to September 1,
17 1987. Clarification is now necessary to determine
18 whether the one-year warning period is likewise
19 extended.

20 On the other hand, we have observed that
21 local INS officials deserve commendation for their
22 extraordinary effort in the educational campaign
23 which they conducted to inform the general public
24 and the employee pool of the Act's provisions
25 dealing with legalization and employer sanctions.

1 A substantial number of seminars were held
2 by local INS officials in the evenings, on weekends,
3 and beyond normal working hours; but importantly,
4 at a time when concerned employers and aliens were
5 able to get the opportunity for one-on-one meetings
6 with officials following those meetings.

7 While the federal government's handling of
8 the employer's responsibilities appears wanting,
9 the administration of the INS, at both the local
10 and the national level, deserve praise for the
11 exemplary manner in which they have implemented the
12 timely opening of some several hundred new offices
13 necessary to accommodate the flow of people seeking
14 legalization.

15 We noted that local and some regional
16 offices have demonstrated the correct attitude in
17 showing compassion for those seeking amnesty or
18 legalization. Local INS officials have
19 successfully addressed numerous problems arising
20 during these early stages.

21 Following discussions with our various
22 members representing different sectors of the
23 Houston employers, we can only conclude that it is
24 premature at this time to fully assess the impact
25 of the employer sanction provisions of the new law.

1 Government's mediocre attempts to properly
2 educate and employers and employees, particularly
3 U. S. citizens, as to their responsibilities, as
4 well as the government's need to delay certain
5 deadlines have led to general confusion among the
6 business community. Corporate lawyers are able to
7 steer management and personnel administrators
8 through the procedure, but the smaller businesses
9 have not been provided adequate guidance in
10 determining whether their procedures of securing
11 verification of work permits or citizenship comply
12 with the law while they do not violate provisions
13 of the Equal Employment Opportunity Commission
14 statutes.

15 Distrust of the government is noted among
16 some of our members. We have found that there
17 exists a high degree of suspicion as the purpose
18 and intent of the law is a feeling that the amnesty
19 program is but a big scam.

20 Many feel that INS is merely seeking to
21 locate and ultimately to initiate proceedings
22 against those workers seeking amnesty. In our
23 efforts to gather data to prepare for today's
24 assessment, we found that several of our members
25 were prohibited by their corporate counsel from

1 contributing to our fact-gathering efforts.

2 The agricultural sector was likewise
3 reluctant to discuss their experiences. Only with
4 the assistance of the staff of one of the U. S.
5 Congressman were we able to get from this sector
6 information, while there was a guarantee to them of
7 anonymity.

8 Since it is commonly believed that most
9 area laborers would not qualify under the
10 agricultural sections for seasonal workers, there
11 is a fear by the employers that if their workers
12 apply and subsequently do not qualify, INS would
13 have a record as to where they are located and
14 subsequently could initiate proceedings to deport
15 them and to penalize the employers. Further, it
16 was learned that area farmers and ranchers were
17 encountering problems in securing information from
18 INS on the procedure for applying for H2a seasonal
19 worker visas.

20 In discussion with our members, we have
21 learned that businesses have experienced a greater
22 administration cost in complying with the provision
23 of the law. Employers have found that applicants,
24 ironically, particularly U. S. citizens, seeking
25 employment do not have the proper documentation

1 indicating identity and employment authorization.
2 We suggest that INS direct efforts toward the
3 greater need of educating the employers and
4 prospective employees, including amongst that group
5 U. S. citizens, about the requirements of the law.

6 The Houston Chapter of the Associated
7 General Contractors, which is composed of some 900
8 members within the commercial building construction
9 industry, informed us that, to date, their member
10 firms have had extremely limited experience with
11 the Act. Because of the present economic situation
12 in Houston, we do not have sufficient data or
13 information to discern additional problems to
14 illustrate trends at this time. The market volume
15 for commercial buildings has been way down. As a
16 result, very few firms have been involved in hiring.

17 In addition, the economic situation and
18 the resulting low demand in employment do not allow
19 us to project what impact, if any, this law will
20 have on the availability of workers, at this time.
21 The agricultural sector, however, has experienced
22 loss of employees as those who have been found
23 eligible for amnesty have left the farm to find
24 more lucrative employment.

25 One observation of local employers has

1 been the sense of ambiguity created by the INS's
2 failure to provide for families when a family
3 member qualifies for amnesty. We have noted that
4 these aliens feel that their family members who do
5 not qualify will be deported because of their
6 amnesty application. Something must be done to
7 prevent splitting up of families. We believe that
8 INS, protestations to the contrary, can address
9 this issue administratively, but has failed to do
10 so.

11 In conclusion, the Houston Chamber of
12 Commerce commends the Immigration and
13 Naturalization Service for its successful and
14 compassionate implementation of the legalization
15 portion of the Act, but urges government to be
16 aware of the need to educate the nation's employers
17 and prospective employees, U. S. citizens included,
18 on their responsibility under the new law.

19 We urge a more aggressive information
20 campaign to assist employees and employers alike in
21 these efforts.

22 Further, we suggest that this Commission
23 seek additional information after the enforcement
24 of employer sanctions and discrimination claims
25 have begun. As then, the implications of the new

1 law can be more accurately measured and evaluated.
2 Thank you.

3 MR. CHAIRMAN: Ms. Hernandez.

4 MS. HERNANDEZ: Thank you. Chairman
5 Canales, members of the Texas Advisory Committee,
6 my name is Antonietta Hernandez, and I'm the
7 Project Coordinator for the Texas Union Immigrant
8 Assistance Project here in Houston.

9 The Texas Union Immigration Assistance
10 Project is one of two AFL-CIO Immigrant Assistance
11 Projects in the country, we have a sister
12 organization in Los Angeles.

13 Our Project, which is a QDE, qualified
14 designated entity, provides orientation to the
15 Immigration and Reform Act of 1986, document
16 counseling by trained qualified counselors,
17 application assembly and completion, legal review
18 of all applications, INS interview preparation, and
19 we accompany them to INS, personally we take the
20 applicant in. We also provide fingerprint and
21 photo services, and other miscellaneous services.
22 And, incidentally, we happen to be one of the lowest
23 priced QDEs in town. That's something we're real
24 pleased about.

25 The quality and the extent of our services,

1 as well as the low fees we request, reflect the
2 commitment that organized labor has to assist all
3 working men and women in this country. The labor
4 movement has a long and rich history of advocating
5 and initiating programs that will directly affect
6 working people. And we continue to do so as in
7 this Immigration Project that we have.

8 The National AFL-CIO supported employer
9 sanctions because we felt that in this manner the
10 exploitation and abuse of undocumented workers will
11 be alleviated or at least brought to a minimum. If
12 you remedy that aspect of a worker, which is his or
13 her illegal status, that which makes them
14 vulnerable to abuse and exploitation by an employer,
15 you in turn force the employer to treat them as a
16 full and equal employee.

17 Also, the raids which penalized
18 undocumented workers would then take a turn where
19 employers who hired them in the first place would
20 be the party that would be penalized, and not the
21 employee.

22 INS has taken some steps to educate
23 employees about employer sanctions, i.e. the
24 Employer Handbook, which is good. But I suggest
25 that more education is needed, so that employers

1 will not panic and terminate or dismiss any worker
2 unfairly.

3 It has been the experience of the Texas
4 Union Immigrant Assistance Project to receive
5 numerous calls from employers asking what they're
6 supposed to do, they really don't know. Once we
7 talk to them, the majority of the employers will be
8 cooperative and quite appreciative of the
9 information, and also willing to comply with the
10 law.

11 I'm seriously concerned with the numerous
12 other employers that don't call to get information
13 and proceed to act in an uninformed manner, and
14 quite possibly, in an unlawful and discriminating
15 fashion.

16 This brings us to the anti-discrimination
17 pieces of the legalization. Not only did the
18 National AFL-CIO support employer sanctions, but we
19 strongly supported the anti-discrimination
20 provision of the law, so as to safeguard and
21 protect the rights of any worker. As it stands, we
22 understand there's an acting special counsel to
23 deal with this matters and that a permanent special
24 counsel candidate has been nominated. We urge that
25 a permanent special counsel be appointed as soon as

1 possible.

2 We also strongly suggest that field
3 offices be set up throughout the country, be it an
4 office at EEOC, or at INS or the Justice Department,
5 to handle public education as well as to assist
6 persons who have questions regarding discrimination
7 in regards to IRCA.

8 Final anti-discrimination specific
9 regulations are not in place and, needless to say,
10 this is long overdue and needs to be promptly
11 expedited.

12 Regarding the language as interpreted by
13 the Justice Department, "It is unlawful immigration
14 related employment practice for a person or other
15 entity to knowingly and intentionally discriminate
16 or engage in a pattern or practice of knowing an
17 intentional discrimination against any individual,
18 etc."

19 Proving intent, as the language states, is
20 extremely difficult, if not impossible, and we
21 would like to suggest, we strongly suggest, that
22 the language be modified as well as the
23 interpretation of the Justice Department.
24 Otherwise, the law really will be very difficult to
25 prove and will be useless, as far as we see it.

1 In our experience, the impact of the
2 legislation has been two fold. On the one hand, we
3 see cases of an increase in wages because employers
4 are aware of undocumented workers taking steps to
5 legalize their immigration status in this country.
6 And this is one effect that we were hoping would
7 happen. It's just beginning to start, we see it.
8 We don't see it as often as we would like to see it,
9 but it's just beginning at this point.

10 The flip side of that situation is that
11 those persons undocumented that have not yet taken
12 steps to legalize or that the employer does not
13 know that they have, or that those persons that are
14 ineligible for amnesty, are being exploited more
15 than ever with employers abusing the situation and
16 lowering their wages.

17 The legalization program will effect fewer
18 numbers that were predicted, I think a lot of us
19 will agree to that. Although, a significant number
20 will enjoy legalization. A still greater number of
21 those not eligible for legalization, will go to
22 even a lower class of worker, where they will be
23 more vulnerable then ever to abuse and exploitation.

24 These are some of the effects that we have
25 seen, although we feel its a little too early to

1 really gauge the full impact of this legislation on
2 workers, on employees, on employment, and on this
3 country. Thank you.

4 MR. TOBIAN: Mr. Gee, you made a
5 statement, the family unification idea with the
6 potential of an otherwise immiently qualified
7 person qualified for amnesty, not applying for such
8 amnesty if he knew that a wife or a child, or a
9 parent would not be qualified and therefore deport
10 them.

11 MR. GEE: Yes, sir.

12 MR. TOBIAN: The law makes no
13 provision for this?

14 MR. GEE: Under the present law and
15 the interpretation by the Immigration Service; they
16 indicate that the family members would be subjected
17 to deportation. The Immigration Service would
18 allege that the information would have to come to
19 them, that in the amnesty application procedure, it
20 is not available to the deportation section of the
21 Immigration Service. But to the alien, they don't
22 differentiate, it's government, I mean it's INS.
23 They don't understand that there's a difference
24 between one agency or the group that is
25 administering legalization as opposed to those

1 involved in deportation.

2 So I think that's a matter of further
3 education. I think it's a matter that the word has
4 to be gotten out to the different people. But what
5 would even help appreciably more is if Immigration
6 would adopt a policy announcing that they would not
7 initiate such deportation proceedings. They can do
8 it under extended voluntary departure, they can do
9 it, they have means administratively to make this
10 interpretation. Their protestations at the present
11 time is that they are without authority to do this.
12 They feel that Congress must change the law.

13 MS. HERNANDEZ: Excuse me, I'd like
14 to make some additional comments. I'd like to
15 reiterate what the gentleman has just stated. I
16 think family unification is a big issue, it's very
17 important.

18 In addition to that, I know the focus is
19 on employer sanctions, but I would like to take
20 this opportunity for the committee to look at the
21 question of DWIs and how that will affect
22 applicants in this state.

23 MR. CHAIRMAN: Unfortunately, we
24 don't have time and our focus really is on employer
25 sanctions. We have very little time, but if you're

1 interested, you might come back at 4:00 and work on
2 that particular point.

3 MS. HERNANDEZ: I see, thank you.

4 MS. LIPSHY: Ms. Hernandez, you
5 mentioned cases where employers were using-- The
6 possibility of having undocumented aliens in their
7 employ as an excuse to lower wages?

8 MS. HERNANDEZ: Yes.

9 MS. LIPSHY: Are you aware of actual
10 cases where this has occurred? I wasn't clear on
11 whether this was just a notable potential for abuse
12 or is this happening now?

13 MS. HERNANDEZ: No, this is actually
14 happening in the city. And the potential is even
15 greater. Employers talk to each other once they
16 know that they can get away with doing something
17 like this, this will happen.

18 Another thing that we see happening, also,
19 is that employers are hiring a large significant
20 number of undocumented workers to get a lot of work
21 done before September 1st. They need to read redo
22 their warehouse, they need to paint it, and so what
23 they do is they hire a lot, a significant number of
24 undocumented workers to get this done before
25 employer sanctions will be enforced because they

1 know after that somebody will be looking at what
2 they're doing. And that is happening.

3 MR. TOBIAN: Mr. Gee, I would like
4 to ask you this: You talked about your
5 fact-findings. It seems like you all have been
6 doing an admirable job in that area. I'm wondering
7 what mechanism you have set up to continue this
8 effort over the next year or two.

9 MR. GEE: Thank you. I think that
10 the Houston Chamber's staff has done an exemplary
11 job in getting all of this information and trying
12 to assimilate as much data as possible. This
13 organization has an ongoing interest in monitoring
14 legislation and all matters in this particular
15 regard. There will continue to be educational
16 projects in the future, seminars, a distribution of
17 information relating to the new laws and its
18 implications upon the employers. So I think that
19 there will continue to be an ongoing interest.

20 I think that part of our concern is
21 getting the word out to the smaller employers.
22 I think that one of the situations that we have
23 observed is that frequently it's because the
24 employers don't understand. For example,
25 terminations in the past have occurred because they

1 don't understand that there's a grandfather clause,
2 and that the people still have the opportunity to
3 go ahead and continue employment at this time.

4 So I think that education, to me is a very
5 salient and important factor in making this
6 legislation work.

7 MR. CHAIRMAN: Ms. Berriozabal.

8 MS. BERRIOZABAL: I have just one
9 question. First of all, a commendation to each of
10 you, the Members of the Chamber and the Union for,
11 I think, outstanding interest in going out of your
12 way, really, to inform your respective
13 constituencies.

14 Do you have information, the Chambers on
15 the program that you're following that could be
16 replicated in other cities? And the same holds
17 true for the AFL-CIO. Particularly, Ms. Hernandez,
18 is this a commitment on the part of the national
19 office of the AFL-CIO, or is it within the
20 communities that the Project came from?

21 MS. HERNANDEZ: It's very much a
22 national commitment. At the present time, there
23 was a big interest in the Los Angeles area. In
24 Texas, there was an interest in the Houston area.
25 We're looking to see where other smaller versions,

1 and we do have a model that we can put in place in
2 other parts of the country.

3 Another thing that we're looking at after
4 May of next year, what's going to happen. You lead
5 people up to a certain point, and we have to talk
6 about the education and we have to talk about these
7 citizenship programs and all this.

8 So, it's not a short term commitment, it's
9 a long term commitment, and it's a model that can
10 be placed in different areas, depending on the
11 interest and the commitment in those areas. But it
12 is a national commitment.

13 MR. BERRIOZABAL: Perhaps any
14 information, Mr. Chairman, that we can give so that
15 we can take back to our respective cities.

16 MR. CHAIRMAN: Yes. We have a
17 question for you and that is: I think probably
18 what she's saying is that we would like to continue
19 receiving information from the various groups, and
20 if you would provide us with that, we would
21 appreciate it.

22 MS. LIPSHY: Dr. Sanchez, is there
23 an effort on the part of the Mexican American
24 Chamber of Commerce for outreach to your
25 constituency?

1 DR. SANCHEZ: Yes. And not only that,
2 we do it not only in English, we do it bilingually,
3 we do it in Spanish. And on that, I want to point
4 out that the Immigration Office here in Houston has
5 been cooperating with the Chamber and also with the
6 Hispanic media in providing all that information in
7 a language that they understand. And the Chamber
8 is also doing that bilingually in their newsletter.
9 Our newsletter is bilingual, it's in Spanish and
10 English. So we are doing it in the two languages
11 and we intend to keep on doing that because I think
12 that education is very important for us.

13 MR. CHAIRMAN: Thank you, Dr. Sanchez.
14 Mr. Velarde.

15 MR. VELARDE: Haven't you mentioned
16 that one of the fears of the Chamber was the fact
17 that it was going to put an undue burden on the
18 employer to, in essence, "police" its own employees
19 by coming up with all kinds of paperwork and it
20 would cause a problem? I'm going to really address
21 my question to Ms. Hernandez.

22 Ms. Hernandez, I notice that you are very
23 much involved in getting people legalized. But I
24 understand that under the law, you also have a
25 certain responsibility to police your membership in

1 that if I'm a contractor, and I want to use union
2 labor, and I ask you to send me a carpenter or send
3 me an electrician, that I as a contractor don't
4 have to worry about the paperwork. That it's you
5 as the union who must send, a what, certificate of
6 employment eligibility or something, something like
7 the State Employment Agency, that you have screened
8 your own people and taking me off the hook. Is
9 that going on in the union structure?

10 MS. HERNANDEZ: Well, Mr. Velarde, I
11 don't agree with you. There was a provision passed
12 that union halls do not have that responsibility,
13 and it's actually the contractors that have the
14 responsibility.

15 Where you're going to find problems is you
16 have subcontractors, and then you have the
17 contractors. But it is not the union hall's
18 responsibility to make sure that someone is or is
19 not a legal resident of this country.

20 MR. VELARDE: So you don't have the
21 same responsibility as the State Agency who if they
22 send an individual to a job, they have screened
23 this person before he is sent?

24 MS. HERNANDEZ: We have no legal duty
25 to do that. No, we don't do that.

1 MR. VELARDE: I just read it
2 differently. I think it's something that we should
3 look into.

4 MS. HERNANDEZ: In fact, it was a
5 question at the very beginning. It was something
6 we were very concerned about. Do union halls, are
7 they considered employers, by virtue of paying dues
8 and that kind of thing? And there was some
9 legislation or not legislation, but there was a
10 provision passed later on that, no, union halls are
11 not considered employers. And that we are not-- we
12 don't have any legal duty to check the I-9's and
13 all that kind of stuff.

14 MR VELARDE: Well, that bothers me to
15 some extent. If I was a contractor, and I got a
16 job with the Federal Government that said you have
17 to hire a union. And I said "okay." Since I have
18 to hire a union, I want to go to your union. Be it
19 electricians, carpenters or whatever, I feel that
20 that responsibility, me as a contractor, should not
21 be put on my personnel but to you as a union.

22 If you are saying these are union members
23 and we're sending them to you, that the compliance
24 on finding out if they're legal or not, is also as
25 much a responsibility of the union as it is me, the

1 contractor who wants to comply with the law?

2 MS. HERNANDEZ: At the present time
3 we are doing everything possible to legalize those
4 undocumented workers that are eligible for
5 legalization. I mean, that is what we are involved
6 in at this point. The fact still remains is that
7 we don't feel it's our legal responsibility to make
8 sure that the other people-- I mean, we're going
9 out there and we're saying: This is available,
10 whoever is eligible let's go ahead and change your
11 status. And those people that are not or don't
12 come forward, if they are union members, we do not
13 weed them out.

14 It is the contractor's, we see it is the
15 contractor's responsibility to see whether or not
16 they're going to hire them in complying with the
17 law. We don't believe it is the union's
18 responsibility.

19 MR. VELARDE: Mr. Gee, you're an
20 attorney, how do you feel?

21 MR. GEE: I think that part of the
22 law provides, also, for a referral. And the
23 concern, basically, is where they'll be referring
24 for a fee and whether the union falls within the
25 provision of that aspect of the law.

1 Certainly it's susceptible to
2 interpretation, and I think that much of this will
3 have to be ultimately interpreted by the courts,
4 because I'm sure there's going to be litigation,
5 once the employer sanctions provisions are being
6 enforced. I think that at that point, and that's
7 what the Chamber has indicated heretofore, and we
8 feel that it will be quite appropriate to
9 investigate further after the implementation and
10 the enactment of the employer sanctions portions of
11 the law.

12 MR. CHAIRMAN: Thank you, we have one
13 more question. Mr. Dulles.

14 MR. DULLES: I think Ms. Hernandez
15 raised a very important point. If EEOC is taking a
16 passive role in this portion of non-discrimination,
17 the office of special counsel virtually does not
18 exist. Most people are not aware that the law
19 requires that the President appoint an Office of
20 Special Counsel, that complaints of discrimination
21 of employment discrimination, discrimination based
22 on the law be filed within 180 days of this special
23 law.

24 It is my understanding that there was
25 supposed to be a regional office network set up.

1 And as far as I can ascertain, there's been almost
2 no publicity or information regarding this program.

3 It might be appropriate for members of the
4 Houston leadership for this community to continue
5 to be upfront on many of these issues, and to
6 invite the United States Department of Justice to
7 send their Special Counsel to be on the radio
8 program, to come out and visit. To invite that
9 individual to Houston and talk about what they plan
10 to do to implement the Office of Special Counsel
11 and its responsibilities under the law.

12 MR. HERNANDEZ: I think that's an
13 excellent suggestion. We feel like right now
14 people would have no earthly idea of what to do.
15 Even if they had a question, even if something was
16 happening to them and they weren't sure whether it
17 was right or not, there is no where to turn for
18 these people.

19 In addition to that, the way the
20 legislation reads in regards to awarding of
21 attorneys fees, losing party pays the fees. That
22 is also a deterrent, that is also a deterrent for
23 folks to file.

24 If people know that they are going to have
25 to gamble lots of money-- 1.) they don't know what

1 to do about it in the first place.

2 And 2.) if they hear that they have to
3 gamble a lot of money on this thing, even though
4 they feel that they are within their rights, that
5 is a strong deterrent for people to file. I think
6 that's something that the committee has to look at
7 very, very closely.

8 MR. CHAIRMAN: Thank you all very
9 much. I wish we had hours and hours to spend
10 finding out the information that we have here. Mr.
11 Gee, and Dr. Sanchez, and Ms. Hernandez. We thank
12 you very much. We'll break for lunch.

13

14 * * * * *

15 (A lunch break was had.)

16

17 MR. CHAIRMAN: The meeting of the
18 Texas State Advisory Committee of the United States
19 Civil Rights Commission will come to order again.

20 Very briefly, for some of you that may not
21 have been present this morning. We are convened
22 here to receive information concerning the employer
23 sanctions of the U.S. Immigration Reform and
24 Control Act of 1986. And introducing the members,
25 again, on my left is Vice-chairman, Mr. Tobian from

1 Dallas, Texas. Maria Berriozabal, Councilwoman
2 from San Antonio. John Dulles, Civil Rights
3 Analyst, Staff from the Regional Office. We have
4 Denzer Burke, Lynn Lipshy from Dallas, Texas. We
5 have Dr. Manuel Pacheco from Laredo, and Al Velarde
6 from El Paso.

7 At this time, Robert McCain, Director of
8 the Recruitment for the Houston Independent School
9 District. After that we have Henry Brocher.

10 MR. BROESCHE: Bra-zher.

11 MR. CHAIRMAN: They have told us
12 three different ways to pronounce it.

13 MR. BROESCHE: Well, it's not spelled
14 like it's pronounced and that's one of the closest
15 that anybody has ever gotten to it without knowing.
16 So, thank you.

17 MR. CHAIRMAN: Henry Broesche, past
18 president of the Greater Houston Builders
19 Association.

20 Salvador Esparza, President Hispanic
21 Chamber of Commerce.

22 Glenn Rex, Executive Director of the
23 Houston Restaurant Association.

24 Gentlemen, we can take you in the order
25 that you were introduced.

1 MR. MCCAIN: I am Robert McCain. I
2 do work for the Houston Independent School District.

3 The school district is so regulated
4 already that one more regulation is perhaps not as
5 important to us as it is to some.

6 In terms of the impact of the new
7 Immigration law and the I-9 Form, in particular,
8 well over half of our employees have to have some
9 other kind of check and pass certain other types of
10 regulations regarding certification. So, outside
11 of getting the instruments themselves, the impact
12 on the employees has not been too great.

13 For example, to get a certificate, a full
14 time certificate in the State of Texas, you have to
15 be a citizen of the United States. To get even a
16 permit, for all practical purposes, you have to
17 have at least your alien registration. We've tried
18 very hard to recruit people on H-visas from outside
19 the country who can serve needs such as bilinguals,
20 but we've not been able to do that because of those
21 requirements. So, when someone comes in to us with
22 a certificate, most of what we need to see is
23 already there.

24 Our big problem with the particular
25 situation we're in now is logistics. We have over

1 twenty thousand employees, and they're spread out
2 over a fifteen mile wide district and over 250
3 locations. And the people that we employed since
4 November 7th and before the forms became available,
5 are a pretty big problem for us.

6 I'm working on that today, by the way, on
7 this many people that I have to try to get the
8 forms on that, that we have the forms. The new
9 people that we employ we have the forms and we do
10 that 'as we employ them. But we have over half of
11 our people coming in from outside the State of
12 Texas, our professionals. And we include in that,
13 secretaries, clerks and aides, because they're also
14 covered by certification.

15 We recruit and interview in February,
16 March, and April. We send out contracts by mail in
17 May and June and July, and they report in August.
18 Invariably, when they come in, they've left their
19 birth certificate with momma or everything else is
20 packed up, and it's very difficult for all of them.
21 We hire anywhere from 1600 to 2200 new teachers
22 alone. That's not counting the other employees
23 every year. And the big problem we have there is
24 that three-day limit, where we fully anticipate to
25 have some classrooms vacant for several days, while

1 they're rounding up all of those materials. We
2 have sent them letters, we've told them what they
3 need to do, but dealing with that many people,
4 that's going to happen.

5 As far as our other types of employees,
6 I've told all of the interviewers and asked them
7 specifically, "Have you changed your interviewing
8 or your screening in any way since the Immigration
9 regulations have come along?"

10 And everyone of them told me that there
11 has been no change in screening, no change in the
12 interviewing, no change in the hiring practices,
13 other than the fact that we have to go through one
14 more process.

15 So we don't feel in terms of the impact on
16 any particular group that is having an impact on
17 anybody getting employed. It may delay them for
18 several days, but it does not impact who is
19 employed and what kind of employment they receive.

20 MR. CHAIRMAN: We call now on Henry
21 Broesche.

22 MR. BROESCHE: I'm here representing
23 the Greater Houston Builders Association, and I
24 would imagine we were asked to speak regarding
25 employer sanctions because of the tremendous amount

1 of subcontractors that we hire in the area of labor
2 that could possibly hire illegal aliens or people
3 that would fit into that category.

4 I'm not saying that is the case. However,
5 there are a lot of subcontractors in the concrete
6 or brickwork, and this type of thing, that have
7 Mexican Americans that work there and so forth. We
8 have about four problems with this Act. And I'm
9 going to list them in what I think are the biggest
10 problem areas.

11 1.) The overall philosophy of this act
12 makes us the police force. We should not be the
13 police force. And I'll expound on that in a minute.

14 2.) The definition of "independent
15 contractor," that you have in this Act, does that
16 include our subcontractors as an independent
17 contractor?

18 We've been through this situation before
19 regarding taxes, withholding taxes, and it's of our
20 opinion that these are independent contractors.
21 When I say an "independent contractor," we as the
22 builder or general contractor hire a bricklayer and
23 let's use those people for example, right now, or a
24 contract finisher, and we pay them a wage-- pardon
25 me, a fee to do this work.

1 It's been our national position, the
2 National Association of Home Builders' position,
3 that these people are independent contractors and
4 we do not have to worry about their employees, only
5 the person that we hire as the independent
6 contractor. And actually we don't even really have
7 to worry about him because he is an independent or
8 a subcontractor. That needs to be clarified.

9 And as a builder of our size, we have, say,
10 twenty employees, and we might have a hundred
11 independent contractors with employees that total
12 maybe two or three hundred. There could be seven
13 or eight people that work on a crew, whether it be
14 carpentry, bricklaying, concrete, or what have you.
15 So, there's a major problem as far as we're
16 concerned.

17 We've taken the position and our National
18 Association has taken the position that these are
19 independent contractors. But the sanctions are
20 great, if in fact, two years from now there's a
21 ruling that comes down and says "we should have
22 gone in and found out everyone of the people that
23 worked for this subcontractor, including him, that
24 we needed an I-9 Form for him."

25 That needs to be cleared up. This could

1 be a young man that's 17 years old, that's hauling
2 cement or sand for the contractor, be it whether it
3 be bricklayer or concrete contractor or carpentry
4 or anything, it could be a helper, it could be
5 anybody, just a cleanup person.

6 We have no control over those people as
7 far as the people that they hire. A person comes
8 into us and we hire him to frame or raise the
9 framing on the house. He is given a set of plans.
10 He's asked to go out and do this and he obviously
11 gives us references to make sure that we know that
12 he can do this. And based on that, he is an
13 independent contractor. He's not paid by the hour,
14 he's not paid by the week, or semimonthly, he is
15 paid for the completion of the job.

16 So, the independent contractor situation
17 is one of our problems, one of our major problems.
18 And we need to make sure that that is clarified,
19 where down the road some years, and I'll repeat
20 again, that this isn't considered to be an employee
21 as far as the law is concerned.

22 Enforcement, we're concerned if it will be
23 equally and fairly applied to all in how it will
24 work. I don't need to expound much on that.
25 That's basically what we are very concerned about

1 there.

2 We think that this creates a great market
3 for forged documents which would place the employer
4 in an extremely tense situation. Now, I have read
5 the Act and I understand that we are not in a
6 position to have to decide whether they are forged
7 or not. However, I'm sure we're all aware that if
8 you have a situation where things or things can be
9 very neatly forged, things can be not neatly forged,
10 or things can be in the middle.

11 And what are the sanctions there and is it
12 true that if somebody came in and gave you a green
13 card or a driver's license that maybe looked funny,
14 if you didn't take any action on it, what are the
15 sanctions and how strong are they?

16 And, again, we're in a police situation,
17 and our people are not trained for that. I mean,
18 we've got a personnel manager, or in a lot of
19 builders' situation, you've got a one-man office
20 with a secretary or two. And these people -- and
21 this is predominately the case in the United States --
22 these people are not trained to look for this type
23 of thing. Their time is spent in doing things that
24 are profitable for the organization and corporation,
25 and it shouldn't be spent on policing an act that

1 we have to live with.

2 Recordkeeping is arduous and time
3 consuming. It's not a major factor. However, it
4 is there.

5 We feel like that the cost of labor will
6 go up. And this is why we feel that way. Anytime
7 that you put more paperwork on our superintendents
8 or people that hire, and as I said before, most of
9 the builders in the United States are five or less
10 employees or six or less employees, and you don't
11 have a specialist in personnel, like say a builder
12 that's doing two or three or four thousand houses a
13 year would have. To add this to their job
14 description, this is rather difficult to do from a
15 standpoint of the recordkeeping that's involved.

16 I'm sure you've heard of the "Mom and Pop
17 Builder" over the years, and all the paper and the
18 pencils that go in their pocket, this is what you
19 see with most builders today.

20 We as a builder are a little bit larger
21 than that. Hopefully, we're a little more
22 sophisticated, that doesn't mean we're any better
23 than anybody else. However, we do not have what we
24 would call with twenty employees, a personnel
25 department to do this. And the department head,

1 whether it be a superintendent hiring in the field,
2 a new superintendent, a girl hiring in the office
3 that runs accounting, another staff accountant or
4 something of this nature, they have to perform
5 those duties of this I-9 Form.

6 So, we don't have one person. You don't
7 go in and say to one person, "This is the law, this
8 is what you do, this is how you do it, you've got
9 five or six or seven or eight people to train."

10 So, this is a time-consuming problem. And
11 if you roll all of this together, ultimately, what
12 we're talking about is, increasing the cost of
13 housing, which is a major problem in the United
14 States today, a major problem in Houston, Texas,
15 today. And that what we are trying to build is
16 affordable housing.

17 Everytime we come before the City Council,
18 the Government, and the Federal Government, usually
19 it's is done by the National Association of Home
20 Builders, this is always the bottom line. I don't
21 care where it is. And it's very important, and
22 it's the truth.

23 The cost of housing in housing America is
24 the goal of the National Association of Home
25 Builders. And it's our goal in Houston, Texas, is

1 to put everybody that's possible, that can qualify,
2 and wants to, in a home. We feel like that's the
3 family situation that helps this country grow and
4 we feel like that's important to the benefits of
5 the country, whether they be black, white, Mexican
6 American, or whatever. And we feel like this will
7 drive up the cost of housing, strictly from the
8 standpoint of the time-consuming work in being able
9 to handle the paperwork, maybe more employees are
10 involved, but the real factor is the cost of labor.

11 And there are people that will work for a
12 certain wage, there are people that if you pay that
13 same certain wage won't work. And all it's doing
14 is cutting down the labor force. And we feel like
15 it will drive up the cost of housing.

16 We also, in conjunction with this, we'll
17 feel like it will lose a large portion of our
18 current work force and it's just difficult to find
19 people to do this work, as I just mentioned.

20 In conclusion, back again on policing our
21 borders, I guess Texas falls really in the midst of
22 this, and I would imagine that's why the hearings
23 are held here in that we're very close to Mexico.
24 And we don't feel like that we should be put in a
25 position to have to enforce and police this

1 particular law.

2 And I will conclude that I think this will
3 ultimately affect every American, not just
4 employers. Thank you.

5 MR. CHAIRMAN: Mr. Esparza.

6 MR. ESPARZA: Mr. Chairman, and
7 fellow commissioners, good afternoon, ladies and
8 gentlemen. My name is Salvador Esparza, I
9 represent the Hispanic community of Houston both as
10 President of the Houston Hispanic Chamber of
11 Commerce and as an owner of a commercial landscape
12 ground maintenance firm. A lifetime member of
13 Houston, I have been active in the Hispanic
14 business community affairs for the past 30 years.
15 And I'm currently the chairman of the Fiestas
16 Patrias as well as a board member of the
17 Hispanic/Jewish Business Round table, and member of
18 the Community Advisory Council for "A World of
19 Difference" with the Anti-Defamation League.

20 As such, I am pleased to present a few
21 remarks to this committee regarding the Immigration
22 Reform and Control Act of 1986, especially relating
23 to the implementation and its impact on the civil
24 rights and well-being of the Hispanic community.

25 I will begin by presenting a view of the

1 background of the current situation and detail
2 briefly the related life act of this Act. As I see
3 it, my landscaping firm and similar business
4 interest from the standpoint of the employer.

5 I will then broaden this view to reflect
6 the status of the whole community from the
7 perspective of the President of the Hispanic
8 Chamber of Commerce.

9 In short, we will consider this Act to be
10 an embarrassment to all the citizens of the nation
11 that professes to endorse human rights. This act
12 seemed to us to have become a law of contrary to
13 the expectations of all who have served and
14 observed the political scene in the United States
15 for the past few years.

16 Therefore, it seemed to me or to us, that
17 seems to be more an act of political legalization
18 than of concerned policy-making, and in having the
19 effect of giving discrimination against Hispanics a
20 legal justification in a damage of the entire
21 economy of American Southwest as well as Mexico.

22 At this point I will direct my remarks as
23 the owner of the landscape and grounds maintenance
24 firm, an industry that relates largely on the
25 Hispanic for his work force.

1 The impact, when the Act passed in
2 November of 1985, employers were informed that
3 there would be a requirement to fill out a form INF
4 I-9, which was to appear on May 5, 1987.
5 Information regarding this I-9 was also supposed to
6 have been available at this time. It was not.

7 At this point our community took the
8 initiative to find out what the procedures and
9 regulations were to be for the implementation of
10 this. We were told that no information was
11 available regarding either the form or the
12 procedure of filling out the form, let alone any of
13 the other procedures and implementation of the Act
14 as it concerned employers.

15 The lack of information notwithstanding,
16 we set up seminars to discuss the role of this Act,
17 and used the resources that were available, such as
18 legal advisors, INS representatives, and so on, to
19 attempt to speculate what would be the requirement.

20 The result of this lengthy delay and the
21 absence of any office and agency who would take
22 responsibility and decisive action regarding the
23 message led evidently into chaos and confusion.
24 Employers laid off Hispanic employees in the fear
25 of fine threads for noncompliance. We also saw a

1 lot of contractors losing contracts because of
2 employers' fear of noncompliance.

3 When the I-9 form and some information
4 finally did arrive, it was confusing, time-
5 consuming, and costly to prepare, and did not
6 guarantee safety to the employer or to the employee.
7 The impact of this has been to add significant
8 hardship to the business and especially to small,
9 small disadvantaged business concerns.

10 First, paperwork. The paperwork required
11 for a business to operate is already substantial.
12 The I-9 in a relative form, not only adds to this
13 burden of actual paperwork, but increased the
14 anxiety about the paperwork is great detail.

15 Small businesses do not have the luxury of
16 personnel managers, inspectors, and various
17 departments to ensure that compliance regulations
18 are met regulations or met. Therefore, it has
19 added substantially already difficult framework of
20 minority enterprises.

21 Second, the upgrade of employees. It is
22 common knowledge that it has cost a great deal of
23 businesses to train employees in the first place,
24 and requires such effort to keep one's working
25 force in top shape. This involves training,

1 education, promotion, and morale. The Immigration
2 Reform and Control Act has and will affect undue
3 all the time energy and resources that business has
4 invested in the upgrade of their workforce.

5 Third, the finding of the employees.
6 Contrary to the beliefs of those who are far from
7 this situation, Hispanics are not taking jobs away
8 from the general American workforce. Rather, they
9 are filling a place that was vacuum in the existing
10 workforce.

11 Speaking for the industry of the
12 landscaping and grounds maintenance, it is very
13 difficult to find non-Hispanic workers who are
14 willing to do grounds work maintenance, because it
15 involves long hours, and hard work outdoors, let
16 alone do it for industrial-competitive wages.

17 At this point, I would like to broaden my
18 perspective, and speak as President of the Hispanic
19 Chamber of Commerce regarding the implementation
20 and impact that the Act has on the Hispanic
21 business under my purview.

22 The difficulty of implementation are
23 similar of all business, but the impact is far
24 reaching for the landscaping and grounds
25 maintenance industry alone.

1 The Immigration Reform and Control Act of
2 1986 is causing sufficient damage to the economic,
3 social, and political well-being of the Hispanic
4 people.

5 The basis of the act is economic. We as a
6 group have spent the past fifty years or more, the
7 past three generations in fact, trying to establish
8 ourselves as contributing members of the mainstream
9 society in terms of our education and standard of
10 living. We have worked hard to develop and
11 diversify our business community in the face of
12 tremendous setbacks in education and capital.

13 It has seemed that just as we are
14 beginning to have really headway and established
15 the foundation for a strong and vibrant business
16 community, in one Act we were set back to square
17 one. Only worse, because this Act gives "legal"
18 justification to not hiring Hispanics. And if
19 Hispanics cannot get jobs, then they cannot develop
20 individually as a group into citizens of the
21 mainstreams of America. This is a sizeable
22 obstacle to the concept and develop of the
23 Hispanics entrepreneurs in a community that is
24 a fast-growing sector in Texas.

25 Some have said Immigration Reform and

1 Control was intended to apply to all persons not
2 United States citizens. In reality, the only group
3 that it significantly affects is the Hispanics,
4 particularly from Mexico, El Salvador and Guatemala.
5 They are the people who are making up the work
6 force that the Act seeks disqualification.

7 The social effect that has been and will
8 be staggering. The social growth of the Hispanic
9 has been a similar course with the economic growth,
10 and that the Act has in like fashion disrupted. It
11 has taken fifty years for us to overcome the stigma
12 of the "wetback" and culturally hold ourselves
13 ourselves as American. Now, a group of legal
14 American citizens will suffer with those who are
15 not yet citizens.

16 The political effect will be the long
17 regard federal aid to Texas and the Hispanics
18 support of this particular in government. If
19 Hispanics do not participate in the life of the
20 arena via jobs and entrepreneurships, then they are
21 stigmatized as being "un-American," then all the
22 political strides that we have made will be nothing.

23 As the fastest-growing minority in the
24 United States and a potential voting force, if
25 Hispanics are (1) recognized in the Census as part

1 of the native population (2) not allow to
2 participate in the political mainstream, then the
3 potential federal aid that should come to Texas by
4 virtue of the population will be lost. And the
5 group that comprises a great segment of the
6 population will go without representation because
7 they cannot vote, and those Hispanics who are and
8 who might potentially serve as elected officials
9 will be penalized by the social effects of this Act.

10 In conclusion, as a small business concern
11 and as a representative of the community, I would
12 like to say that the Hispanic community considers
13 this Act to discriminate directly against us as a
14 group and to paralyze our economy, socially and
15 politically.

16 If we were not living in the United States,
17 we might tend to say that someone somewhere
18 observed our growth in the community, and our
19 numbers, and our increasing education, our power in
20 voting block and our marketplace, and felt
21 threatened by these accomplishments and
22 contributions that we have made and will continue
23 to make in the American life. In fear, this entity
24 said, "I will put a stop to the growth of the
25 Hispanic people," and considered the Immigration

1 Reform and Control Act of 1986. In doing so, he
2 could not have more effectively hurt us.

3 MR. CHAIRMAN: Thank you, sir. Now,
4 we hear from Glenn Rex.

5 MR. REX: If it's all right, I'm
6 going to stand so you can all see me as I speak.
7 Mr. Chairman, committee members, I appreciate the
8 opportunity to come and speak before you today.
9 I'm Glenn Rex from the Houston Restaurant
10 Association.

11 The Houston Restaurant Association is a
12 chapter opposite the Texas Restaurant Association.
13 We are the representing body of the restaurant and
14 food service industry in the State of Texas and
15 locally. We work very closely with the National
16 Restaurant Association on issues on the federal
17 level.

18 Our interest in the Immigration Bill is,
19 as it has been noted by my three predecessors, one
20 of increased regulations and employer requirements
21 to the Federal Government. Basically, we represent
22 family owned, single unit operations, small
23 businesses. People who go into business with a
24 good idea and are able to accommodate that good
25 idea in terms of presenting a good product to its

1 general public, which demands it. As such, their
2 primary concern in their business is to spend time
3 in the kitchen, to spend time on the floor, to
4 spend time dealing with their customers, that's
5 where they make their living.

6 We are very interested in all forms of
7 legislation, whether it be city, state, or federal,
8 what we feel impinges on the right of that operator
9 to take care of his business. We would like to
10 have more freedom to operate our businesses as we
11 see fit. The problem that we've always run into is
12 one that we've always felt that the marketplace is
13 the ultimate regulator.

14 The marketplace tells us what we're doing
15 right and what we're doing wrong. And if we don't
16 accommodate that, then we don't stay in business.
17 That's our basic interest in this bill in that it
18 is an additional requirement and additional burden
19 on our members, on the restaurants who operate in
20 the community, to accommodate this bill.

21 To this point, our activities as an
22 association have been to educate the membership and
23 try and initially clear up confusion and
24 apprehension that was first generated when the bill
25 was signed back in November. We conducted a series

1 of seminars with specialists, immigration attorneys,
2 and labor relations consultants to address our
3 members on the broad terms of the Immigration Bill,
4 what the bill itself was trying to achieve and then
5 try to address as many specific questions as we
6 could.

7 We further addressed our members through
8 our monthly correspondence and newsletters and
9 other legislative bulletins. To address further
10 questions that have come up, we've also retained
11 the services of an immigration attorney to speak
12 directly to our members when needed.

13 Generally our position has been one of
14 education. We want to make sure that our people
15 know what's going on with the bill and they know
16 how to accommodate it. Our biggest concerns with
17 the bill I think are (1) the potential for
18 discrimination. Well, it's difficult to put a
19 number on it. A large number of the jobs that you
20 find in a restaurant are menial-labor-type jobs.
21 And as such, they pay the very basic minimum wage.

22 Labor turnover is the major problem in a
23 restaurant, not because of this or any other
24 legalization but simply because the job does not
25 require a lot of background skills to accomplish

1 washing dishes or mopping floors.

2 Labor in those situations has always
3 turned over at a rapid rate. We feel like by the
4 impact of this new legislation, that that turnover
5 rate will increase. That gives us some concerns
6 about labor costs. Does it mean we have to pay
7 that laborer higher wages in order to keep them in
8 a little more stable position?

9 The amnesty provisions were an initial
10 concern and also an apprehension to us. Those
11 concerns have abated somewhat. Now the provisions
12 of the bill haven't been made clear. People know
13 the steps that they need to take in order to make
14 the amnesty provision work for those employees who
15 they had on their payroll prior to January of 1982.

16 That about sums up our concerns. Again,
17 we appreciate the opportunity to come to speak
18 before you today.

19 MR. CHAIRMAN: Thank you, Mr. Rex.
20 Dr. Pacheco?

21 DR. PACHECO: Thank you very much.
22 I want to commend this panel for its candor in
23 presenting these problems to us. I have a little
24 preamble and two questions for Mr. McCain, if I
25 might.

1 I know that the Houston Independent School
2 has been under particular pressure in the last
3 several years to provide teachers who are able to
4 teach in Spanish for the Bilingual Education
5 Program, and that the district has looked at a
6 number of ways to attract teachers. And one of the
7 options that they have looked at is the possibility
8 of bringing teachers from other countries, where
9 Spanish is spoken.

10 My question is: First of all, to what
11 degree has the Houston Independent School District
12 depended on attracting teachers from outside of the
13 country for fulfilling that very important mission
14 within the school district?

15 And, secondly, whether because of this new
16 legislation, where there's been any appreciable
17 decline in the availability of such teachers for
18 those programs?

19 MR. MCCAIN: Well, the first thing is
20 we have never been successful in getting anyone
21 from outside of the country to come in outside of
22 an exchange program. We even employed an attorney
23 and tried for fourteen months, every way we knew.

24 In the Texas Education Code, which is law,
25 there's a phrase or two that says, "The state will

1 not issue a permit to anyone who is not a permanent
2 resident of the United States."

3 Now, they changed that a little bit to say,
4 "who does not have a declaration of intention to
5 become a citizen," which is archaic. It used to be
6 a status. It is no longer a status, but the law is
7 still that way, it hasn't been changed. We tried
8 to get some of the legislators this last session to
9 do something about that, but they wouldn't.

10 So, in effect, the Medical Center can go
11 out and get doctors or nurses or whatever and bring
12 them in on an H-Visa as workers of ability and need.
13 Every other state that I know of can do it.
14 California can do it, New York can do it,
15 Pennsylvania can do it, I know that we've checked
16 those districts, but we can't do that.

17 We tried to get teaching and bilingual and
18 Special Education, in particular, through the
19 Department of Labor and get it on schedule "A," and
20 we tried that for quite a while. We went through
21 the Texas Employment Commission, we advertised, we
22 sent them lists. We did all of that, but they
23 never would allow us to do that. So, for all
24 practical purposes, we never did get anybody from
25 outside.

1 So, no, we haven't tried to rely on that.
2 It seems rather peculiar, I saw a lady last week
3 who can translate any Scandinavian language into
4 Spanish. She has a lot of medical training,
5 primarily medical documents. Colorado has
6 certified her, but Texas won't even allow her a
7 permit. So, that's where we are on that. Thank
8 you.

9 MR. CHAIRMAN: Mr. Velarde?

10 MR. VELARDE: As long as we're with
11 the school district, you specifically targeted in
12 your remarks that the teacher, the professional who
13 already has through certification met a lot of the
14 things that the Immigration Bill required, but
15 certainly there is a large supportive staff. I'm
16 talking about janitorial, cooks, maintenance and
17 the like. And similar to what the gentleman said
18 here, I'm assuming that there's probably a greater
19 turnover in that area.

20 MR. MCCAIN: There is a greater
21 turnover, yes.

22 MR. VELARDE: However, the
23 professional who is black, the professional who is
24 Anglo, the professional who is Hispanic, is now
25 being asked upon signing his new contract to come

1 and present this type of proof, so is the janitor,
2 so is the cook and the like.

3 What has been the reaction of people who
4 have never had to face this type of a requirement?
5 I teach at the community college in El Paso
6 part-time and I had to present my passport. I had
7 to present my Driver's License, even though I've
8 taught there for seven years and others did, too.
9 However, one of the biggest problems that they had
10 was the reaction of the people who were insulted,
11 that they who were born here, who were white, who
12 were black, who were Hispanic, had to go through
13 all of this kind of stuff. And people who had been
14 in the school system for years were told, "Don't
15 fill out the I-9 and mail it in. You come in
16 person because we want to see you, we want to see
17 your identification." It got so bad that they had
18 to get two policemen on the parking lot because the
19 people were so angry. I mean, has that kind of
20 reaction taken place at your personnel office?

21 MR. MCCAIN: Not nearly to that
22 extent. Now, the people that have the most trouble
23 with it are the native born Americans because
24 they've memorized their Social Security card and
25 haven't seen it in years. And the people that have

1 the documents are accustomed to it. They carry it
2 around, they have it with them, they're accustomed
3 to showing it to people, so there's no reaction
4 there.

5 The professionals are so accustomed to
6 having to go through the bureaucracy, excuse me,
7 that you tell them and they rig it out and they do
8 it, because they have to go through so many things
9 already. The nonprofessionals are a little more
10 sensitive about it. But we haven't had any real
11 severe reaction or anybody start cussing or
12 anything like that. They get mad when they have to
13 go home and hunt it and find it and bring it back
14 and they may have even lost the job by that time,
15 but not very often.

16 MR VELARDE: Have you asked this
17 question of the Immigration Service? In essence,
18 everyone of these people, before they sign their
19 contract at the beginning of the new year, are
20 essentially new hirees. Do you have to present an
21 I-9 every time around?

22 MR. MCCAIN: No. No. The contract
23 is actually for a year and it's renewed each June,
24 even though they don't work during the summer. So,
25 they don't have to renew it every year.

1 MR. BURKE: Mr. Broesche?

2 MR. BROESCHE: Yes, sir?

3 MR. BURKE: We have come to the
4 discussion about some employer sanctions and the
5 building contractor. Is it your understanding when
6 you hire a subcontractor that those employees that
7 are working for the subcontractor are directly
8 responsible to you, in terms of being eligible for
9 employment from a legal point of view that it is
10 your responsibility to check and make sure that
11 they are either legal aliens or American citizens?

12 MR. BROESCHE: No. We are of the
13 opinion that it's not our responsibility. This was
14 one of the points that I brought out in my first
15 comments regarding--

16 MR. BURKE: The police action?

17 MR. BROESCHE: -- the clarity of that
18 item. It's our opinion that a subcontractor, as I
19 said, whether he be a carpenter, a bricklayer,
20 concrete mason, is an independent contractor as far
21 as the Act is concerned and we are not responsible
22 for that. However, I don't know that that's the
23 way it is going to come down. That needs to be
24 clarified as to our industry or strictly the people
25 that are involved with subcontractors.

1 MR. BURKE: In terms of your
2 statement of being the policing agency, that it
3 should be the government to determine legal status
4 of individuals, what alternative do you have in
5 mind?

6 MR. BROESCHE: What alternatives?

7 MR. BURKE: Yes.

8 MR. BROESCHE: Get rid of the Act.

9 MR. BURKE: You do not agree that it
10 is desirable for this country to control its border?

11 MR. BROESCHE: No, I don't think it
12 is the problem that we foresee it to be. I think
13 that the situation exists where there was a need to
14 do something and it couldn't be handled by the
15 local Immigration or Border Patrol, but why put on
16 the backs of people that don't know anything about
17 this problem? And I would not excuse the
18 beauracracy, as you said a while ago. That's what
19 we are faced with here.

20 We have, in my opinion, if this country
21 lost work ethics, if we can find people that will
22 work, whether it be at this level or that level,
23 that's what we are looking for. And why do you
24 think that automobiles have been successful and are
25 being manufactured in other countries? There's two

1 or three reasons. The cost of labor. What about
2 clothing? Very few things are made here in
3 clothing. Why is this? Because it is so darn
4 expensive. We promote that we are the best.
5 Houston is the best transported and the best
6 clothed people in the United States. That's going
7 to go away if we continue to do that and do those
8 things just strictly here.

9 Now, we can change that if we can take the
10 work ethic in the United States. Maybe we can get
11 to a situation like the cost of housing, the cost
12 of transportation, the cost of clothing, this is
13 just one step in as that becomes more and more and
14 more expensive that we'll not be able to say we are
15 the best. We might be the best at the higher
16 levels of income, but not at the lower.

17 MS. LIPHSY: Your concerns about the
18 rise in the cost of goods and the cost of services
19 is eloquent, and it has my attention. Given the
20 fact that this law is ours to live with at this
21 point, and at least for the time being, we have to
22 live with it. Mr. Esparza and Mr. Rex, do you have
23 any constructive suggestions about what could
24 lessen the impact on the rise of the cost of goods
25 and services on your constituencies in implementing

1 this law from the employers' standpoint?

2 MR. REX: No, ma'am, I don't.

3 Representing the restuarant industry has been a
4 real challenge over the past several years. I can
5 name you twenty-five pieces of legislation at the
6 federal and state level that have impinged on the
7 operator's right to do business. And all of it is
8 costly. It takes an amount of teaching and and
9 requires them to hire accountants to take care of
10 his books, and specialized talent to take care of
11 other operations.

12 I guess our number one concern is that we
13 don't want to get to a fifteen dollar hamburger,
14 before the public is ready to pay for it. That's
15 really the bottom line. We are in the ultimate
16 service economy. We provide a service to people
17 who demand it, and if we don't provide it correctly,
18 they may go to somebody else and go out of business.
19 It's a real simple cut and dry sort of a situation.

20 Every kind of legislation, whether it's a
21 city ordinance that requires additional parameters
22 in health codes, or whether it's state legislation
23 regarding other laws like liquor liability, or
24 whether it's increased taxes at the state or
25 federal level, whether it's the Immigration Bill or

1 removing deductibility of businessmen's expenses or
2 adding to minimum wages or adding to minimum wages
3 with health insurance programs. All those things
4 add a cost of doing business.

5 And we are in a very tightly squeezed
6 position in trying to provide a service to our
7 customers at a price at which they'll pay for it,
8 particularly here in Houston, that's been a real
9 challenge over the last several years. It's not a
10 recession, by any means, but we certainly had a
11 very drastic slowing of growth. We all bet on the
12 future to continue as the past had, and when it
13 slowed down, it hurt. Our customers are very price
14 sensitive, nickles and dimes mean something to them.

15 So, consequently, we don't mess with our
16 prices if we can help it. If we can't mess with
17 the prices, you can't adjust your price to
18 accommodate the increased expense of doing business,
19 then your margins grow smaller and smaller and
20 smaller.

21 And on average, in the City of Houston
22 right now, there is no profit margin in operating a
23 restaurant. There are some restaurants out there
24 that make a good wage, and make a good return on
25 their investment. They're an awful lot more out

1 there that are operating in the red. And on
2 average, there is a zero return on the investment
3 in the restaurant margin right now.

4 MR. CHAIRMAN: We are running out of
5 time. We just have time for a couple of more
6 questions. Ms. Berriozabal?

7 MS. BERRIOZABAL: Earlier this
8 morning Mr. Lionel Castillo addressed us and he
9 gave us an overview of the legislation. And I
10 asked him a question at that time and I'll ask you
11 the same question.

12 Right now there are businesses and
13 individuals, like the gentleman with the school
14 district, who are interested in the Immigration Act
15 from the point of view -- I think you are
16 interested in it, period -- but more so because you
17 are the employers who sanctions will apply to and
18 you have been given the responsibility under the
19 Act to do a lot of enforcing, and people are taking
20 serious exceptions to that, and that's the message
21 that I hear from the four of you.

22 I was asking Mr. Castillo this morning if
23 he had seen a move as a result of this Act of a
24 coalition building situation between employers,
25 between the business community who has a very

1 definite interest in the Act and also the group of
2 organizations, like Catholic charities, Mexican
3 American Legal Defense, other groups who have been
4 interested in it also, perhaps, with other angles
5 or interests, but just as interested as you are.

6 Have you seen an effort of building
7 coalitions between those groups to either do what
8 Mr. Broesche indicated, and your option is to
9 repeal the Act or perhaps to find a better way of
10 enforcing it, figuring out what we do with it. Do
11 you see any effort at coalition building at this
12 point with groups like yours and group community
13 grassroot organizations and legal groups of sorts
14 to together figure out what we're going to do in
15 the future with this particular issue?

16 MR. MCCAIN: I would like to answer
17 one view. We're trying to figure out how we're
18 going to deal with the Act right now. And those
19 are the biggest problems that we have, let alone to
20 figure out what we're going to do in the future.
21 Our problem is today, and the coalition that you're
22 talking about is how to resolve the problem that we
23 have today, and so that's where we are at right now.

24 I would say that when we get to the point
25 that we feel comfortable in regards to the Act, and

1 understand the Act, and take care of the problems
2 we have in the community, then in the same essence
3 we will be working toward finding other solutions
4 in the problems that the Act has created.

5 MS. BERRIOZABAL: In other words,
6 people are right now just trying to figure out what
7 the Act is and you're consuming your time with that.
8 Would you agree with that?

9 MR. BROESCHE: Well, I'll speak to
10 that. There is, as I said before, most of the
11 people in our type of business that are general
12 contractors or builders and so forth, are small
13 businessmen, like the restaurant owner. And they
14 are themselves trying to figure out the Act.

15 The main thing, and I made the comment a
16 while ago, repeal the Act, that was the question,
17 that was my answer. However, my testimony in the
18 beginning was that there are some ambiguities as
19 opposed to the statement regarding the independent
20 contractor. We don't want this to hit us in the
21 back of the head two years from now when all of a
22 sudden you should have had the I-9 Form signed by
23 that subcontractor that did your brickwork. That
24 needs to be cleared up. Now, it says "independent
25 contractor," and we've made that assumption, but

1 that's very important.

2 As far as your question about the
3 coalition, we have not done anything with other
4 associations. Obviously, it seems like we're all
5 in the same boat here as for the people that we're
6 representing. And I think that that probably could
7 come about, but Texas is very much affected by this.
8 And I hope that my comments were understood.

9 It's strictly a matter of, as I said,
10 "work ethic" in that it's the labor cost is the
11 labor cost that's rising. And we don't want to see
12 this country, and especially Texas; even though
13 Houston has gone through a severe depression and we
14 have problems here and prices have gone down. But
15 when things are rolling, we don't want to have --
16 We do not want to see situations exist where the
17 cost of producing something is a fifteen dollar
18 hamburger or \$150,000 house, because all of this
19 rolls into the cost of housing, and we do want to
20 be the best-housed country. We want to have
21 housing for everybody. Why black and
22 Mexican-American?

23 And I'm just saying that you need to have
24 a labor force that will work, that will work for a
25 wage and will work for a wage that is fair and it's

1 not so much the amount, it's they will work.

2 MR. CHAIRMAN: Mr. Velarde.

3 MR. VELARDE: One of the questions
4 that they answered in this Handbook on the I-9 to
5 employers deals with "How can I avoid
6 discrimination while complying with the new
7 Immigration Act?"

8 It's not coincidental that you gentlemen
9 were asked to represent your trade. I helped Mr.
10 Dulles in the agenda, as the rest of us did. And
11 you notice that you've got builders, you got
12 landscapers, you got restaurants, you've got the
13 services there. There's a reason why we asked you
14 here.

15 One of the reasons, I think, is that, of
16 course, employer sanctions deals basically with
17 punishing the employer who does not comply. And
18 punishing him in the pocketbook in two areas: If
19 you hire the wrong people, you're going to get
20 fined. If you discriminate in hiring, you're going
21 to get fined. However, in the 22 years that I've
22 been practicing immigration law, that's my
23 background, that's my area of expertise, I know
24 that come September 1st, it's these services that
25 are being targeted by the Immigration Service to go

1 after first, because of patterns of practice. Okay?

2 To me, I'm just wondering if you all have
3 ever thought as a group about fighting back on that
4 targeted enforcement. And there may be some
5 discrimination at the other end by the enforcers on
6 picking on you and not going after the entire work
7 force. How do you feel about that?

8 MR. MCCAIN: Well, we're picked on
9 all the time, too. They just came down and audited
10 everything. We're the only school district in the
11 state that they did this to.

12 MR. BROESCHE: That was the comment
13 I made regarding enforcement. One of the four or
14 five things that I said were important. Will it be
15 equally and fairly applied to all? And how will it
16 work? I didn't expound on that. I guess everybody
17 understood what I was talking about. I hopefully
18 thought that you did because that is a problem.

19 MR. VELARDE: I'm telling you it
20 won't be. Now, if it isn't, and you're targeted,
21 are you going to sit back and take it, or what's
22 going to happen?

23 MR. BROESCHE: No, sir, no, sir, my
24 association won't.

25 MR. CHAIRMAN: We have run out of

1 time now. Thank you, Mr. Broesche.

2 MR. BROESCHE: Thank you for having
3 me.

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5 * * * * *

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7 MR. CHAIRMAN: We'll on to the next
8 panel. Mr. Foster.

9 MR. FOSTER: I want to thank you for
10 this opportunity to appear before you and have a
11 chance to speak about legal issues or legal
12 concerns as they apply to employer sanctions.
13 Every lawyer likes a chance to talk before a group
14 that's like this, that presumably will be
15 sympathetic and understanding.

16 Those of us like, Mr. Velarde, who have to
17 deal regularly with the Immigration Service, we get
18 frequently frustrated because they're told, of
19 course, that there's little they can do and often
20 there's not the will to do that.

21 I will be glad later to expand upon these
22 comments in writing. I did not have the
23 opportunity to prepare a written statement, but I
24 have about five or six points I want to make
25 regarding some of the legal issues as I see

1 employer sanctions, and then I'll be glad to answer
2 any questions after or Mr. Lopez follows, however,
3 you wish.

4 The first issue I would like to talk about,
5 since this is a Commission that's concerned with
6 rights of individuals is perhaps unintended
7 consequences of employer sanctions provisions.
8 Perhaps this has already been mentioned before.
9 The legislation part, at least the legalization
10 part of it was to bring people out from the shadows
11 and bring them forth, so they could exercise their
12 rights, and that was one of the justifications for
13 legalization.

14 Unfortunately, probably one of the
15 unintended consequences of employer sanctions is to
16 freeze a lot of people into jobs so that they
17 cannot exercise their rights.

18 With the fact that employer sanctions, the
19 mere fact that there's a grandfather clause and
20 employers are not required to-- in effect, employer
21 sanctions are not applied to individuals hired
22 prior to November 6, 1986. You have a significant
23 class of individuals who will never qualify for
24 legalization because they came here after the cutoff
25 date or they do not otherwise meet the eligibility,

1 yet, they're here. And by the estimates we know
2 that there's a significant number of individuals
3 who cannot qualify for legalization. Yet, they're
4 being told by their employers, and I know that,
5 because I have heard employers say this and these
6 individuals I've heard say this I don't think did
7 so in a threatening manner, but there will be those
8 employers that will. They will tell their
9 employees, "You cannot work for anybody else
10 because I can hire you because you've been working
11 for me, but if you go to work for anybody else in
12 the United States, then employer sanctions kick-in
13 and you're going to be-- that employer will not
14 hire you."

15 And so in effect, that person or large
16 numbers of people are frozen into jobs and they,
17 therefore, not be able to exercise their rights or
18 to leave or do what most employees do when they're
19 unhappy and that is to go to another job.

20 The second point I'd like to make is that
21 we know that employers, there's a whole series of
22 documents that the employers can rely upon which
23 you have knowledge of, I'll not go over it, that
24 will satisfy the employer's obligations to see that
25 an individual is authorized to work in the United

1 States.

2 Something that is not in the current law
3 and perhaps cannot be, short of statutory change,
4 although at least arguably could be accomplished by
5 regulation, would be an authorization of an
6 employer to hire someone where that employer has
7 obtained a labor certification.

8 For those of you who are not familiar with
9 labor certification, that is the process through
10 which many individuals will achieve permanent
11 residency. It's a legal process approving
12 nonavailability of qualified, willing, and able
13 U. S. workers. While under the current law, we
14 have a situation which seems to me not to make a
15 lot of sense. Where even if the employer will go
16 through the process of labor certification, proving
17 the shortage of U. S. workers, that there's not a
18 single person in the United States, either
19 qualified or willing or able to take a particular
20 job, nevertheless that employer, if he hires that
21 person, is subject to sanctions unless the
22 individual has already gone ahead to achieve lawful
23 permanent residence status.

24 For those of us, and there are others in
25 this room that are familiar with this process, we

1 know that even after one obtains labor
2 certification, there's often a delay as long or as
3 little as six months, or as much as several years
4 before the individual can achieve permanent
5 resident status.

6 And I would say that if there is one
7 agency of the government, that would be the Labor
8 Department, certifying that no one is being
9 prejudice, that there's a shortage of U. S. workers,
10 it makes little sense for the employer not to be
11 able to rely upon an improved labor certification
12 as one of the documents that the employer could
13 accept as an effective form of employment
14 authorization. In fact, it is not currently deemed
15 to be employment authorization under current law.
16 So, this would require regulatory or statutory
17 change.

18 Like your prior witness, whom I missed
19 hearing all of his testimony, I agree that there is
20 a problem with some of the definitions in the
21 regulations or lack of definitions. I got here to
22 hear one of your witnesses speak about the problem
23 with the independent contractor, a lack of adequate
24 definition. That is not adequately defined. In
25 fairness to the Service, a lot of that law turns on

1 issues of state law, but it is at best confusing
2 for the average employer or subcontractor to know
3 when they must verify or when they can rely upon
4 what is in fact a defense, and that is, that the
5 individual is an independent contractor.

6 Similarly, there is not a definition of
7 the concept of knowing. It is a seperate-- there
8 are, as we know, under the current law there are
9 two ways you can be penalized. One, of course, is
10 failing to verify and the other way is to knowingly
11 hire an individual and that term is not defined in
12 the regulations.

13 The next point I would like to make,
14 and I'm just going down these points briefly, you
15 may have questions you would like for me to expand
16 upon is comment upon what has generally been
17 recognized as the failure of the Immigration
18 Service to adequately perform the task given it by
19 the Congress, and that is an area of public
20 education.

21 We know that regulations got out late. We
22 know that there has been a significant-- that the
23 service really has come nowhere close to what was
24 originally intended in the area of public education.
25 Some of that, of course, would be in the area of

1 legalization; a lot of it will be in the area of
2 employer sanctions.

3 In fact, I understand the extent that they
4 have commenced the campaign through the Justice
5 Group or the consortium that we see the contract
6 from the Service to carry out the public education
7 function. To the extent that they have gotten
8 information out to the public, a significant
9 percentage of that is in the area of employer
10 sanctions.

11 But my experience, and I think the
12 experience of everyone in this room will be, and I
13 have an opportunity to speak to many employers, and
14 many of them are fairly sophisticated employers,
15 and they are all shocked. Even after the mailing
16 of the pamphlets that many people have received and
17 you have copies of here by the INS, most employers
18 are still shocked, learning what their obligations
19 are.

20 And I would say that generally, even
21 though we are into the period that employer
22 sanctions are in effect, that the vast majority of
23 the employers, save a few institutional employers,
24 are unaware that this law applies to every new
25 employee or individual referred or recruited for a

1 fee, and you have a situation which Congress did
2 not intent to the extent that it is being applied,
3 it is being applied to someone that is either an
4 alien or appears to be an alien.

5 Of course, Congress intended that the law
6 be applied equally across the board to all new
7 employees or individuals referred or recruited for
8 a fee. Part of this, again, is a failure of public
9 education.

10 Another consequence of the lack of public
11 education, is that I have seen employers turning
12 people away, again having the most rudimentary
13 knowledge of what employer sanctions are about,
14 denying them employment opportunities.

15 I personally have not seen large numbers
16 of people dismissed. But I have seen people who
17 should be able to work legally in the United States,
18 because they are eligible through the legalization
19 provisions or through some other means to remain
20 legally and can work in the United States, they're
21 being denied employment opportunities by employers,
22 because the employer has a rough idea that somehow
23 they cannot hire the individual. All they know is
24 that they are not supposed to hire an individual
25 unless they're a citizen or maybe a legal resident.

1 They're not aware of all the variation.

2 And I have seen individuals who have said
3 that in those circumstances they're returning to
4 their home countries, which not only affects them,
5 but often the rights of U.S. citizens, because they
6 often will have young children who are U. S.
7 citizens who will be deprived of education and
8 other benefits of being raised in the United States.

9 And sort of a subsidiary issue to that is
10 the lack of information that's in the hands of
11 employers, is the unwillingness of many employers
12 to come forward to provide applicants for
13 legalization or the type of documentation they need,
14 specifically, confirmation of their work history.

15 Many employers are still concerned that if
16 they provide that, either in statements or
17 affidavit forms, that that will be used against
18 them by the government, somehow or prejudice them
19 in the eyes of the Immigration Service or perhaps,
20 even worse, that the Internal Revenue Service will
21 get a hold of that and will bring forth some
22 actions to recover Social Security or taxes that
23 should have been withheld.

24 And, again, those employers are unaware of
25 the fact that information turned over as part of

1 the legalization process cannot be used for any
2 other purposes.

3 And finally, I'm going to get into the
4 area that perhaps my friend and colleague, David
5 Lopez, may want to touch on in more detail, some of
6 the anti-discrimination aspects. We have Congress
7 with the Frank Amendment very concerned about the
8 discriminatory aspects. It has provided for an
9 expanded protection for individuals to prevent
10 discrimination.

11 And I just made several comments. One,
12 it's quite noticeable. That even though the
13 anti-discrimination provisions were the only part
14 of the law that went into effect immediately, that
15 went into effect on November 6th and, of course, as
16 we know legalization didn't start until May 5 of
17 this year, employer sanctions didn't technically go
18 into effect until June 1, and we've had that date
19 being moved back. Even though those area of laws
20 have not yet or didn't go into effect immediately,
21 we have regulations, whether good or bad in those
22 areas. We still do not have final regulations that
23 would cover the anti-discrimination aspect of the
24 legislation, although that went into effect
25 immediately.

1 And one final point. We have laws that
2 will protect people against age discrimination,
3 discrimination based upon national origin. And to
4 some extent, there's a concern that has been
5 expressed, and I think there are ways around this,
6 but the very documents that an employer as a
7 practical matter will now be required to-- in many
8 cases, will ask for a driver's license that
9 contains age information and other information
10 regarding individuals' place of birth, those are
11 the types of documents that before employers were
12 concerned about asking for in order to avoid any
13 appearance of or any allegation that they might be
14 discriminating upon age or national origin.

15 Now, under employer sanctions, meaning the
16 documents that are on the list that we're familiar
17 with do disclose that information. And while there
18 may be-- In fact, there is under the regulations, a
19 way to avoid that is if you hire the person first
20 and then you ask for the documents later to comply
21 with employer sanctions. As a practical matter
22 most employers will ask for those documents upfront
23 before they make the employment decision.

24 So with those few comments I'll -- I think
25 I only had about ten minutes, so I probably used

1 that time. I'll conclude.

2 MR. CHAIRMAN: Mr. Lopez.

3 MR. LOPEZ: Thank you, Mr. Chairman,
4 members of the Commission. Twenty years ago, as
5 representative of the American Federation of Labor
6 and Congress of Industrial Organizations, the
7 AFL-CIO, I addressed in El Paso, Texas, the Select
8 Commission on Western Hemisphere Immigration. I
9 note this to you at the outset, because there can
10 be no doubt that the problems associated with the
11 flow of other countries' nationals across our
12 Southern National Border have long been considered
13 and they have been exhaustably studied.

14 For a long time now we have known in
15 detail the full impact of our National Immigration
16 Policy on our economy, labor, educational systems,
17 public assistance programs, and community affairs.
18 We have learned a great deal about its impact on
19 our foreign relations, in particular, as they
20 relate to our national security, and our
21 international trading relationships.

22 Consequently, I believe there is little
23 need to dwell on the problems, and a great and
24 continuing urgency to seek reasonable solutions.
25 As a proposed solution to the many real problems we

1 face as a preeminent world power, the Immigration
2 Control and Reform Act of 1986 does not have very
3 much to commend it.

4 I welcome the opportunity to address you
5 and present some suggestions for your consideration.
6 I have been aware for many years, and at times
7 closely associated with the dedicated work of the
8 Texas Advisory Committee and have been very
9 appreciative of the efforts of its members and the
10 work and support of the Commission staff.

11 I may say parenthetically that some years
12 back, while I was working for the AFL-CIO in Rio
13 Grande City, Texas, during the farm worker dispute,
14 had it not been for this committee and its
15 membership and its staff, that I and other people
16 would have been in very serious physical danger.
17 And that the efforts of this committee and the
18 Commission were very helpful to us at that time.

19 If there were any doubt before the
20 adoption of the 1986 legislation, it is amply clear
21 now that there will continue to be jobs in the
22 United States for undocumented workers. It is also
23 increasingly clear that men and women who will risk
24 their lives for those jobs are not likely to be
25 detoured by a law which would deny them.

1 We all know about the tragic consequences
2 of the continuing efforts of undocumented workers
3 to seek entry into this country. Until we are
4 prepared to make a full commitment to our neighbors,
5 which will bring about mutually beneficial economic
6 improvements, the only workable solution will be to
7 establish a system which will identify and control
8 the entry of temporary workers and will assure such
9 standards of employment as will prevent unfair
10 competition with our domestic work force.

11 Whoever first said that good fences made
12 good neighbors obviously did not have to depend on
13 those neighbors to do part of his work. The fact
14 remains that there are employers in the United
15 States who need workers, which our domestic work
16 force cannot provide, just as there will always
17 continue to be workers who need those jobs in the
18 United States.

19 Employer sanctions in the 1986 law may
20 lead to some changes in the way employers organize
21 their work force. The sanctions may even diminish
22 somewhat the availability of employment to
23 undocumented workers.

24 Employer sanctions; however, clearly will
25 not stop undocumented immigration. The amnesty

1 provisions of the Act, which many consider its best
2 feature, are yet to be truly tested. Preliminarily,
3 it appears that there is considerable suspicion
4 among long time undocumented residents about the
5 intentions of our government. That confusion and
6 suspicion are understandable.

7 Some consider that the amnesty provisions
8 can be understood to be a law which promises a
9 reward to those who can prove that they have for a
10 sufficiently long period of time violated the
11 previously existing law.

12 Amnesty is the wrong answer to an
13 extremely serious problem. Our country cannot
14 afford to advocate as it has and continues to do.

15 The responsibility for fashioning an
16 immigration policy which reflects our national
17 principles. Such an immigration policy would be
18 one that is based on merit and demonstrated need,
19 not on arbitrary dates and "on numbers." A
20 national policy which rejects a Salvadorian family
21 fleeing oppression, but might offer shelter to
22 dedicated criminals who have so far alluded
23 conviction, should merit only our contempt.

24 I suggest to you that it is wrong to place
25 the discretion for admission, and the power for

1 exclusion, in the same hands.

2 Our country deserves to have a law and an
3 implementing executive agency that reflects the
4 caring and generous spirit of the American people,
5 that can view real human problems on an individual
6 scale, and that can render just decisions on the
7 basis of clearly enunciated and easily understood
8 standards of general application.

9 Although I will be pleased to address any
10 questions, which you may have, it is not my intent
11 in my short presentation today to address any of
12 the technical aspects of the law, which I am sure
13 my good friend, Charles Foster, and others can more
14 properly address since they are individuals with
15 the perspective of recent experience.

16 As a Civil Rights lawyer who some years
17 ago practiced and taught a law school course in
18 Immigration law, I do wish to finally address the
19 issue of employment discrimination in the context
20 of the 1986 legislation. For close to twenty-five
21 years, we have had a federal agency, the Equal
22 Employment Opportunity Commission, charged with the
23 responsibility of investigating, prosecuting
24 against, and remedying employment discrimination on
25 the basis of race, national origin, and other

1 factors. The record of this agency is dismal, and
2 few professional who were familiar with its
3 operations now can take it seriously.

4 There is no reason to believe that the
5 half-hearted effort mandated by the 1986
6 Immigration legislation will produce any better
7 results. And I agree with Mr. Foster that there
8 were some aspects which can cause serious problems.
9 In addition, to those he mentioned, the driver
10 license also, for example, will note physical
11 disabilities, including some that may very well
12 cause physical and handicap discrimination against
13 an applicant.

14 Employment discrimination is a social
15 disease. It cannot be eradicated by increasingly
16 fewer lawyers fighting long and costly battles in
17 sometimes openly inhospitable courts. Litigation
18 can only be a small part of the cure.

19 The means to stop invidious employment
20 discrimination, whether it arises out of the
21 Immigration Act or other means, easily is within
22 our national means. Local, state, and Federal
23 governments can stop doing business with employers
24 guilty of discriminatory practices. Tax exemptions
25 and preferences be denied or withdrawn. Permits

1 and licenses can be withheld. We have strong
2 medicine, if only we could find the courage to
3 properly administer it.

4 I mention in closing, that as a former
5 elected public official, a past member of this
6 community's Board of Education, I am not unaware of
7 the controversy and compromise which attend the
8 formation of public policy.

9 My past activities have included being a
10 news media correspondent covering local and state
11 governments, and the activities of the Texas
12 legislature. I have learned how laws are made. I
13 have dedicated my life to the practical application
14 of laws. Even so, I fully anticipate that the
15 remarks that I make to you today may be taken as
16 idealistic, and perhaps impractical. I make no
17 apologies, and I present these general views
18 without any reservation.

19 To say that we cannot do right because in
20 our society competing interests will not permit
21 right to be done, would be to deny both our
22 birthright, and our future. The Commission on
23 Civil Rights, which you advise is charged by law
24 with the duty to appraise the laws and policies of
25 the Federal Government with respect to

1 discrimination or equal protection of the laws
2 under our constitution.

3 All of us know the 1986 Immigration Act
4 was a product of many years of effort. Many of us
5 might say that we never expected what little good
6 may come of it. Perhaps a majority of us believe
7 that it is not possible in the near future to again
8 consider and enact Immigration Reform Legislation.

9 Members of the Committee, I sincerely hope
10 that does not deter you from concluding that the
11 law is a bad law. It permits, and in part
12 encourages continuing discrimination and denial and
13 even the most basic human rights.

14 I trust that your report of these
15 proceedings will reflect the courage and optimism
16 necessary to state on the record in unequivocal
17 terms that we must and that we can do better. I
18 have copies of the prepared remarks for your use.

19 MR. CHAIRMAN: Thank you very much.
20 I open the floor now for questions. I would like
21 to ask you a few questions.

22 Concerning the anti-discrimination law,
23 well, employers sanctions in general, someone
24 mentioned earlier that there might be some sort of
25 a requirement of proof and intent as far as the

1 sanctions portion, an employer discriminating
2 against an employee. I wonder if you could clarify
3 that, is that within the context of the word
4 "knowingly" or is there a separate proof of intent
5 required somewhere else?

6 MR. FOSTER: I don't see it that way.
7 I believe as a practical matter, what's going to
8 happen in every one of these cases is that once you
9 can establish an employee/employer relationship,
10 and that the employer had an obligation to verify,
11 if it can be shown that the employer did not verify,
12 and was unable to because of the fact the employee
13 was an unauthorized worker, I think that will be
14 sufficient.

15 Once they can show that you have an
16 individual who's an unauthorized alien, and that he
17 or she is an employee, then it's going to be very
18 simple, because the employer had the obligation to
19 ask for those documents. Now, if the employer can
20 come up and show one of those documents, excuse me,
21 show either one of the two documents, then that's
22 going to be the employer's defense.

23 So, very simply, I don't think you're
24 going to have to show any proof of intent, that's
25 not specifically required. While the concept of

1 knowing is subjective, when you get into the area--
2 and you're going to have to show that if you get
3 into a nonemployer/employee relationship.

4 My understanding of the legislation is
5 this: If I hire someone on a contract basis and
6 it's clearly a contract basis, and that
7 relationship is covered by the statute, but only if
8 the Service can show that I had knowledge. But
9 since, if it's a true contract employment
10 arrangement, there is no employer/employee
11 relationship, since I have no obligation to ask
12 those questions or verify, it's going to be very
13 difficult for the Service to prosecute.

14 So, where they're going to give notices
15 will only be in those areas where they at least
16 believe there was an employer/employee relationship.

17 And so the defense in almost every case is
18 going to be, "he's not my employee, I hired him
19 through someone else, I hired him on a contract
20 basis." And then the area that's going to be
21 litigated will be is in fact, is this going to be
22 an employer/employee relationship? Is it going to
23 be a contractual relationship?

24 MR. CHAIRMAN: The law evidently
25 does not mandate that the employer has to get

1 copies of the documents, but I'm asking from the
2 tax point of view, do you maintain the record.
3 Another thing also concerning the Federal Law, I
4 believe, it prohibits the copying of the
5 Naturalization certificate, and yet the law says
6 you may make copies of all documents. And I think
7 that's one of them, is that correct? Do you have
8 anything else to add on that line?

9 MR. FOSTER: No. That is among
10 attorneys, it's disputed as to the wisdom of
11 keeping documents. You're absolutely correct. The
12 employer is only required to look at the original
13 document, does not have to keep a copy of same.
14 The law specifically makes an exception in the case
15 of a naturalization certificate. For that sole
16 purpose, a copy may be made, you're not required to.

17 The rationale behind keeping copies would
18 be that if you had to-- if memory dims, and there's
19 a fact issue as to whether you really saw something,
20 then you've got a copy of it.

21 The argument against that that has been
22 put forth by some attorneys is if you get into the
23 area of what appears reasonably genuine on its face,
24 if the Service can look at what you saw, perhaps
25 they could raise that issue as to whether or not--

1 Well, they could say, "This is what you accepted?
2 This is crazy, you should have known better. This
3 does not appear reasonably genuine on face." If
4 you had not made that copy, then it would not be so
5 easy for the Service to raise that.

6 MR. LOPEZ: When I noted that there
7 may be some reorganization of the way that
8 employers do business, and these are some of the
9 things that I had in mind, I don't think it's up to
10 us as lawyers to point out all the different ways
11 that you can get around the law, and I don't think
12 we should do that. But in a sense, every law has a
13 period of time in which it has to settle down
14 through court decisions as to what it means. But I
15 think that most lawyers would agree that this Act
16 appears to have much bigger holes in it than most
17 legislation.

18 MS. LIPSHY: What is your assessment,
19 and I'm sure you have a good knowledge of this, of
20 the availability of legal assistance for those
21 people who wish to pursue a complaint of
22 discrimination by their employer or their potential
23 employer? I know this has long been a problem in
24 general in immigration cases, both in the Houston
25 area, and if you're able to supply the information,

1 in Texas as a whole.

2 MR. LOPEZ: I think that there are
3 being made genuine efforts to make such legal
4 assistance available, as a practical matter. The
5 whole area is increasingly so technical. And,
6 frankly, it is getting to the point where most
7 federal courts are almost openly saying, "we don't
8 like discrimination actions."

9 It seems to me that somewhere along the
10 line in order for any anti-discrimination provision
11 to work, whether it's an Immigration Act, or
12 otherwise, there's going to have to be some
13 efficient administrative enforcement. I think the
14 short answer to your question, is that it is very
15 unlikely that good legal representation will be
16 available.

17 MR. FOSTER: Let me add one point
18 tht I think is germane to your question about the
19 availability of legal services. And you limited
20 your question, I think, to the area of anti-
21 discrimination charges. If you could broaden that--

22 MS. LIPSHY: Employer sanctions.

23 MR. FOSTER: Employer sanctions. I'm
24 going to broaden that slightly to also include
25 legalization, because there are many aliens who

1 will need legal representation in that area. A
2 just find that a lot of the time the legal
3 community is criticized. I'd like to point out
4 something positive. Through the American Bar
5 Association, through its affiliate, The American
6 Immigration Lawyers Association, they have a major
7 pro bono project where thousands of lawyers
8 througout the United States are giving their time
9 working with aliens who cannot afford legal
10 assistance in representation under this new bill,
11 particulary in the area of legalization in the
12 fields that may arise, and particularly, the
13 Houston Bar Association has established a pro bono
14 project working with the designated qualified
15 entities.

16 And I just wanted to make that point. And
17 one more point that I forgot to make, I think has
18 to be remedied.

19 The new legislation covers, specifically
20 for the first time, discrimination based upon
21 citizenship. And, yet the class of individuals
22 covered are restricted. It obviously covers
23 individuals who are lawful permanent residents of
24 the United States. It includes individuals who are
25 eligible for legalization. But the catch to all of

1 that is, they must be an intending citizen of the
2 United States. I'm very familiar with the process
3 through which an individual requires residency or
4 legalization. And as a practical matter, unless
5 something is done, none of these individuals are
6 going to be covered, because nobody is going to
7 file the necessary forms to be covered to show that
8 they have an intent of becoming U. S. citizens.

9 MR. CHAIRMAN: We've run out of time
10 now. We thank you very much, gentlemen, both Mr.
11 Lopez and Mr. Foster. We are going to take a short
12 15-minute break. I want to announce the rest of
13 the agenda. At the end of the afternoon session,
14 Mr. Avena, Richard Avena, the former regional
15 director will summarize everything that's gone on
16 here today. We thank you for that. We'll see you
17 all at 3:00 o'clock.

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19 * * * * *

20
21 (A short break was had.)
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23
24
25

1 MR. CHAIRMAN: Mr. Acosta, will you
2 please take a seat? Helen Grace? Please come
3 forward if you would.

4 All the names that I call out please
5 come forward and take a seat. Janet Pena, Laura
6 Sanchez and Victor Trevino.

7 For free parking in the garage here,
8 if you'll mark U.S. Commission on Civil Rights on
9 the back of your ticket.

10 MR. DULLES: Don't try it next week,
11 though, it won't work.

12 MR. CHAIRMAN: The second item is you
13 have to sign in before 4:00 o'clock if you wish to
14 be included in the 4:00 o'clock open forum. Anyone
15 wishing to sign up for that, please do so with Mr.
16 Dulles.

17 I'll call on you one at a time.
18 After you all have finished making your statements,
19 then we will open up for questions.

20 On my list, I have Mr. Rafael Acosta,
21 Regional Vice President with LULAC.

22 All right, Mr. Acosta, you can give your
23 statement at this time.

24 MR. ACOSTA: Good afternoon ladies
25 and gentlemen. My name is Rafael Acosta. I come

1 before you today today as the National Vice
2 President for the Southwest Region for the LULAC
3 organization. LULAC, being The League of United
4 Latin American Citizens. Our remarks today will
5 deal with the Immigration Reform Act and its
6 employer sanctions.

7 The Immigration Reform and Control Act of
8 1986 was passed by the 99th Congress in mid-October
9 1986 with its primary purpose to control illegal
10 immigration into the United States. This new law
11 will have a profound impact on every employer,
12 regardless of size as well as all undocumented
13 workers in this country.

14 The LULAC organization recognizes that the
15 implementation of this Act will be the starting
16 point of a product of a repeated and sometimes
17 hurried compromise, which will raise questions that
18 over time will be answered both by the regulations
19 of the INS and by litigation.

20 The legalization process of the
21 Immigration Act has been underway for somewhat
22 three months. And its dismal showing so far is
23 evidence of the disinformation given to the public
24 and the hardnose attitude taken by the Immigration
25 and Naturalization Service.

1 This attitude can clearly be demonstrated
2 by the remarks made by the INS Commissioner, Mr.
3 Alan Nelson. And I quote "Illegal aliens should be
4 afraid of INS; if not, we haven't been doing our
5 job," end of quote.

6 In addition to this, the process by which
7 an undocumented worker goes through is designed to
8 minimize his chances rather than to aid him in
9 gaining legal status. Therefore, it is not
10 suprising to the LULAC organization that a mere
11 three hundred thousand have applied for amnesty
12 thus far out of four million estimated by the INS.

13 The only excuse given so far by the INS is
14 that they have not received the expected
15 cooperation from church and volunteer groups.
16 However, the INS should recognize its own failure,
17 to provide these organizations with start-up
18 funding, timely and accurate training. One should
19 wonder whether an honest effort is being put forth
20 or just a front with scare tactics.

21 The Immigration Reform Act also places new
22 and unjust obligations on employers and therefore
23 tends to utilize them as tools for the Immigration
24 Service. Every employer now has to verify that
25 each new employee hired after November 6, 1986, is

1 authorized to work by examining a variety of
2 documents which will be difficult at best to
3 determine their validity. Aside from this, there
4 will be monetary penalties ranging from \$250 to
5 \$10,000 imposed upon employers who are found not to
6 be in compliance.

7 The LULAC organization has endorsed a
8 national campaign to repeal the employer sanctions
9 provision of the Immigration and Reform Control Act.
10 Given the stigma already present, every Hispanic in
11 this country, will be "thought guilty until proven
12 legal" by jittery employers who would be subject to
13 fines for hiring undocumented workers.

14 An Anglo or Black American seeking
15 employment would not be subjected to this new
16 employment test. It will be interesting to see how
17 employers react to the proposed sanctions once they
18 are in effect come September of this year.

19 However, even though they are not in
20 effect yet, a series of events have vindicated
21 LULAC's concern about the discriminatory and
22 selective impact employer sanctions would have upon
23 the Hispanic Community.

24 In certain school districts, Hispanic
25 children have been asked to raise their hands "if

1 you're an illegal" in order for them not to receive
2 applications for Social Security numbers. In
3 recent times in the Pasadena School District,
4 Hispanic workers who were eligible for legalization
5 and therefore employment authorization were fired
6 for failing to produce a Social Security Card.
7 Only after a court order, were these employees able
8 to regain their employment.

9 Another example is that of Carlos Cabalero,
10 a part-time instructor at El Paso Community College,
11 who was denied his paycheck for failing to produce
12 a failing a current driver's license in spite of
13 presenting a valid U. S. birth certificate.

14 These events can only be the beginning of
15 what is in store for Hispanic's civil rights once
16 employer sanctions come into effect.

17 In conclusion, the LULAC organization is
18 forcefully against any employer sanctions because
19 of the discriminatory effects it will have on the
20 Hispanic work first in this country.

21 In addition, Hispanic businesses which are
22 in predominately Hispanic areas would also be
23 severely affected and would become targets of the
24 Immigration Service to impose the penalites and
25 fines.

1 On behalf of the League of United Latin
2 American Citizens, I implore you in the name of
3 justice to repeal this new Immigration Policy, its
4 employer sanctions. One doesn't have to look at
5 South Africa and its employer sanctions to
6 recognize gross discrimination. Here today in the
7 United States apartheid is living and growing. Its
8 victim with this new law is the Hispanic.

9 Together we must remove this cancer, this
10 unjust employer sanctions, repeal this unjust
11 employer policy. I thank you for the opportunity
12 of being here, and I am now open for questions or
13 later.

14 MR. CHAIRMAN: We will come back for
15 questions. Thank you, Mr. Acosta.

16 Right now move on to Helen Grace,
17 United Way of the Texas Gulf Coast.

18 MS. GRACE: Thank you very much.

19 My involvement has been in the council,
20 the Advisory Council on Immigration Law and I
21 represent the United Way in that council.

22 The United Way has funded four agencies
23 that do legalization applications. Those agencies
24 are Westin Community Center, Catholic charities,
25 Lutheran Social Services, and the YMCA.

1 Now, while I don't do direct services, I
2 have gotten some information from these agencies
3 about' some of the problems that they come in
4 contact with. And they have indicated that some of
5 the counselors are finding problems that relate to
6 the employer sanctions.

7 . Some of the problems that counselors are
8 finding that relate to employer sanctions are that
9 people who come to see them are unable to apply for
10 legal status, either because they do not have proof
11 that they have been here since before 1982, or
12 because of some technicality.

13 For example, if they have been outside of
14 the United States for any period longer than
15 forty-five days, they do not qualify for
16 legalization. They are explained that if they have
17 been working since before the law was passed on
18 November 6th', for the same employer, they need not
19 give the employer any documents to prove that they
20 have the right to work, and that the employer
21 cannot be punished for keeping them on staff.

22 Even after this is explained, and they are
23 given written materials in Spanish and English
24 about the grandfather clause, they are still afraid
25 they will lose their jobs.

1 Employers don't understand the grandfather
2 clause provision. Even if they do, many of them
3 seem to think that they can simplify their own
4 personnel system by demanding the same
5 documentation from every employee, whether they are
6 grandfathered in or are new employees. Very few
7 employers have seen the regulations, and many of
8 them have not yet received the "I-9 Handbook".

9 Employers do seem to realize that
10 September 1st, 1987, is an important date and many
11 have been told their employees that they must have
12 their papers by September 1st or they will lose
13 their jobs. As a result, those who qualify for
14 legalization are under pressure to submit their
15 applications as soon as possible, whether or not
16 they have sufficient documentation of residency.

17 Our fear is that many of the applications
18 submitted this way will be denied by the INS
19 regional processing facility in Dallas. Even if
20 more documentation is available to them, they will
21 have to submit an appeal and pay a filing fee as
22 well as additional legal fees, or have to reapply,
23 again paying the \$185 for filing and legal fees.

24 Even worse, is the possibility that people
25 whose applications are denied will not realize that

1 they have the right to appeal and will either
2 remain here illegally or will needlessly depart the
3 United States.

4 Still, other clients are being abused by
5 their employers because of the employer sanctions
6 provisions. Those who do not qualify for
7 legalization, but are protected by the grandfather
8 clause are not protected from this abuse.

9 Since their employers who know that it
10 would be difficult, if not impossible, for them to
11 find another job, they cut their pay, pay them for
12 fewer hours than they actually worked, et cetera.
13 The employees being undocumented are afraid to
14 complain to authorities. They're afraid to quit
15 the job because they also know that they will not
16 be able to find other work.

17 And, Mr. Dulles, as I explained to you on
18 the telephone, I felt that perhaps the employers
19 needed a more simpler Handbook on the law. But
20 after having a look at the Handbook, I think that
21 possibly you couldn't make it anymore simpler than
22 it is. But what I do think that needs to be done,
23 is have more in-depth education to the employer.

24 Perhaps INS could have more employer
25 seminars for them, and perhaps have more and wider

1 information on the media. Thank you.

2 MR. CHAIRMAN: Thank you. At this
3 time we call on Janet Pena, Administrator of the
4 Immigration Ministry Catholic Diocese of Galveston
5 and Houston Catholic Charities.

6 MS. PENA: Thank you. Good afternoon,
7 and I want to thank the Committee for inviting me
8 to come here and address you personally. With the
9 remarks that I would like to make on behalf of the
10 seventy-six Catholic churches that are
11 participating in legalization within the dioceses
12 of Galveston and Houston.

13 And before I begin, I do want to let you
14 know that I have presented some written comments.
15 And because I'm second to last speaker for the day,
16 and I feel sorry for this gentleman here, a lot of
17 what I planned on saying has been said. So I'd
18 like to just highlight some of the things that I've
19 covered on my written statement and talk about some
20 solutions that might be proposed.

21 MR. CHAIRMAN: Thank you..

22 MS. PENA: I'd like to begin by
23 giving you a background of the Catholic churches
24 and how we work so that you'll understand where
25 these comments and experiences are coming from. As

1 I mentioned, we have seventy-six different Catholic
2 churches in our dioceses who are participating in
3 the legalization process. They are operating out
4 of fifty-two different sites. So some are working
5 as coalitions, and we've trained over 1200
6 volunteers who are participating in one way or
7 another through this system. We processed over
8 3200 applications to date.

9 So, our volunteers are seeing the
10 applicants on a one-on-one basis daily, evenings,
11 weekends, and also are working with the employers
12 who call.

13 The services that our parishes provide are
14 education, screening, assisting to complete the
15 application, gathering the necessary documents,
16 medical exams for marginal income families, and
17 also preparing the packet that will go to our
18 Catholic charities legalization center, which is
19 the qualified designated entity.

20 So, because of the experience our
21 volunteers have, they're seen as information
22 centers by the community. And when we provide
23 training to our volunteers, we are assuming that
24 they also could be employers or could educate their
25 employers. So we provide the employer sanction

1 information to our volunteers, as well.

2 I want to go over just some of the general
3 kinds of experiences that they are having. First
4 of all, what we're seeing mostly is that employees
5 have already been fired or their employers are
6 threatening to fire them before the September 1st
7 deadline, because they don't have work
8 authorization. And, whereas, other kinds of
9 documents might be acceptable for the I-9, all the
10 employer wants is the employment card, the I-688A
11 from the Immigration Service.

12 The employees themselves, or applicants,
13 are very desperate. They're coming to the parishes
14 wanting us to process their applications
15 immediately. And as Helen mentioned, sometimes
16 very important documentation that's necessary for
17 their approval, they don't have it yet. But yet
18 they want their applications submitted to
19 Immigration Service.

20 This is a concern, and when we do come
21 across these situations, our volunteers take the
22 opportunity to call the employer and what I do want
23 to say before I talk about the other problems that
24 we've run into, is on the whole, employers have
25 been very positive. When somebody outside of the

1 application of the Immigration Service calls them,
2 they are very responsive and in many cases, very
3 accommodating to what the applicant needs.

4 However, the problem with this September 1
5 deadline, and showing the documentation needed,
6 really is in opposition to the application period,
7 which extends until May 4th of next year.

8 By asking that the employer have work
9 authorization by September 1, is essentially
10 shortening the application period. And so our
11 agency's attorneys and other organizations working
12 to get people legalized have essentially been
13 overloaded in this four-month period of time trying
14 to prepare these applications. That's a direct
15 inconsistency of the law.

16 The other overwhelming situation that
17 we've seen is that employers are refusing to give
18 documentation on work verification to employees.
19 And we've seen this take many different forms.
20 They're unwilling to fill out the employment letter,
21 and we use a form letter that requires all the
22 information as stated in the regulations.

23 What the regulations do state is that if
24 an employer does not have public records or
25 employment records, they can state why they do not

1 and have their employer letter notarized. This is
2 essentially a legal document that's saying this
3 employer has paid cash, probably has not paid
4 Federal withholding or Social Security. And
5 despite the fact that there's confidentiality under
6 this law, an employer is not willing to believe
7 that from the Catholic Church. They have to hear
8 it from the enforcement organization themselves.
9 They have to hear the public education from the
10 enforcement agency themselves.

11 We've been out and done a lot of different
12 seminars to different groups. Some of our parishes
13 have done seminars using attorneys. We've
14 participated in seminars to inform employers of
15 employer sanctions. However, unless they hear it
16 from the enforcement organization, you may spark
17 some interest, they may have questions, but they
18 need to hear it from INS itself.

19 Another problem with the employer letter
20 is, since people are paid in cash, our local INS
21 would prefer to use W-2 forms, income tax returns,
22 paycheck stubs, and our applicants in the
23 Houston-Galveston area just don't have that kind of
24 information. So, the application process becomes
25 more drawn-out, longer, it's more difficult to get

1 the documentation needed.

2 Some of the other problems that we're
3 experiencing, a lot of the policies that come to
4 our local offices or corporations here in Houston
5 come from home offices somewhere else in the
6 country. And if those home offices have
7 misinformation that's passed down, the local
8 offices have nothing to do but to follow the
9 directives of their main offices.

10 So, the education process must be a
11 national process. We can do it locally, but
12 because a lot of corporations do operate with home
13 offices, it must be a national effort.

14 Helen mentioned earlier that she thought
15 it was important to have some sort of publication
16 that was brief and concise. And in giving out this
17 Employer Handbook to different groups that we've
18 spoken to, they don't even want to look at it.
19 It's eight or nine pages. It's too much
20 information, it's very threatening. You know,
21 there needs to be a single sheet of concise, brief,
22 information on employer sanctions that can be a
23 national publication from immigration, to give the
24 credibility and the authority to the information
25 that can be dispersed through local organizations,

1 such as the Catholic churches, the qualified
2 designated entities and attorneys, the
3 organizations who are accepted, who are familiar,
4 who are respected within the community. So that
5 employers would be willing to look at this
6 information and follow it.

7 We're also concerned about discrimination,
8 as well. We've already seen that those people
9 covered under the grandfather clause, but who don't
10 have the documentation to apply, or who for one
11 reason or another are not eligible, their employers
12 are already taking advantage of them. Again, as
13 Helen, mentioned, cutting back wages, extending
14 their hours and giving them the undesirable kind of
15 work in the corporation. Because the employers
16 know that there's no way they have the flexibility
17 now to change jobs.

18 We're also seeing employers selling
19 employment verification information. The price
20 ranges from \$45 to \$1500, and this is not in one or
21 two cases. We've seen this in at least twelve of
22 our parishes. So, this is another concern that the
23 law is providing more opportunity to take advantage
24 of these individuals.

25 I mentioned that our parishes are trying

1 to do one-on-one education with employers who call
2 in on behalf of their employees. Some of our
3 parishes have been threatened by employers that if
4 they don't process the applications immediately,
5 and get the applicant into INS within the week,
6 that they will fire the employee. And that's a
7 great burden that we feel we have to shoulder
8 because, again, as we talked to employers about
9 what the sanctions are and try to educate them,
10 we're not the enforcing organization.

11 So, I would like to suggest that we are
12 all somewhat acting as Immigration Service staff at
13 this point in trying to legalize applicants. And I
14 think it's important for Immigration to provide
15 training to organizations and attorneys who would
16 like to assist in the education process, give us
17 some authority or certification, that we are
18 providing information on behalf of the Immigration
19 Service. Then, therefore, we can go to those
20 people that trust us, respect us, and have a
21 relationship with us, and provide information to
22 them that they know is information that comes
23 directly from the Immigration Service.

24 We're also seeing a lot of employers who
25 have no idea that the law applies to them if they

1 don't employ illegal aliens. Therefore, I think
2 there's a lot of small businesses out there that
3 have no idea that the I-9 Form is going to be
4 required on their, supposedly "citizen" employees
5 that are new.

6 And we're also seeing that a lot of
7 employers are calling the Texas Employment
8 Commission, our State Employment Commission, to get
9 the I-9 Form and to get information on the employer
10 sanctions and on work verification. And because
11 this is seen as an objective organization,
12 employment is already at function; we would like to
13 suggest that the Employment Commission participate
14 more actively in education, dispersing information,
15 and providing booklets and pamphlets. I think that
16 it would just be a more acceptable source of
17 information to the employers in the community.

18 I think, basically, those are the thoughts
19 that I wanted to share with you today. Again, I
20 have more information in my presentation and in my
21 written solutions and suggestions, and I would ask
22 you to read that if you'd like more information.
23 Thank you.

24 MR. CHAIRMAN: Ms. Pena, if you would
25 give us that information, we would like to have it.

1 Ms. Sanchez.

2 MS. SANCHEZ: Buenas tardes a todos y
3 estoy aqui. Mr. Canales, and ladies and gentlemen
4 of this Commission, I am very happy, very pleased
5 to be here this afternoon. I am Laura Sanchez,
6 from San Antonio, Texas, and I direct Proyecto
7 Hospitalidad. It is a refugee aid project.

8 We assist, principally, refugees from El
9 Salvador and Guatemala. Some from Nicaragua,
10 Honduras, Costa Rica and even some from further on
11 down South, Peru, Argentina, Equador, Chile.

12 These are people that have lived with my
13 family and myself in my house, day in and day out,
14 and we hear their horror stories as they come up
15 through our Border. I will not have time to share
16 what I experience day in and day out, but I will
17 briefly tell you some of the experiences that we
18 have had in San Antonio.

19 Employer sanctions is a topic that I was
20 asked to cover here this afternoon. And in order
21 for me to do this, I think I have to say first of
22 all that I worked with the Canadian Government,
23 under the Geneva Convention, sponsoring refugees to
24 Canada. And I have been doing this for almost six
25 years, now. Because our Government does not abide

1 by the Geneva Convention, and because we do not
2 uphold the National Act of 1980 for the refugees,
3 we deport the Central American refugees back to
4 their respective countries.

5 I have been very involved in working in
6 the Immigration issue for many, many years. My
7 parents used to house people in our home when I was
8 a child. And sometimes Immigration would come to
9 our home, take people with them, along with my
10 parents. So, I am not at all unfamiliar with
11 Immigration policy and Immigration tactics.

12 This new law, which is called the Reform
13 and Control Act, is not at all a Reform Law, it's a
14 Control act. Starting with the undocumented, who
15 will never be able to become legal in this country,
16 because they will never meet the requirements, the
17 undocumented, who will eventually be able to go
18 through all of the agony of getting together all of
19 their documents, to some day, maybe in seven to
20 eight years, become citizens of this country.

21 Those who are permanent residents, who are
22 affected by this law and who now have to show forth
23 that they do intend to become citizens of this
24 country eventually. Those of us who are citizens
25 of this country, who apply for jobs now, have to

1 show forth proof of that citizenship. We have lost
2 tremendous liberties, and a lot of us are not aware
3 of it. I do want to state here that those of us
4 who do not like to lose this freedom so easily, are
5 very much opposed to it and want to see the repeal
6 of this law.

7 We want to see a more liberal policy in
8 terms of the requirements for the legalization
9 process, and we want to see the National Act of
10 1980 and the Geneva Convention into National Law
11 that we should be adhering to, be abided by this
12 Government of ours.

13 In San Antonio, I have been working with
14 the coalition that was formed back in December,
15 with the Archbishop of San Antonio; trying to bring
16 about some kind of a cohesiveness to the community,
17 in education the community as to what this
18 Immigration Law has done to us.

19 We have had very little success,
20 unfortunately. I am very happy to hear the success
21 that Houston has had, because Houston apparently is
22 doing tremendous work in the Community. I want for
23 San Antonio to learn from Houston, because we need
24 desperately these role models that Houston has
25 already set up in order to bring about the

1 education that we need in San Antonio, and
2 eventually, the repeal of this law.

3 I have been working with MALDEF, the
4 Mexican American Legal and Defense Council, and in
5 their findings they're at this moment, the only
6 ones in San Antonio who are doing some kind of
7 documentation in terms of the employer sanctions.

8 I have referred about a hundred persons,
9 most of them Central Americans, a lot of them
10 Mexicanos, because the Mexicanos come to us, too,
11 not just the Central Americans. And MALDEF has
12 been writing letters to the employers who have been
13 threatening to fire the undocumented because they
14 do not have documents. And I am speaking about
15 those who were hired prior to the November 6th date
16 of 1986.

17 I have referred at least a hundred people
18 to MALDEF, aside from the people that have gone to
19 MALDEF, through the seminars that we organize. We
20 organized six seminars where we had from 200 to 500
21 people attend. And most of these people had the
22 phone number from MALDEF in case they needed to
23 have a letter written to their employer.

24 One of the things that we have found out,
25 though, is that the fear is tremendous. The people

1 know what they have to do, but the fear that
2 they're going to be divided, because these are
3 families who have not all met the requirement for
4 legalization, and this is the greatest fear. So
5 this has kept a lot of them from really coming
6 forth and applying, or coming forth and going to
7 the attorneys to ask for these letters because
8 there are other attorneys in town who are also
9 available to give letters for the undocumented who
10 needs a letter for their employers.

11 Last week I received a phone call from a
12 young woman. She was in tears and I could hardly
13 make out what she was saying. After I calmed her
14 down I could make out that she had lost her job,
15 she had been without a job for three months. Her
16 husband had had his hours cut back to two or three
17 hours a day, down to two or three days a week.
18 They could not pay rent, they could not pay food,
19 and she was telling me, "My children are tired of
20 eating beans everyday, and they ask me for other
21 food, what am I to do? Are we all to go back to
22 Mexico because we cannot get the requirements to
23 stay here?"

24 These are the things that we are dealing
25 with. I told her that we could help her because

1 her husband really met the requirements, after I
2 heard the whole story, and that I could not assure
3 her that she and her children would not be deported,
4 but that we would certainly do everything within
5 our power to keep her family united. She went Beto
6 Juarez from MALDEF, she got her letter for her
7 husband, and her husband apparently has been given
8 more hours at work.

9 We have been successful in at least 26
10 cases of this kind, to help the people get their
11 jobs back.

12 There's another case, about 26 women
13 probably that worked at a motel in downtown San
14 Antonio, who came to me, and most of these were
15 Central American women, they were doing the night
16 job and they told me of their plight. We went to
17 MALDEF, we got their letters and they were not
18 terminated. But everybody was going to be
19 terminated by the 5th of May. This was the
20 deadline that was given to most of the people, back
21 at the early stage.

22 At this moment, what is happening, is that
23 wages are being cut back or checks are being
24 withheld, not all of the salary has been given.
25 And some of the salaries have been cut. There is

1 Luis, for example, who was earning three dollars an
2 hour, who is getting a dollar fifty an hour now.
3 These are the things that are happening because of
4 the employer sanctions.

5 The other thing that I wanted to say was
6 in regards to the industry. People thought that
7 there were going to be more jobs available because
8 the undocumented or the illegal alien was no longer
9 going to be working, and that is not true at all.

10 We have found in San Antonio that a lot of
11 people who need gardeners, who need maids, are
12 calling us for these positions to be filled because
13 people from San Antonio don't want to fill these
14 positions, but at the same time they no longer want
15 to pay the going hourly wage. They want to pay--
16 for example, a house maid. I had been told by a
17 woman, "I am willing to give room and board, plus
18 \$25 a week." Yes, \$25 a week.

19 And this was supposed to really be doing
20 something for the industry, the job industry, in
21 terms of really opening up all of these wonderful
22 positions for our citizens who don't have anymore
23 jobs and whose bread we were actually stealing out
24 of the mouths of the children of the U. S. citizens?
25 That was a big lie, and if you believed it, you

1 were fools.

2 This law also violates the most sacred
3 right to work that we have. And it is in direct
4 violation of the United Nations Human Rights
5 Document, also. I don't see how we as citizens of
6 one of the most democratic countries in the
7 continent can sit back and fold our arms and say,
8 "so be it."

9 But this afternoon, I have received
10 tremendous hope, because I have heard a lot of
11 people say basically the same things that I think
12 and feel, "Repeal the law, repeal the Act." We
13 want something that will really and truly address
14 the Immigration issue on foreign policy, that will
15 look at the situation of the Third World Countries
16 and help the economic situation in this country,
17 better the economic situation in Mexico, in Central
18 American, in South America, and you don't have to
19 have people coming through these borders. Stop the
20 bombing, and people will not come across the
21 borders.

22 Stop supporting a government like
23 Guatemala where people are disappearing day in and
24 day out. Then you will not have the Guatemala from
25 people, from Central America, they don't want to be

1 here in this country. They want to be back in
2 their countries with their own families, but they
3 have no choice but survival. If your homes were
4 being bombed, you too would run.

5 Members, I have a lot more to say, but I
6 think I have said enough.

7 MR. CHAIRMAN: Mr. Victor Trevino.

8 MR. TREVINO: First of all, let me
9 give you a little background about myself. I've
10 been a police officer for twelve years. And even
11 though I guess I knew about the Immigration problem,
12 it really wasn't so close to my mind because I grew
13 up here as a six-year old, that I came from Mexico.
14 My father came here in 1953 and we stayed there
15 until 1958, until my father was able to financially
16 buy the passports. We came over here, and indeed
17 this is a beautiful country, and I have enjoyed
18 being here since then. But realizing, when I
19 joined the police department, what other people had
20 to go through, it was really tough to handle.

21 My first week on patrol, riding around the
22 streets, and my senior partner was going to show me
23 what it was like to make some felony arrests. And
24 we would to the bus stop where there was about ten
25 or twelve Hispanics that had just came out of the

1 movie. And he called them over and said, "hey,
2 come over here. You got any papers?" They said,
3 "no, we don't."

4 "Okay, I can only fit five of you all in
5 my car, well, let me see which one's I'm going to
6 pick." And picked five of them and put them in the
7 back of the patrol car, and we went to downtown
8 jail where they were booked for felony arrests,
9 illegal entry. I said, "wow" this is what it meant
10 to become a police officer.

11 It's not what I had thought. Of course,
12 there was not much I could do at that time, because
13 I was a rookie. And it's best that as a rookie you
14 just look and you listen, and you learn.

15 I learned that I could do something about
16 it later on, and good thing that we did have some
17 administrations, such as Chief Caldwell, that came
18 out with a policy that said, "We would not ask
19 someone for their papers, unless we had probable
20 cause to detain them for an incident."

21 Changes have been made in the Houston
22 Police Department, and even though we have been
23 controversial, some of these changes you haven't
24 read about. And it doesn't matter to me whether
25 you read about them or not, because I know that

1 they've been made and that they've been for
2 something that's good and worthwhile.

3 We do not ask someone for their papers,
4 but yet, we were still detaining people in our
5 jails until they paid the fine or the bond and then
6 we would hold them and call Immigration, so they
7 would come pick them up and take them back. But we
8 already got their money, so that's no problems. I
9 couldn't handle that. But that was "okay," they
10 had no business being here.

11 These people were not only victimized by
12 the justice system, they were victimized by the--
13 and I don't know sometimes which is the difference,
14 the hoodlums out there, they were rolled. And then
15 when you arrest these hoodlums, it's, "why are you
16 doing this? These people have no business here
17 anyway. It's not their money, it's our money."

18 I've seen a lot of the old theory of
19 divide and conquer. Divide and conquer. You
20 divide an ethnic group among itself, because you
21 have the established generations that are citizens
22 of this country that have Hispanic ancestry, and we
23 divide them, because you'll find some Hispanics
24 that say, "they have no business here, I mean, I
25 made it, look at me." But somehow their roots come

1 from some Hispanic country. But our Government, I
2 think, whether it's intentional or unintentional,
3 does create this problem. And I think we need to
4 look at that.

5 Employer sanctions, I mean, you have to
6 differentiate and distinguish what is realistic and
7 what is idealistic. We have to do that.
8 Idealistically, we would love to secure our borders.
9 I think, that if Russia was next door, we wouldn't
10 have an immigration problem, would we? But we
11 understand the situation. I think it's convenient.
12 And we look at the history, history has shown us
13 how to bring in illegals over here to this country.
14 What what are we talking about? It's there
15 historically, it's been there. But now we've
16 become sophisticated and we've become so modernized,
17 that we have to make up some rules.

18 And I think the rules sometimes are just
19 for the sake of convenience. You recall in the
20 twenties, and maybe this is not a good analogy, but
21 the days of prohibition. We made a law. Somebody
22 convinced somebody that we had to stop this
23 nonsense of drinking, and the law was passed, and,
24 boy, just things were out of control. And we
25 allowed this to go on for many years. Many lives

1 were taken during this time. And then we changed
2 the law and did away with it, it's okay, we learned.
3 I'm hoping that now we can learn a little bit
4 sooner, and not wait.

5 I was telling you about the incident about
6 the victimization. I dealt with a lot of these
7 cases and I busted-- Well, I did not work directly
8 with them, but within our police department some of
9 these cases were solved. And I interviewed a lot
10 of the criminals in talking to them. And I also
11 interviewed a lot of the victims that survived, the
12 survivors, and you had a change. The guy that came
13 here illegally, he did not want to be a criminal,
14 he didn't come here to be a criminal. He came here
15 to work. But then when he was being victimized,
16 not only by the Justice Department, by the crooks,
17 he was up against the wall.

18 And so what you had was we had an increase
19 in crime from the crooks here, victimizing these
20 people and then these people decided "I've got to
21 defend myself. I've got to buy guns." And it's so
22 easy to buy a gun. You just fill out the paper and
23 there it is. And you had a big turn, also.

24 Within the Houston Police Department, what
25 we had to do was come up with a program where we

1 invite these people to come to us and report, even
2 though it's hard, but we work on these cases and
3 try to resolve them, if they've been victimized.

4 One of the things that I had the most
5 difficult time resolving has been the labor
6 problems. These people come into my office and say,
7 "Look, I worked for months and months" and it's a
8 good strategy that's used. You tell them you're
9 going to pay them \$150 a week, and then you only
10 pay them \$50 the first week. "Well, I only got \$50,
11 here." He gives you \$50, he keeps you there another
12 week. Well, the next week he already owes you \$350.
13 "But I can only afford to pay you a hundred. Here
14 you go, here's a hundred."

15 And the following week-- by the time you
16 realize it this guy is owed over a thousand dollars,
17 and he's been working there for over months.

18 And he goes, "What do I do, Officer?"

19 Well, I call the Labor Department. I
20 said, "We've got to call the Labor Department,"
21 well, they have no enforcement power. And by the
22 time you fill out all the paperwork, and in some
23 cases they don't have anyone that speaks Spanish.

24 I called the District Attorney's Office.
25 "That's a civil matter. That's a federal-- we

1 don't have nothing to do with that."

2 I was found also up against the wall. And
3 I had to on my own call some of these people up and
4 see if I could persuade them that they needed to
5 take care of their business a little bit better,
6 otherwise, we would go to the District Attorney's
7 Office.

8 I talked to the chief and he was able to
9 help out and the letter was sent to our District
10 Attorney here, John Holmes. And he has an
11 Assistant District Attorney, Assistant District
12 Attorney Turberville. And he let me know that if
13 there was a pattern, we could make a case of some
14 kind of criminal act, if there was a pattern. So
15 we have to prove a pattern, of not just one
16 employee, but several employees that had been dealt
17 with this way.

18 I think we can go on and on and you've
19 heard a lot, but the bottom line, I think we need
20 to distinguish the idealistic from the realistic
21 and as the lady said prior to me, that the economic
22 development in our Central American countries are
23 something we have to look at.

24 Employer sanctions, I think idealistically
25 sounds good. Realistically, it's not going to work.

1 If I am an employer, and I have to fill out
2 whatever forms, and the easiest one is the one that
3 says "Is a citizen," that's the application that
4 I'm going to accept. And every other one is going
5 to go down the trash. Because I'm going to say,
6 "Hey, I can't afford to hire someone to do all this
7 paperwork and keep all these files." That's
8 realistic. Budget, money, that's realistic.

9 And that's why these people come over here.
10 For money. I think they love their country, but
11 it's survival.

12 So, just one last thing, you know, is a
13 famous saying, I can't remember exactly who the
14 quote came from but it's about power and justice,
15 of how it should be brought together. "So that
16 that which is just, must be powerful. But also
17 that which is powerful, must be just."

18 And I hope that we can remember that in
19 trying to make our decision here. Thank you very
20 much.

21 MR. CHAIRMAN: Thank you very for
22 your remarks. At this time we will open up for
23 questions. Do we have any at this time?

24 (No questions).

25 MR. CHAIRMAN: We thank you all very

1 much. We're going to take a very short break,
2 about a ten-minute break and then we'll continue
3 again.

4 (A short break was had.)

5
6 * * * * *

7
8 MR. CHAIRMAN: We have five
9 individuals that signed up that are to be heard
10 from. I do wish to emphasize at this time that, of
11 course, this is a public meeting. We are governed
12 by Federal Regulations and we are concerned that no
13 defamatory material be presented at this meeting.
14 In the unlikely event that it should develop, it
15 will be necessary for me to call this to the
16 attention of the individuals making the statements,
17 if there are any such statements and request that
18 they desist in their action. Such information may
19 be stricken from the record, if necessary.

20 If the comments a person is offering,
21 however, are of sufficient importance, the
22 committee will hear the information, and in that
23 event, the person against whom the personal
24 allegations are made, will be given an opportunity
25 to respond in writing. Because of the time

1 situation, and the number of individuals signed up,
2 we do ask that you limit your remarks from between
3 three and five minutes, maximum. And, of course,
4 that will leave time for questions if the panel
5 wishes to ask questions. At this time, we call the
6 first one who is an individual by the name of Mr.
7 Robert Fenlon. Is he here?

8 MR. DULLES: Mr. Chairman, if you
9 will have them state their name for the record,
10 spell it for the court reporter.

11 MR. CHAIRMAN: Yes. If you would
12 state your name for the record and spell it for us,
13 if necessary, and whom you represent or if it's a
14 group or whatever.

15 MR. FENLON: My name is Robert Fenlon.
16 F-e-n-l-o-n. I'm with the Guadalupe Amnesty
17 Program, part of the Catholic charities
18 organization. I believe our Church is probably the
19 most active in the Houston area. We don't charge
20 any fee, we're in the low-income section of the
21 city. We're primarily volunteerly staffed.

22 Myself, I have been active or been a
23 member of the Latin Community although I'm not
24 Latin, I was born in Massachusetts. My wife is
25 from El Salvador.

1 About twenty years ago I initially started
2 the-- and most of my friends and associates are
3 Latins, probably more illegal aliens. I know the
4 community well. I know the people well. I have
5 worked with them and eaten with them, with
6 thousands, possibly tens of thousands. I know
7 firsthand the people.

8 Who are we really talking about? We talk
9 about illegal, but really they're not illegal, they
10 were born on the wrong side of the national line.
11 They're trying to survive in a world that's not
12 easy to survive in.

13 They're poor, mostly poor, ninety percent
14 of them are poor surviving on beans and tortillas,
15 in many cases, trying to clothe their families.
16 They're mostly uneducated, twenty percent probably
17 can't even read or write. And many of the ones,
18 maybe 50 or 70 percent, that can read or write are
19 really functional illiterate. If we gave them the
20 application to fill out, even in Spanish, they
21 couldn't fill out the application, just the
22 application the Immigration Service gives. They're
23 a humble, a quite, and a peaceful people, for the
24 most part. There's good and bad in all of us, but
25 for the most part they're quite, humble people.

1 They're not the kind of people to complain
2 when their civil rights are abused. They don't
3 know where to go, they don't know how to complain,
4 and it's generally not their nature to do so.
5 They've been abused for years. They've been abused
6 physically, and financially by coyotes bringing
7 them into the country, a situation that's been
8 brought about by our laws.

9 They've been abused by the Immigration
10 Service, coming in through the windows into their
11 homes to take them back. Not so much maybe
12 physically abused, but degraded, treated like
13 animals, like cattle; herding them back South.

14 They've been abused by employers, not all
15 employers, many employers treat them well, just as
16 many southerners treated their slaves well. But
17 they're also abused by many, many, many employers;
18 and maybe more abused than our slaves were.

19 They're simple people in a complex situation.

20 There is a little bit of good in this law.
21 Those who qualify, by INS standards are finally,
22 maybe, reaching a time when the abuses against them
23 will end after five years or twenty years of living
24 in this country, maybe they can join us as
25 Americans. But there's a lot of bad in the law.

1 It seems that those that came after 1981, there's
2 more belief that they don't have rights. Well,
3 they do, they have human rights. Rights are not
4 given by the Government, human rights aren't.

5 The Constitution grants that all men have
6 human rights; human rights are given by God. And
7 for us to allow the state to suppose to give them
8 these rights, is ungodly. Well, maybe that's
9 another issue.

10 In regard to those who came North after
11 '81, those that Congress intended to accept into
12 our society, I hear the INS say this morning that
13 ten percent are rejected. But I think that doesn't
14 really give the true situation of what's going on.
15 Ten percent of the applications that they're
16 accepting are offering rejection, but how many
17 people are being turned away, or how many people
18 aren't even going over there because they've gotten
19 the information but they don't have the
20 documentation?

21 They say that twenty thousand people have
22 applied through, but I don't think that's even ten
23 percent of the people that really should be
24 qualifying under this law. We get people coming in
25 daily. We can't help the people we have on the

1 list now; and we have people coming in everyday
2 that we're turning away. The people need help to
3 get the papers, the documentation. The
4 documentation requirements are so strict that they
5 just can't get it together.

6 We're working with families for eight
7 hours in many cases, in many, many cases that's
8 probably a normal eight hours work to get a family
9 of four ready to go to the INS. We cannot
10 accommodate the people that are coming in there.

11 Now, these people, they can't work because
12 employers are turning them away, because there
13 hasn't been proper information. The INS says,
14 "Well, they had all these surveys, had all these
15 information seminars."

16 Why is it that employers don't understand
17 the law? Who gave them the information? The
18 information has come from the INS. But they don't
19 understand the law. It's not because the employers--
20 in many cases want to do the people bad, it's
21 because they don't want to be put in jail, they
22 don't want to be fined, they don't want to get on
23 the blacklist with the INS, even though they can't
24 be fined, now. They don't want people working for
25 them that are going to get them in trouble. And

1 they don't realize that the primary purpose, the
2 primary thing they need to be concerned with is
3 they shouldn't be discriminating. But the
4 penalties are not that great for discriminators.
5 There's not a big enforcement effort against
6 discrimination.

7 So, what they're protecting themselves
8 against is the INS Service, and the people are
9 being abused and the people are being denied work.
10 And now they're in a situation they're trying apply,
11 they don't have any money, they can't get legal
12 help, and they're having trouble even working to
13 maintain themselves. The application period is not
14 over.

15 The employer sanctions have to be held off.
16 You can't allow them to go on. You have to stop
17 them. There are people who are legally qualified
18 under the intent of the law to stay in this country.
19 And they're not going to be able to apply, even in
20 this year, they're not going to be able to apply.

21 There's people-- "proof, proof," what is
22 proof? If someone kills someone and three people
23 go and testify, "Yes, I saw them kill someone",
24 well, that's proof. But if someone goes over to
25 the INS and they have three testaments from three

1 solid citizens that say they've been living here
2 from 1981, INS is going to laugh at them and say,
3 "that's not proof."

4 It's the way they're handling this. You
5 have a police agency dealing with what should not
6 be a police agency. It should be a separation.
7 They're not trying to help people, it's not their
8 job to help people. They're a police agency. The
9 requirements are too strict for the legalization,
10 and the masses of people that should qualify, are
11 not going to make it.

12 MR. CHAIRMAN: Do we have any
13 questions from the panel? Yes, Mr. Velarde?

14 MR. VELARDE: I would like to put
15 something on the record, and I think it relates to
16 what has been said in the last two and a half hours
17 and it hasn't really surfaced. A lot of people
18 have said, "It's time that we start looking at
19 repealing this Immigration Reform Act."

20 I think that a lot of people perhaps are
21 misinformed in that first of all, amnesty at the
22 end of May 4th of '88 dies. I mean, you can't file
23 after that period. So, those that would normally
24 qualify and haven't filed by that time, amnesty is
25 all gone.

1 The biggest concern to a lot of these
2 people is that the enforcement provisions, the
3 employment sanctions should be done away with.
4 Unfortunately, nobody has surfaced the fact that
5 it's really a three-year trial period. It's in the
6 law, and that if discrimination can be proven, not
7 in isolated cases, but just in general that
8 employer sanctions have caused discrimination, that
9 it will repeal itself.

10 And if it's not documented by the people
11 in the community who are seeing these on a daily
12 basis, and don't encourage these people to go and
13 file the complaints to show that there is this
14 documented, recorded cases of discrimination, that
15 by not coming forward, then at the end of the three
16 years, employer sanctions won't be repealing itself;
17 it will be extended by Congress. And I think that
18 the people should know this.

19 The other final thing that a community
20 based people who are here, and I'm saying this
21 because they're here, you all are putting a lot of
22 work out, six, seven hours per case. Presenting
23 the case so somebody will get a card, but the one
24 thing that none of you are addressing, and none of
25 the major organizations are addressing, because

1 we're too busy trying to qualify people for amnesty,
2 at the end of 18 months, they've got to come back.
3 And if they don't know English and Civics or
4 they're not enrolled in a course leading to that,
5 everything you've done just went down the drain.

6 And we didn't get it to the educational
7 man that was here this morning, but if there's
8 twenty thousand applicants who have been approved,
9 will the Houston School District be in a position
10 eighteen months from now or a month from now, if we
11 as community based took those twenty thousand and
12 said, "Here they're they want English and Civics,
13 can you address that need?"

14 I bet you that gentleman would have
15 fainted this morning if we would have presented
16 that. And I think we have to get this on the
17 record, where community based people have to know
18 that this is available. And it's you, not us the
19 Commission, we have no one policing powers. We'll
20 leave Houston tomorrow. None of us are from
21 Houston. But unless you people then go to your
22 educators and say, "These twenty thousand people
23 have a need, can you address that?" What have we
24 done here today?

25 We've voiced our frustrations, we filed a

1 report, and we don't know where it's going to go.
2 But it is repealable, but not through Congress;
3 through the actions of you people reporting.

4 MR. CHAIRMAN: Thank you very much,
5 Mr. Fenlon. I may give you some time later on.
6 Right now we have to go through everyone that
7 signed up, sir.

8 Next on the list is Maria Jimenez.
9 May I remind you, please, three to five minutes.

10 MS. JIMENEZ: My name is Maria
11 Jimenez, I'm with the American French Service
12 Committee. I am director of a national project
13 called The Immigration Enforcement Monitoring
14 Project. My reason for being here is because I
15 believe that there is one section that's quite good
16 that was passed in the bill; perhaps the only
17 section that's good in the bill. And that's
18 section 115 Enforcement of the Immigration Laws of
19 the United States.

20 And it states, "It is the sense of the
21 Congress that the Immigration Laws of the United
22 States should be enforced vigorously and uniformly.
23 And (2), "In the enforcement of such laws, the
24 Attorney General shall take due and deliberate
25 actions necessary to safeguard the Constitutional

1 Rights, personal safety and human dignity of the
2 United States citizens and aliens."

3 Based on that clause, we believe that
4 hearings like yours are very important, because
5 they will become part of the public testimony of
6 how these laws are being enforced throughout the
7 nation and then submitted to Congress for review in
8 those three years. And it is that that brings us
9 to this and to take this Commission hearing as a
10 very serious hearing.

11 In that sense, one of the issues that has
12 not been brought up, has been the effect on the
13 employee of this law. It's an employer sanctions
14 provision, but it is also an employee sanctions
15 provision.

16 For the first time in our history an
17 undocumented worker who works with falsified papers
18 is liable to be punished by a \$2000 fine or up to
19 two years imprisonment, or both. That is for us
20 that are from immigrant communities, who live side
21 by side the undocumented, for the first time we may
22 not only see our family and our neighbors deported,
23 but we may see them in federal prison. And this is
24 a very direct violation and intent of the
25 Declaration of Human Rights of the UN Charter,

1 which we have signed as a nation and which also is
2 the law of our land by U.S. Supreme Court rules.

3 We believe this to be something to look
4 out for, to monitor, and particularly I myself have
5 asked Commissioner Nelson if INS is going to
6 prosecute the undocumented who words with false
7 papers. And his answer was, "It's a tool, it's a
8 possibility, but perhaps we're going to go after
9 those who falsify, who make false documents."

10 Nevertheless, we feel it's an area that
11 must be monitored, watched, and that people be
12 aware that the employer sanction provisions
13 ultimately is the employee sanctions provision.
14 Because after all, an employer complies simply by
15 keeping records and INS coming and seeing that he
16 keeps records. And knowing the history of the
17 Immigration and Nationalization Service, in a few
18 years if it becomes frustrated in its efforts of
19 enforcement, are they going to prosecute the
20 undocumented worker based on this section of the
21 law? We believe that to be a very serious
22 violation of human rights.

23 The second aspect that I would like to
24 treat is a procedural one with respect to this
25 Commission. We believe that there are many groups

1 within our community that can address this issue.
2 And we feel that the form is important enough that
3 it should be equitably addressed, in terms of who
4 can participate in forum.

5 We believe that in this case, perhaps
6 there was very little publicity around the hearings.
7 There were many groups who did not know and who
8 could testify with other testimony that was not
9 brought before it. And again, because of the
10 importance of this hearing, we feel that public
11 outreach when such forums are conducted, everyone
12 should be an important part of the agenda for this
13 Commission.

14 I gave one example, The American Civil
15 Liberties Union. The American Civil Liberties
16 Union with the Mexican American Legal Defense are
17 two organizations that are conducting a national
18 monitoring project with the effect of the anti-
19 discrimination clause. They started it several
20 months back, and so they have a wealth of
21 information.

22 Yesterday, I went to CACLU, they knew in
23 general that this hearing was going to take place,
24 but they did not know when, where, or how. And
25 they had information of American citizens and the

1 effect of this law on American citizens, several
2 Anglo Americans who had direct problems in the
3 application of this law. Because as we'd like to
4 point out, this law is not just for a few people.

5 The undocumented are not just those that
6 cross the Border. We are all undocumented for the
7 effects of this law. We all have to prove
8 documents. And so in that sense, again, I
9 respectfully say that it's an important hearing, we
10 believe it to be an important hearing, but at the
11 same time we feel that it would be much better for
12 the community as a whole, given the gravity of this
13 law and its effect on our community, that more
14 public outreach should be displayed in putting it
15 in another occasion.

16 MR. CHAIRMAN: Thank you. Let me
17 speak to that briefly. I have a question for you
18 also, at least a statement also.

19 This Commission underwent some very
20 serious cutbacks in funding last year and the year
21 before. And whereas the present regional office
22 had five state regions, now seventeen states are
23 now covered by the same number of staff as we had
24 with five states before.

25 I think Mr. John Foster Dulles and Mr.

1 Velasquez, and others have done a heroic effort to
2 put this thing together, as they have to do for
3 each and every state within the region, seventeen
4 states, Hawaii, Alaska, Dakotas, California, Texas.

5 So, I do wish to come to the defense of
6 the staff that they have worked very long and hard
7 to put this together.

8 MR. DULLES: Well, we do appreciate
9 that, but I do think that it is a valid statement.
10 I wish we had been in a position, and I want to
11 thank Maria, as well as a few other people who were
12 very helpful in helping get the information out.
13 Maria was among those that submitted names of
14 groups and organizations that she asked be notified
15 and we notified all of them. I think that is valid.

16 And, secondarily, we're going to have
17 several more meetings. For instance, in Los
18 Angeles we're going to have the National Office of
19 Mexican-American Legal Defense Fund. Hopefully,
20 they're going to provide us with information that
21 will be relevant to all of the states in our region,
22 and it's very likely that something like that would
23 further help us. A series of meetings will also be
24 conducted, I believe several meetings in Colorado,
25 we held one meeting in New Mexico. So this is part

1 of the series. But, basically, what you're saying
2 is valid and we appreciate it

3 MR. CHAIRMAN: Well, I was saying
4 this in defense to our staff.

5 MS. JIMENEZ: Yes, it wasn't meant--
6 I'd like to make a clarification that we understand
7 the problems of budget allocation for Civil Rights
8 under this administration. I think we all
9 understand it very well. But we feel that it is a
10 very important issue, that's why we are here.
11 There are problems. And as a person who's
12 participating in the community forum, I think, you
13 know, and not to be disrespectful with the Chairman,
14 but when we are told that we will silence you and
15 defamatory, et cetera, it's almost as if saying
16 that because we were not officially invited,
17 because we're not part of the official program,
18 those of us who are going to participate at this
19 hour, are somehow--

20 MR. CHAIRMAN: That statement was
21 made at the beginning of our session to everybody.

22 MR. DULLES: Just for clarification,
23 that statement was made at the very beginning, at
24 the outset.

25 MR. CHAIRMAN: It applies to

1 everybody. It's a legal requirement.

2 MS. JIMENEZ: Oh, okay. Fine. It
3 was misunderstood, then. I'm sorry.

4 MR. CHAIRMAN: Let me say
5 incidentally with respect to the criminal penalties
6 against employees, I think the INS has taken the
7 position in the past, for example, the first time
8 they apprehend an undocumented, they don't report
9 them, they just send them back, maybe one or two
10 times. But I think the danger comes in a repeated
11 situation and I think that's when you will see some
12 criminal penalties enforcement.

13 Thank you very much. Next individual
14 is Millie, how do you say the last name?

15 MS. VILLARONGA: My name is Millie
16 Villaronga, I am director of social services at a
17 Catholic Church in West Houston. I'm also
18 chairperson of the Social Ministers of the Western
19 Vicarage of the Catholic Diocese, I'm a member of
20 the Hispanic Advisory Council on Immigration.

21 As a Hispanic Catholic U. S. citizen, I am
22 involved both in the employment counseling and
23 referral of Hispanic workers in assistance to
24 immigrants in orientation, gathering of
25 documentation, and reviewing of cases towards the

1 legalization process.

2 I want to share my concerns with this
3 Commission on the impact of the employer sanctions
4 provision of the Immigration Reform and Control Act
5 of 1986 to the people that we represent. There are
6 three points I want to raise today.

7 The first one is the stringent regulations
8 of the Immigration Reform and Control Act are
9 bogging down the documentation process. Employees
10 are unable to gather the documentation from
11 employers. In turn, it slows down the opportunity
12 for these people to present their cases to the INS,
13 and that's actually one of our big problems.

14 The second point I want to make is that
15 INS, even in the best possible circumstances,
16 cannot process the remaining people projected in
17 Houston, and that is just at their current estimate
18 of a hundred thousand people. We have higher
19 numbers. People are not surfacing, because they
20 are scared, because they're ignorant of the law,
21 because they're not educated. If they had
22 processed twenty thousand people, the remaining
23 eighty thousand, would not be able to be processed
24 at this rate, because we have nine months left, so
25 there's a 180 working days prior to May 5, 1988.

1 So, in effect, it's not possible.

2 Number three, is employers are not
3 sufficiently educated. This has been stated over
4 and over again, but I want to state it again. The
5 cutoff date of September 1, 1987 is causing massive
6 layoffs and suspension in hiring. There's a
7 vicious circle.

8 Employment is required for legalization
9 and legalization is required for employment. So
10 what's first, the chicken or the egg?

11 We see people every day that are either
12 unemployed and there are those that are unable to
13 gather documentation, unable to be hired, and
14 they're also asking for help on food, rent, and
15 utilities. So I see them because in our ministry
16 we see them for employment, we see them for social
17 assistance, and we see them for immigration. So,
18 this person, I know their family and I know their
19 whole history, and this is what I find.

20 As we speak, I have a list of people that
21 are being laid off by a major restaurant chain, I
22 won't say the name. Also, I have cases of people,
23 women that are being exploited by their employers.
24 I don't want to say details about this.

25 I recommend that this Commission ask that

1 the date of September 1 be extended to provide for
2 more comprehensive public education and employer
3 education. And this will give some more time for
4 immigrants to collect their documentation and to be
5 able to keep their jobs and to be able to seek
6 other jobs. I also recommend that the employer
7 sanctions be reviewed if we cannot repeal them,
8 thank you.

9 MR. CHAIRMAN: Thank you very much.

10 MS. VILLARONGA: Any questions?

11 MR. DULLES: Would you like to submit
12 any additional documentation, for the record?

13 MS. VILLARONGA: I don't have any
14 right now.

15 MR. CHAIRMAN: You may submit it
16 later. We appreciate it. Thank you very much.

17 MS. VILLARONGA: Thank you.

18 MR. CHAIRMAN: At this time we call
19 on Travis Morales.

20 MR. MORALES: My name is Travis
21 Morales. I don't have any official title other
22 than sometimes being called a professional outside
23 agitator.

24 I'd like to begin with a quotation that I
25 think is very relevant to the new Immigration Law.

1 "In 1939 we did not understand, we refused to
2 believe. Both out of ignorance and the desire not
3 the see. If only we had realized; if only we had
4 understood; if only we had been able to turn the
5 historical tide back to the year 1939, we should
6 have shouted 'Revolt at once!' For then we were at
7 the height of our strength. Then we were possessed
8 of vigor and self-respect."

9 And these are from the memoirs of Izhak
10 Zuckerman, one of the few surviving Jewish leaders
11 of the 1943 Warsaw Ghetto uprising.

12 And now we look at the U.S.A. in the
13 1980's. From Mexico, Central America and other
14 areas of the globe, millions have been forced to
15 flee to the U.S. Whether from U. S. supported
16 death squads or poverty and starvation brought on
17 by U. S. domination or both, all have fled under
18 the threat of death. Risking a horrible death in
19 the desert or arrest and deportation, they face a
20 life underground, hounded and hunted by La Migra.
21 All of this to slave at minimum or subminimum wage
22 jobs, washing dishes, picking fruit or sewing
23 clothes.

24 And with the new Simpson-Rodino Law is a
25 leap in the oppression and repression of these

1 people which sets the stage for major assaults
2 against immigrants. It comes in the context of a
3 major offensive against Latinos and other
4 immigrants that is concentrated in the English Only
5 Movement, the War on Drugs and the whole
6 militarization of the border.

7 Today millions face the prospect of being
8 driven from their jobs and denied the ability to
9 support themselves or they face reduced wages with
10 the threat of deportation hanging over them. With
11 the registration and legislation process, a whole
12 class of legal subhumans is being created to numb
13 people to the crimes that are in store.

14 All we have to do look at the Dallas DJ
15 who responded to the horrible deaths of eighteen
16 immigrants in a railcar in the desert of West Texas
17 by saying, "I don't know if your mind works like
18 mine, but these people got what they deserved."
19 Already the INS is holding thousands of children in
20 concentration camps to force their parents to turn
21 in themselves. In Los Angeles, immigrant children
22 have been kidnapped out of public schools.

23 And under the penalty of prison and
24 deportation, all applicants for legalization are
25 being forced to turn over the names and addresses

1 of all relatives in this country who are
2 undocumented, whether they're applying for
3 legalization or not.

4 These moves to locate, identify, and
5 register millions of immigrants, with the illusion
6 of legalization as the bait, have chilling
7 parallels to the initial actions taken by the Nazis
8 against the Jews.

9 To those who say, "It can't happen here,"
10 look at the plans the government has made and the
11 steps they've already implemented. Heed history
12 and the lessons of the 1930's. Revelations about
13 the Rex '84 maneuvers which Oliver North was
14 intimately involved in, and INS contingency plans
15 have exposed government steps to stage mass
16 roundups of immigrants from both Central American
17 and Arab countries, documented and undocumented, in
18 the event of a national or international crisis,
19 and their internment in which they call detention
20 centers; which are basically concentration camps.
21 The INS Oakdale Detention Center in Louisiana is
22 one of many such stocked and prepared sites.

23 This new Simpson-Rodino Law and the entire
24 offensive against Latinos and other immigrants
25 means:

1 1.) Intensified exploitation and repression,
2 which many have testified here today.

3 2.) More deaths of immigrants in the desert.

4 3.) The holding of children as hostages, as we
5 see from these INS contingency plans.

6 4.) Mass roundups.

7 5.) Concentration camps.

8 We must not be like the "Good
9 Germans" who turned a deaf ear and pled ignorance
10 of the death camps. We must actively oppose and
11 encourage resistance to all attempts at mass
12 roundups and deportations.

13 We must support all those who decide not
14 to comply with the attempts to register or identify
15 all immigrants and those who decide to employ and
16 shelter them. We must give active and unyielding
17 opposition to all attempts to utilize xenophobic
18 laws, such as the " English Only" onslaught, and
19 various moves at national chauvinist hysteria to
20 attack immigrants. The trains to the concentration
21 camps, or what they call detention centers, must go
22 stopped.

23 Todos somos Ilegales! Abajo la ley
24 Simpson-Rodino! Aqui estamos. Aqui nos quedamos.
25 No nos Vamos! We're all illegals! Down with the

1 Simpson-Rodino Law! Here we are. Here we'll stay.
2 We won't go!

3 If people are interested, I have copies,
4 these are some of the INS contingency plans that
5 were released earlier this year in Los Angeles that
6 deal exactly with plans to round up people.

7 MR. CHAIRMAN: Thank you. The next
8 person is Mary Helen Padilla.

9 MS. PADILLA: Good afternoon. My
10 name is Mary Helen Padilla, and I am the Director
11 of the Multi Ethnic and Internal Affairs Office for
12 the University of Texas Health Science Center here
13 in Houston. And I also am the President of the
14 Council of Houston Hispanic Organization.

15 In my capacity with the University of
16 Texas, I have fourteen years of experience. So
17 having to go through employment verification for
18 noncitizens is nothing new to the UT system. The
19 employer sanctions part, the verification of
20 employment is something that was not a major change
21 for us because we had been doing it for many years.
22 But that filling out the I-9 employment
23 verification, xeroxing, has literally tripled the
24 work that we do at the University of Texas.

25 The one thing that really concerns me is

1 that Immigration has put an expiration date on the
2 cards that individuals are receiving, who have gone
3 through the legalization process. It shows that
4 they're allowed to work; however, it carries an
5 expiration date. Any time I see an Immigration
6 form with an expiration date, it makes me very
7 nervous simply because Immigration is overwhelmed,
8 and the fact that an individual may not get what
9 they need by that date, simply states to me that it
10 may cause some employers to then look at that
11 person again and perhaps terminate them if they
12 cannot show other evidence. So it's just
13 prolonging, I think, the fact that they may end up
14 being terminated.

15 The other thing that I would like to state
16 at this point is that although Immigration has done
17 a wonderful job in the City of Houston by
18 conducting numerous seminars, many of those that I
19 attended, but in May I was in California for four
20 days. And literally one afternoon in a two-hour
21 span, every ten minutes there was a public service
22 announcement where you would have Hollywood
23 entertainers, Tony Randall, others, they would
24 literally get up and say, "Do not fire your
25 employees, they're covered under the grandfather

1 clause," et cetera, et cetera, thereby giving the
2 information that individuals needed to hear.

3 The seminars are very good, but there are
4 public service announcements that were not really
5 adequate here in the City of Houston. There are
6 many affluent families, I think, nationwide that
7 are not helping the individual qualify for amnesty
8 because of the adverse effect that they will have
9 by coming out and giving them a letter. There's
10 just not enough information that's going out to
11 these individuals that there are no penalties.
12 It's simply to support them by giving them a letter
13 of employment so that they can then qualify for
14 amnesty.

15 That's all that I wish to say at this time.
16 Thank you.

17 MR. CHAIRMAN: Thank you. Any
18 questions? Marcial Silva.

19 MR. SILVA: Good afternoon. My name
20 is Marcial Silva, and I presently work for the
21 Texas Center for Immigrant Legal Assistance here in
22 Houston. And mostly I work directly with the
23 immigrant community, either in my capacity as a
24 paralegal for Texas Center or organizing in the
25 community. We have a council of clients that has

1 been formed to help address a lot of the questions
2 that perhaps are bypassed in the process of the
3 legalization program in filling out forms and what
4 have you.

5 And I would just like to say that I think
6 what Maria Jimenez said was very important about
7 the information getting out around these sorts of
8 forums. And more than just extending it to the
9 organizations that are doing work, I would have
10 liked to have seen a lot of the immigrant community
11 themselves have the opportunity to present their
12 problems so that you can see firsthand the sort of
13 abuses and problems that they face themselves. We
14 at the Texas Center get calls and visits all the
15 time from the immigrant community. That is really
16 appalling when you stop to think of the kind of
17 abuses that they're facing in their employment
18 situation and what have you. And I'd just like to
19 give you a few examples.

20 We've had people come in that have
21 complained of employers requiring them to deduct a
22 certain amount, sometimes as high as \$50 a pay
23 period for "insurance for the employer who might in
24 the future be subject to fines."

25 We've had people complain of being fired,

1 and in many cases, they would be fired and their
2 paycheck that was left pending would not be given
3 to them, and we have had to go out and try to help
4 them recover their wages due. And, of course, once
5 you're fired, because of the lack of understanding
6 of the grandfather clause and what have you, many
7 of the employers don't realize that they're sending
8 these workers out into a situation where they're
9 faced with even more difficulties, because then
10 they can no longer really find another job.

11 We've had situations where employees come
12 in and they complain of employers that have been
13 wanting to charge them hundreds of dollars for
14 letters stating that they had been employed with
15 those companies for the number of years that
16 they've been employed. One, in particular, this
17 one woman that was working for a tortilla company
18 here in town had been working there for almost ten
19 years and they wanted to charge her \$150 for a
20 letter simply stating that, you know, they'd been
21 employed there for that amount of time, because
22 they didn't have the check stubs and stuff
23 sufficient to prove their length of employment
24 there.

25 And it's a very abusive thing. When we

1 try to call INS what we were told was that, "Well,
2 this is the free enterprise system and if people
3 can figure out ways to make money, well, there's
4 nothing illegal with this."

5 But we feel that the government should
6 really take a stand on this. If regulations need
7 to be drawn to do away with this sort of abuse, I
8 think it would be something that would be very
9 beneficial to millions of people in this country.

10 One of the things I just wanted to say was
11 I thought that-- I understand there's cutbacks
12 taking place in these sorts of Commissions, Civil
13 Rights Commissions and just about anything I think
14 that affects the people in the community,
15 especially low-income and what have you. But I
16 would like to see set up some sort of review board
17 where abuses could be monitored and some sort of
18 concrete actions could take place with participants
19 from people that are directly involved with the
20 immigrant community, that have ties with the
21 immigrant community. Because it's very difficult
22 for, I believe, agencies in the Federal Government
23 that is somewhat removed from the immigrant
24 community to have a real understanding and feel for
25 sorts of abuses people are under and their fears

1 and apprehensions.

2 And, finally, I just want to say that I
3 think it should come as no surprise that nationally
4 the turnout around the legalization program is a
5 lot lower than expected. I think partially it's
6 historical fear of Immigration for a lot of abuses
7 that have occurred in the past. And the other is
8 just the obscurity that surrounds the legalization
9 process and the lack of information going out to
10 people in terms of their rights. Because many
11 people really don't know how to defend themselves
12 in relation to their employers when they're being
13 forced to show documents or being fired unjustly
14 when they have worked for years for certain
15 companies.

16 And I'd like to also get any address where
17 we might be able to send you more concrete facts,
18 because we're getting them daily and we'd like to
19 to compile all these facts and get them to you.

20 MR. CHAIRMAN: We will be glad to
21 receive any facts. We would appreciate any
22 continuing information from any of you with respect
23 to any civil rights violations in the entire area;
24 and not only today, we need your input, and we
25 appreciate it.

1 MR. VELARDE: Mr. Silva, I just want
2 to say something here that indicates direct
3 violation of the law where an employer is withholding
4 from an employee to protect themselves in case the
5 employee lied to him on the I-9 Form, and the
6 employer is holding wages back in reserve, escrow
7 money from the employee.

8 In regulations dealing with employer
9 sanctions, that is a direct violation of the law.
10 And I think that if cases like that can be
11 documented and brought forward to the proper
12 authorities, that type of thing can be stopped, but
13 it's got to be documented. We just can't know of
14 incidents. We have to receive names and people are
15 going to have to come forward and say this happened
16 to me.

17 MR. SILVA: I was told not to bring
18 any names of companies.

19 MR. VELDARDE: That information can
20 be sent in written form.

21 MR. SILVA: This is an ongoing
22 thing, we hear of the abuses as they are occurring
23 and they are certainly not lessening to any extent.
24 In fact, there's an increase in the mounds of
25 complaints that we are getting of abuses.

1 MR. CHAIRMAN: That is precisely the
2 type of information we need, sir. Thank you.
3 Now, Mr. Acosta of LULAC wants to be heard at this
4 time. We don't usually do this, but we will give
5 you the time now.

6 MR. ACOSTA: I just wanted to respond
7 to Mr. Velarde. Personally, sir, I don't agree
8 with your statement, with all due respect, that we
9 are not informed about the reporting process for
10 the General Accounting Office to the Congress for
11 the next three years. But as you can tell we were
12 limited to six to eight minutes so, we cannot say
13 everything we need to say in that period of time.

14 However, let me say that the LULAC
15 Organization is not in accordance with that. We
16 need to wait three years in order to remove the
17 employer sanctions. If you put the footing on
18 another classification, in a corporate world, if
19 you have a subsidiary that's losing money, you're
20 not going to wait three years to cut it off, you're
21 going to shut the plant down. If you have a cancer
22 in your body, sir, you're not going to wait three
23 years to see if you're going to take it out, you're
24 going to do it immediately. We take the stand that
25 we need to repeal the employer sanctions now, we

1 don't need to wait three years. Thank you.

2 MR. CHAIRMAN: Thank you. Mr.
3 Velarde, do you care to respond.

4 MR. VELARDE: No. I knew LULAC did
5 that. But there's a lot of other people that don't
6 know there's a possibility of the thing killing
7 itself at the end of three years. But if the
8 community doesn't respond, nothing is going to get
9 killed.

10 MR. CHAIRMAN: We have a summation
11 by Mr. Avena, our Director, and I would like to
12 hear from him.

13 MR. AVENA: Thanks, Mr. Chairman.
14 Instead of just going through and summarizing
15 everything, I think I'd just like to hit a few
16 points that I jotted down. My interest in the
17 immigration law has many origins.

18 I was one of the ones as a Regional
19 Director of the U.S. Civil Rights Commission that
20 fought to prevent the law from passing. In fact,
21 Blandina Cardenas Ramirez and I both testified in
22 Washington under the new administration asking
23 Clarence Pendleton, our chairman, who wanted to
24 change the Commission's position on employer
25 sanctions to favor them, not to change the

1 Commission's position, and they didn't.

2 However, the law passed and now my
3 interest, I guess, it comes from my political
4 science background is to see how the law is working.
5 Like any other part of our government, you've got
6 to dissect it, you've got to look at it, you've got
7 to see if it's working or not. Why is it working
8 or why isn't it working?

9 And I think I got my first answer when I
10 drove to Houston yesterday from San Antonio. Gosh,
11 there are a lot of employers here. You know, the
12 employers that we're really talking about under the
13 anti-discrimination provisions start down at four,
14 between 4 through 14 under the anti-discrimination
15 law of the Immigration Bill, Title 7 or EEOC picks
16 it up then from fifteen and beyond.

17 After sitting here during the day, and
18 especially this afternoon listening to the
19 community panels, I got a feeling more or less and
20 I divided this up into two parts. One, is for the
21 law to work there has to be information, there has
22 to be knowledge. You people have to know what the
23 law is. And I'm not talking just about aliens or
24 citizens, I'm talking about employers and everybody
25 else. And, second, you've got to look at the human

1 factor.

2 But first, under information. I was very
3 unsatisfied with the presentation by EEOC today.
4 And I missed just a little bit of the Regional
5 Attorney. But there's some major, major
6 differences between the Immigration Reform Bill and
7 Title 7. One of them is coverage. The Immigration
8 Reform Bill covers 4 to 14. Title 7 covers 15 or
9 more.

10 Milton Tobian asked the question about
11 intent. When the President signed the bill he said,
12 "To be convicted under discrimination in the
13 Immigration Bill, there has to be proven an intent
14 to discriminate." Title 7 has no such intent.
15 Under Title 7, if you can show that there's an
16 effective discrimination, then you have
17 discrimination.

18 One of the biggest problems of all, and it
19 was brought out again here today, is the whole
20 office of special counsel. Mary Mann was appointed
21 the acting special counsel. And I don't know if
22 there's been a special counsel appointed finally
23 since then. But she has told us and other people,
24 that they are not going to have regional offices,
25 they're going to sit in Washington, essentially,

1 and wait for complaints. In fact, there's a toll-
2 free number, there should be a toll-free number for
3 people to call up with complaints.

4 EEOC at least has district offices and
5 other offices around the country. But essentially
6 what they're doing is the same thing. They're
7 waiting for complaints. And what did EEOC prove
8 itself? That Hispanics -- and I can't speak and I
9 don't speak for Hispanics -- but Hispanics, under
10 the study that they did, they don't traditionally
11 come out and file complaints.

12 So what are they waiting for? The three
13 years are going to go by and they're going to
14 repeal the anti-discrimination section of the bill,
15 and there won't be any anti-discrimination
16 provisions at all.

17 Citizenship is covered by the Immigration
18 Reform Bill and national origin is covered by Title
19 7. Again, basically, you can do things to comply
20 with the Immigration Reform Bill so as not to get
21 in trouble, and you can be violating Title 7 at the
22 same time. And a lot of people don't know this.
23 Employers don't know this.

24 One of the biggest problems will be if
25 employers overreact to the Immigration Bill, try

1 not to hire anybody who -- and we referred to this
2 time and time again -- who looks foreign. They can
3 get in trouble by being selective, only asking
4 certain people for documents. That's another issue
5 that came up today.

6 The Immigration Reform Bill is very
7 limited in its anti-discrimination. It only covers
8 hire, fire, or referral for fee. Title 7 covers
9 many, many, more things: working conditions,
10 salary, and what have you.

11 Now, GAO is the agency, or one of the
12 agencies that's supposed to be undertaking this
13 study to report to Congress the first year, the
14 second year, and the third year, after the passage
15 of the bill.

16 GAO targeted Houston as one of the areas
17 that it was going to study discrimination. Does
18 anybody here know or did anybody here know that?
19 Have any of you been contacted by GAO? Houston was
20 a target city. If the advisory committee to the
21 Civil Rights Commission wants to make a major
22 contribution, they can find out what's happening.
23 What is GAO doing in Houston, if they're here at
24 all? Who are they interviewing, and then report
25 this information back to the community.

1 A lot of the employers, and believe me, I
2 feel sorry for the employers. They have a major
3 burden. You know, the employers, let's look at
4 each other, we're all employers, anybody who
5 employs four or more people. Come early September,
6 the Labor Department is going to start to go into
7 the major employers to check and see if they're
8 keeping and filling out the I-9's. And if they're
9 not, they're going to turn them in to the
10 Immigration Department. I don't think too many
11 people here knew that. But under the Fair Labor
12 Standards Administration, the same agency that has
13 contract compliance, part of their job is to go in
14 and see if the I-9's are being kept.

15 So, again, what did we get out of today?
16 What we got out of today was that there's a lot of
17 people out there that do not have information, and
18 there're a lot of people out there that have
19 misinformation. And there are many people still
20 that need that information.

21 As far as the human element goes and the
22 working or not working of this new bill, we heard
23 that Hispanics don't file complaints in great
24 numbers, and I think that's generally true. But
25 Hispanics, for many reasons, have not filed

1 complaints in great numbers. They filed complaints
2 against police brutality, they filed complaints
3 against employment discrimination, they have seen
4 very few results, and this is one of the reasons
5 that they don't file complaints.

6 I took a woman to be legalized on Monday
7 of this week at the San Antonio Legalization Center.
8 I don't know who was more nervous, she or myself.
9 But while we were in there sitting down waiting she
10 said, "Oh, my gosh, you know, I expected to see
11 these great big ugly men with guns and everything."
12 And they weren't. They were great big ugly men,
13 but they didn't have their guns, and they smiled.

14 I tried to tell her they'd been through
15 training. These are ex-border patrolmen. They are
16 people who were expelling people in the past, but
17 now they've been through training, you can tell
18 because they smile at you when you go in.

19 After we got through, it took us only
20 about an an hour and a half, we got her documented,
21 and we were going home, and she felt great. And
22 then I started thinking to myself, "You know, she's
23 entitled to work in this country now without any
24 discrimination." And I was going to but I didn't
25 say, "Do you know about this special counsel? Do

1 you know the hot line? Do you know how to file a
2 complaint if you are discriminated against?" But
3 I'll bet she didn't know. So the question is:
4 Will she file a complaint if she's discriminated
5 against?

6 And the last thing I'd like to say is
7 follow up. Follow up and find out what the special
8 counsel is doing and the Department of Justice.
9 Find out. Are they getting the word out to the
10 people that there is a special counsel, that they
11 can file a discrimination complaint? Find out
12 about the GAO study, who they're interviewing.

13 And two last very important things. You
14 know, the Bill also talks about increased
15 enforcement by the Border Patrol. And one of the
16 things that I would like to know is what's going on,
17 legalization, employer sanctions, anti-
18 discrimination is one whole package.

19 What is the Immigration Service doing in
20 the meantime? What are their enforcement people
21 doing out in the community? And the last thing is
22 to look at Project Save, which to me is a project
23 that's open for a great deal of abuse where the
24 Immigration Service is going to try to determine
25 how many illegal aliens are applying for welfare,

1 food stamps, housing, and so forth.

2 And I think at some of our past hearings,
3 Mr. Chairman, we've had some good testimony on
4 possible abuses by MALDEF and other groups as far
5 as that goes. I thank you for the opportunity of
6 being here and certainly want to say that there's a
7 great deal of work to be done by the Civil Rights
8 Commission, and I encourage you and wish you well.

9 MR. CHAIRMAN: Thank you very much,
10 Mr. Avena.

11 The focus of the proceedings have
12 been employer sanctions. This is the first step in
13 the Advisory Committee's study. Today we have
14 heard both from private groups and organizations,
15 as well as individuals knowledgeable in this area.
16 We will review the transcript of the meeting, meet
17 and talk with additional individual groups, and
18 then we we'll submit our findings and
19 recommendations to the United States Civil Rights
20 Commission in Washington D.C.

21 The Advisory Committee would like to thank
22 all of you who have participated. We thank you all
23 for coming. This meeting is adjourned.

24 (Meeting adjourned)

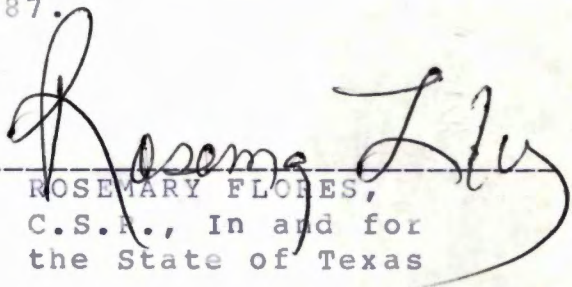
25

1 THE STATE OF TEXAS)

2 COUNTY OF BEXAR)

3
4 I, ROSEMARY FLORES, a Certified Shorthand
5 Reporter in and for the State of Texas, do hereby
6 certify that I reported the proceedings held before
7 the Texas Advisory Committee to the United States
8 Commission on Civil Rights, wherein the Honorable
9 Adolph Canales was the Chairman, and that the
10 foregoing 263 pages contain and constitute a true
11 and correct transcript of my shorthand notes taken
12 at said time and place.

13 TO WHICH I CERTIFY on this the 12th day of
14 September A.D., 1987.

15
16 
17 ROSEMARY FLORES,
18 C.S.R., In and for
19 the State of Texas
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