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FACT-FINDING FORUM OF THE
COLORADO ADVISORY COMMITTEE
TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS

September 10, 1987
9:08 a.m.

Re: Applications of the Immigration Control and
Reform Act of 1986

COLORADO ADVISORY COMMITTEE MEMBERS:

Maxine Kurtz, Chairperson
Gwendolyn Thomas, Member

UNITED STATES COMMISSION ON CIVIL RIGHTS MEMBERS:

Thomas V. Pilla
Arthur Palacios

ALSO PRESENT:

Pat Chavez - Witness
Marvin Chiles - Witness
James W. Knight - Witness
Michael Martin Bush - Witness
David Graham - Witness
Charles McClure - Witness
Leslie Berry
Matt R. Zubradt

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Meet.
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v.1

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ren, Blando & Associates, Inc.

er Office
Bryant Street, Suite 400
er. Colorado 80211
458-7211

Fort Collins Office
315 West Oak Street, Suite 112
Ft. Collins, Colorado 80521
(303) 221-3071

Boulder Office
1401 Walnut Street, Suite 303
Boulder, Colorado 80302
(303) 443-0433

1 Pursuant to notice to all parties in
2 interest, the above-entitled matter came on for
3 hearing before the Fact-Finding Forum of the Colorado
4 Advisory Committee to the United States Commission on
5 Civil Rights on Thursday, September 10, 1987,
6 commencing at 9:08 a.m., in the Columbine Room,
7 Radisson Hotel, Denver, Colorado, before Caroline R.
8 Castle, Certified Shorthand Reporter and Notary Public
9 within and for the State of Colorado.

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1 P R O C E E D I N G S

2 (Ms. Thomas was not present at the
3 commencement of the proceedings.)

4 MS. KURTZ: Mr. Chavez, would you please,
5 for the record, state your name and your address.

6 MR. CHAVEZ: Okay. My name is Pat Chavez,
7 and I'm with the Colorado Refugee and Immigrant
8 Services Program. And it's at 190 East 9th Avenue
9 here in Denver. Did you want me to explain the role
10 that --

11 MS. KURTZ: Mr. Chavez, would you explain
12 what the -- you're associated with one of the
13 governor's committees on the Immigration Act; is that
14 correct?

15 MR. CHAVEZ: That's right.

16 MS. KURTZ: Would you describe what that
17 committee is and what its function is.

18 MR. CHAVEZ: Okay.

19 MS. KURTZ: And could you speak up a little
20 bit so the reporter can hear you.

21 MR. CHAVEZ: Sure, okay. First of all, I'm
22 not actually on the governor's Immigration Reform and
23 Control Act work group committee. I -- I'm an
24 interested party. And my director is the chairperson
25 for the governor's work group on immigration.

1 The role of the group, which was formally
2 begun around May of this year, was an administrative
3 role. And it was felt generally that the Immigration
4 and Naturalization Service needed some assistance in
5 getting the word out in the community as to the
6 ramifications of the legislation.

7 And so the governor took quite an interest
8 in helping out with some employers' seminars, getting
9 brochures, booklets, anything that would help in
10 educating the Colorado community about the effect of
11 the bill. And we conducted some 20 nonagricultural
12 seminars throughout Colorado and about 11 agricultural
13 seminars. . And this was done from mid-June through
14 most of July.

15 We had representatives there from the
16 Colorado Civil Rights Commission, Equal Employment
17 Opportunity Commission, American Immigration Lawyers
18 Association, members of the governor's work group and
19 individuals from Labor and Employment. And basically
20 we gave from those various perspectives the effect of
21 the bill and what their obligations were. It was
22 directed primarily towards employers.

23 MS. KURTZ: Employers?

24 MR. CHAVEZ: Uh-huh.

25 MS. KURTZ: What was the -- did you have any

1 feedback from those seminars?

2 MR. CHAVEZ: We had in some areas very low
3 representation, partly because of the publicity. We
4 didn't get the word out as soon as we probably should
5 have. In other locations, primarily the metro areas,
6 we had very good -- very good turnout. At some
7 locations here in the Denver area, we had -- and
8 Colorado Springs, we had right around 200 employers
9 show up at each session.

10 And lots of questions, lots of concerns.
11 Most of them were not difficult. They were basic type
12 of information, concerns and fears they had about the
13 bill. Most folks had not received their I-9
14 handbooks. We opened up -- or Governor Romer's work
15 group opened up a hotline. And this was intended to
16 help respond to a lot of the questions and inquiries
17 that employers might have about the legislation.

18 MS. KURTZ: Have you had any subsequent
19 feedback from any of the participants in the program?

20 MR. CHAVEZ: We still have our hotline up
21 and running. And we get some calls now, but it's
22 pretty much dried up. We're not getting as many
23 inquiries as we used to.

24 MS. KURTZ: Now, you indicated that you were
25 a member of the Colorado Refugee -- would you state

1 that organization.

2 MR. CHAVEZ: Colorado Refugee and Immigrant
3 Services Program.

4 MS. KURTZ: Now, that is a private group?

5 MR. CHAVEZ: We are federally funded.

6 MS. KURTZ: You're federally funded. And
7 what does that group do?

8 MR. CHAVEZ: We provide services to
9 refugees, and most recently our office was delegated
10 the responsibility to take the lead on the
11 Legalization Impact Assistance grants for Colorado.

12 MS. KURTZ: What do you mean by taking the
13 lead? Could you describe that a little bit.

14 MR. CHAVEZ: Okay. In the Legalization
15 Impact Assistance grants, it was indicated by the
16 Department of Health and Human Services officials that
17 a single point of contact needed to be made. And my
18 director, Laurie Bagan, was designated as that
19 individual for Colorado.

20 MS. KURTZ: How well is the state now
21 covered with the service that is needed to support
22 people with the -- who are seeking legalization?

23 MR. CHAVEZ: I'm not sure I'm able to answer
24 that. I do know that the governor also formulated an
25 advisory group of which Audrey Alvarado is the

1 chairperson for that group, and so their role might be
2 a little more active in that area.

3 MS. KURTZ: The reason I was asking the
4 question was that I understood there were some parts
5 of the state in which the service -- a support service
6 -- as against the INS activity, that the support
7 services were rather late in getting started, notably
8 in the extreme southern part -- southeastern part of
9 the state, Pueblo and that.

10 MR. CHAVEZ: I've heard the same thing. And
11 part of it was that from my understanding there were
12 not any Qualified Designated Entities established
13 until really late.

14 MS. KURTZ: Do you know whether those --
15 whether that has been rectified very well? I mean, is
16 the state -- can people without excessive travel now
17 get those kinds of services around the state, to the
18 best of your knowledge?

19 MR. CHAVEZ: I know they're available.
20 There's also an office in, I believe, Alamosa which is
21 Rocky Mountain SER, that is apparently assisting newly
22 legalized aliens there. And there's one that was just
23 created in Pueblo. How effective, I don't know.

24 MS. KURTZ: Those are delegated programs to
25 other groups. Do you know whether there are any on

1 the Western Slope?

2 MR. CHAVEZ: I believe Rocky Mountain SER is
3 also involved in a couple of locations out there. I
4 don't specifically know where. I believe Delta has
5 one.

6 MS. KURTZ: Grand Junction?

7 MR. CHAVEZ: And I think Grand Junction
8 does, too.

9 MS. KURTZ: I think that basically covers
10 the questions I wanted to ask you, Mr. Chavez. And I
11 appreciate your testifying about the activity.

12 MR. PALACIOS: Can I just ask one question?
13 The seminars that you're holding, were any of those
14 held in the Durango area?

15 MR. CHAVEZ: Yes. We had one in Durango.

16 MR. PALACIOS: Cortez or Ignacio? Anything
17 there?

18 MR. CHAVEZ: Not in Cortez or Ignacio.

19 MR. PALACIOS: But it was in Durango?

20 MR. CHAVEZ: I'm pretty sure that was one of
21 our last sessions, yes.

22 MR. PALACIOS: The reason I ask is because I
23 was there yesterday, and business people there said
24 they've never heard of the I-9 form. They had no
25 knowledge of it. And they're not aware that they have

1 to complete and file -- keep them on file.

2 MR. CHAVEZ: I guess just to further
3 clarify, again, we recognized in the governor's work
4 group in our involvement that we were doing that as a
5 community service to Colorado employers. And it was
6 not intended to take over the -- or assume the
7 responsibility that Immigration and Naturalization has
8 on that I-9 requirement.

9 MS. KURTZ: Did you have any questions, Tom?

10 MR. PILLA: No.

11 MS. KURTZ: Thank you very much, Mr. Chavez.
12 I appreciate your presentation.

13 Sir, are you here to testify or to listen?

14 MR. BERRY: To listen. I'm from Senator
15 Wirth's office. I'm on the advisory group.

16 MS. KURTZ: We're a little slow in getting
17 started apparently, so we'll just sit down -- stand
18 down at this point until we --

19 MR. BERRY: One comment about what the
20 gentleman was saying about people in the southwestern
21 part of the state not knowing they're supposed to fill
22 out I-9s. The governor's office mailed out that
23 information to every employer from records that the
24 Revenue Department has on employers who have to file
25 taxes. So they should have gotten that information.

1 Whether they've read it or not is another question.
2 I'm going to be seeing Don Russell Monday. I could
3 bring that up to him. He's the director of INS for
4 Colorado. I can bring that up to him.

5 MR. PALACIOS: The people in Cortez were the
6 ones we were speaking to yesterday afternoon. And
7 they were the ones that really didn't have, I'm about
8 to say, clear understanding. I don't think they had
9 any kind of understanding of the I-9 or the -- who
10 they actually had to seek documentation from. They
11 had no knowledge of that at all. They just didn't
12 know about it.

13 MR. CHAVEZ: I appreciate your bringing that
14 up, because Governor Romer sent out 88,000 letters
15 based on those employers that contribute to the UI
16 tax, unemployment insurance tax. And so they should
17 have all received those letters with the schedule of
18 seminars throughout the state.

19 MS. KURTZ: Now, as I recall the UI statute,
20 there is a floor in terms of the number of employees
21 -- is it 15 or some such figure as that -- employees
22 in order to be subject to the tax. I know that there
23 is a floor to it. Not everybody has -- pays that tax.

24 MR. PALACIOS: See, that wouldn't involve
25 most ranchers, for example.

1 MS. KURTZ: That's right. That's probably
2 the reason --

3 MR. PALACIOS: Because ranchers will have
4 two or three full-time employees and hire on a
5 short-time basis others -- never 15. They would never
6 have that many. So they wouldn't even be touched.

7 MR. CHAVEZ: I believe it's less than 15,
8 but I'm not sure of the figure.

9 MS. KURTZ: I don't remember the exact
10 figure, but my recollection is that there is a floor
11 to the number of employees that makes a person liable
12 to pay the unemployment compensation tax.

13 MR. CHAVEZ: I do know that the governor's
14 office, press office, as well as local Job Service
15 Centers at some locations, did contact the newspapers,
16 what have you, to advertise these seminars.

17 MR. BERRY: INS also has a little film which
18 they're willing to take to employers or to an area so
19 that employers can learn about the I-9 and who has to
20 fill it out and what the requirements are.

21 MS. KURTZ: It would appear that it's the
22 very -- either the very small employer relatively or
23 the employer who has essentially an escalating and
24 then declining work force -- say a rancher who brings
25 in a lot of people suddenly for a harvest that lasts

1 two weeks and everybody's gone again -- that's the
2 group that they're having the hardest time reaching.
3 Is that what you were finding, Art?

4 MR. PALACIOS: Absolutely, absolutely. The
5 other major group are the tribes in southwestern
6 Colorado, the Utes down there. There seems to be some
7 question as to whether or not they fall under the Act,
8 whether it's necessary for them to comply with the
9 Act. And no one that we ran into in either Grand
10 Junction, Ignacio or Cortez could answer that
11 question.

12 MR. BERRY: I don't know.

13 MS. KURTZ: I might say that I raised that
14 question with the acting general counsel for the INS
15 in Washington about in April or thereabouts. Because
16 at that time, they were paying absolutely no attention
17 to the question of native Americans.

18 And the only thing that has happened since
19 then, to my knowledge, is that a brochure for the
20 guidance of employers has been issued by the Internal
21 Revenue Service which has the -- has pictures of
22 acceptable documents. And one of the documents
23 pictured there is a tribal registration document.

24 But that does not relate to the regulations
25 that have been issued by INS to implement the

1 Immigration Service Act or the Immigration Reform Act.
2 So that even if you found the tribal registration
3 form, if you're being really technical about it, you
4 can't use it for anything because the regulations
5 don't list it as one of the acceptable documents.

6 But they did move that far. But as I
7 understand what the testimony was, that is not a
8 uniform document among the tribes; is that correct?

9 MR. PALACIOS: Each and every tribe, even
10 the two different units of the Utes --

11 MS. KURTZ: Ute tribes.

12 MR. PALACIOS: -- have different cards that
13 they issue. For example, the southern Ute uses a card
14 with a fingerprint on it. The Utes in the Cortez area
15 use a card with a photograph on it. They don't use
16 the same identification. I've seen something that the
17 Navajos use, and that's a different kind of a
18 document.

19 So I'm led to believe that no two tribes use
20 the same kind of documentation. And I'm not sure what
21 you do about that.

22 MS. KURTZ: Well, I think that, too, is a
23 question that is going to have to be addressed because
24 the -- to the extent that -- I mean, you've got two
25 different issues, I think, with these Indian tribes.

1 One is employment on the reservation itself,
2 which may have a different legal status than the
3 Indians, whether they are reservation based or not,
4 who work off the reservation but who are recognized
5 members of a -- of any tribe.

6 What -- the first question is does the Act
7 apply to businesses based on the reservation, whether
8 they are Indian-owned or whether they are
9 Indian-franchised in a sense. And I guess the other
10 question is what is the acceptable identification,
11 given -- for the Indian who is a tribal member but
12 working off the reservation where there isn't any
13 doubt that the employer is covered, but the employer
14 has the responsibility of verifying -- at least a
15 good-faith effort to verify -- the authenticity of the
16 identification that's being offered, if all the tribes
17 are going to use different identification.

18 And secondly, what does it identify, really?
19 It identifies something, but the INS hasn't quite said
20 what that something is in any official document to
21 date. So those, it seems to me, are the issues that
22 have been presented to the native Americans, at least
23 in the state of Colorado.

24 Is that a fair summary of what you found in
25 your hearing in Ignacio?

1 MR. PALACIOS: Yes.

2 MS. KURTZ: For the sake of having a more
3 formal record, I'm going to ask the two staff people
4 here from the Civil Rights Commission to summarize
5 what they can recall as the highlights of the other
6 four hearings. We already have discussed the one in
7 Ignacio to some extent, unless there was something
8 further, Art, that you felt was appropriate to bring
9 to our attention.

10 Why don't the two of you sit over here, and
11 we can just read into the record a summary of those
12 meetings. Those were held by subcommittees of the --
13 of this committee, and --

14 MR. PALACIOS: In Grand Junction, we met
15 Tuesday. And we heard from a grower who was actually
16 from the Montrose area, actually. Here's a gentleman
17 who grows for a living and has done this for many,
18 many, many years, an elderly gentleman. He raises
19 apples, peaches and pears.

20 And he had many, many -- he was very
21 knowledgeable about the I-9 and about the entire
22 process and a need to register and document everyone
23 that he employs. He knew that. His problem was
24 trying to get enough workers to do the picking. And
25 his major job -- his major need for employees is

1 thinning the orchards and then also picking the crops
2 when they're ready to harvest.

3 And he was very much concerned with getting
4 sufficient amounts of employees. And one of the
5 things he stated right up front was that in the past
6 he's tried to get local people to do the picking and
7 has never been successful, in that picking is very
8 difficult work. It's not easy. If you're good at it,
9 you can make good wages, but it's not easy work. You
10 have to climb up ladders, and you have to be able to
11 pick these without bruising them.

12 At any rate, he went on and on about that.
13 But he was never successful in trying to get local
14 people to do picking. And he's tried every time the
15 harvest comes up. He will accept anyone. But they've
16 never been successful. The good pickers are from
17 Mexico. These people come in, and they're very hard
18 workers, he says it's very easy to teach them to pick
19 the fruit without bruising it, and they work quickly
20 and make good money at this.

21 His concern was that now that this new
22 Immigration Act has passed, will he still be able to
23 get sufficient help? Well, he knows about the one
24 section of the Act, the H2A which deals with
25 agricultural employees. But how successful that will

1 be when it's actually implemented, he doesn't know.
2 So that was his major complaint or his major concern.

3 Also, how long do you actually have to keep
4 the I-9 on file? He doesn't know. And he said if you
5 keep hiring people like he did, every year there are
6 new people, different people and, "Do we have to keep
7 those on file and collect them every darn time?"

8 So he had a number of those kinds of
9 questions.

10 In Ignacio we had a number of southern Ute
11 Indians. And the first question that came up was, "We
12 are an independent nation" -- the Utes, that is. "And
13 if so, do we have to comply with this new Act, with
14 the hiring of our own people on our reservation in the
15 businesses that we run on the reservation?"

16 And then secondly, "If one of the members of
17 our tribe leaves the reservation to work outside the
18 reservation, what kind of documentation is acceptable
19 with them?"

20 Because many of them, for example, do not
21 have birth certificates. None of them have passports.
22 A lot of them don't have driver's licenses. They all
23 have a Social Security number, but as far as birth
24 certificates and things of that sort, they just don't
25 have them. So that was their major concern.

1 They were not sure that they actually had to
2 process I-9 forms and then maintain them. They didn't
3 know if they had to or not.

4 One of the problems in Cortez that we -- I
5 thought was rather unusual and unique was that there
6 was a gentleman there who was a Ute Indian, fellow by
7 the name of Lopez, I can't recall his first name, but
8 he said he didn't have a birth certificate. And so I
9 asked him, "Was your birth recorded somewhere that you
10 know of?"

11 And he said no, to his knowledge it was not
12 recorded anywhere. As a matter of fact, he was born
13 in 1942, as far as he knows, and he knows that only
14 because someone told him he was born in 1942. But
15 there is no documentation anywhere, to his knowledge,
16 that that is the actual year that he was born in.

17 And I would assume by this one gentleman
18 that there are a number of native Americans with that
19 same kind of problem, no birth certificates and no
20 birth registrations, and really not a whole lot of
21 knowledge about exactly when they were born.

22 MS. KURTZ: What about the -- but he was a
23 registered member of the tribe there?

24 MR. PALACIOS: Yes, he was.

25 MS. KURTZ: So that was -- that was what he

1 might conceivably use to prove that he was born in the
2 United States, assuming that the tribe is all located
3 in this country.

4 MR. PALACIOS: Uh-huh, yeah.

5 MS. KURTZ: And Cortez, was there anything
6 else on Cortez?

7 MR. PALACIOS: There was a woman there who
8 -- she and her husband have a ranch. And she had two
9 permanent employees on her payroll. One is her son,
10 and the other is a son-in-law. And her question was,
11 "Do I have to ask them to show me documentation that
12 they, in fact, have the legal right to work here in
13 the United States and were, in fact, born here and so
14 forth?"

15 And the answer is legally speaking, yes, you
16 do. You must ask for documentation and see it. And,
17 of course, as you would expect, she thought the idea
18 was stupid and insane. "It's my son. I know who he
19 is and where he was born. Why in the world would I
20 have to fill out an I-9 for him?"

21 Well, that's what the law says, and that's
22 what you must do. And so she didn't really appreciate
23 that very much. But she said that she only has two
24 full-time employees, her son and a son-in-law. She
25 has about four people that she hires during particular

1 periods of time when she needs them for various kinds
2 of activity on the ranch. But those two are the only
3 employees that she hires.

4 Now, there was a gentleman there that
5 represented the business people in Cortez. And he
6 swore to me that they did not know that everyone had
7 to be documented, that is, everyone had to be -- fill
8 out an I-9 form. He had no idea of that, and neither
9 did the businessmen there, to his knowledge.

10 And it was his understanding, and the
11 understanding of the rancher also, that the only
12 people that really had to be -- that you had to ask
13 for documentation were those that were obviously
14 Mexicans or appeared to be Mexicans. And they really
15 didn't understand that you had to have I-9 forms for
16 everyone that you hired, regardless of race, color or
17 creed. And I honestly believe that they were sincere
18 when they said they didn't know that you had to
19 document everyone.

20 MS. KURTZ: Tom Pilla?

21 MR. PILLA: Right. I accompanied the
22 Advisory Committee subcommittees that held forums in
23 Pueblo and Greeley. At both sessions the
24 subcommittees heard from Job Training staff, Catholic
25 Services, individuals involved with the immigration

1 process, and a city personnel officer and a corporate
2 representative from the Monfort Corporation.

3 The major problems that the subcommittee
4 heard were that there was a lot of still remaining
5 confusion over the law, that undocumented aliens were
6 not taking advantage of the amnesty provision for a
7 lot of reasons, the major one still being fear of
8 deportation and the fees that are attached to becoming
9 part of the amnesty process or getting involved in the
10 amnesty process.

11 (Ms. Thomas entered the hearing room.)

12 MR. PILLA: Fees charged varied. The Rocky
13 Mountain Service for SER charged \$75, Catholic
14 Community Service Organization in Greeley was charging
15 a \$35 fee, and most of this money did not cover the
16 amount of overhead that they were experiencing, the
17 Catholic Services. But there were -- there was an
18 individual who testified that a woman she knew had
19 paid \$1500 to someone who had not been certified by --
20 as a QED.

21 MS. KURTZ: Meaning?

22 MS. THOMAS: It's QDE.

23 MR. PILLA: Qualified Designated Entity by
24 the Immigration and Naturalization Service. That was
25 only one instance. But others indicated there were

1 more of these unqualified individuals to help and
2 assist undocumented workers.

3 Another reason given for the lack of
4 participation was that in addition to the fees, the
5 workers would have to pay for the physical, for
6 photographs and for fingerprinting. And all of these
7 were placing an undue financial burden on the
8 undocumented worker who is in a low-paying job to
9 begin with, probably had a large family. And to pay
10 those fees for -- and the associated costs for each
11 individual in the family attempting to go through the
12 process was very prohibitive.

13 The dissemination of information by the INS
14 to all the agencies they felt was poor, basically
15 poor. And that added to the confusion. The -- in one
16 morning we heard from two different individuals, one
17 who was still under the idea that you had to find
18 documentation for each month that you resided since --
19 in a five-year period, I guess since '82. And three
20 individuals later we heard that the INS had changed
21 that to a quarterly report of your residency.

22 In regard to I-9, we were getting the Job
23 Training people who were dealing with individuals who
24 would require the I-9 to be on file and who said that
25 they foresaw a few problems. One was initially they

1 were getting a lot of complaints from citizens, mainly
2 veterans saying, "Why do we have to prove we're
3 citizens? We fought in wars, and we know we're
4 citizens."

5 And they were getting more complaints from
6 American citizens than from undocumented who would
7 comply with the request for documentation.

8 The woman from the Catholic Services had a
9 -- in Greeley had a few good points that I think
10 should be read into the record here, and I'd like to
11 read them just the way she presented them. She did
12 not read them into the minutes there and just
13 presented some information. And then later on, when
14 we read the letter, the subcommittee felt it should be
15 read into the record. So I'd like to do that at this
16 time.

17 MS. KURTZ: Please do so.

18 MR. PILLA: This is from Kelly Watson, who
19 works with Catholic Community Services in Greeley,
20 Colorado.

21 "As an employee of Catholic Immigration
22 Services, I have been deeply involved in the
23 implementation of the Immigration Reform and Control
24 Act of 1986. My job has been to coordinate a program
25 involving 20 volunteers who help undocumented workers

1 to determine their eligibility and prepare their
2 applications for legal status under IRCA.

3 "While this law has provided a tremendous
4 opportunity for some, it has also been fraught with
5 major problems. The following is a list of some of
6 these.

7 "One. The basic right of families to stay
8 together is not respected by the law, since there is
9 no provision for maintaining family unity in cases
10 where some members of the immediate family are
11 eligible to apply for legal status while others are
12 not.

13 "Two. The law discriminates against women
14 who are often hard-pressed to document their work,
15 since it is performed mainly in the home.

16 "Three. The restrictions on eligibility,
17 especially with regard to proving residence, are such
18 that only a small percentage of the undocumented
19 workers actually qualify to apply for legal status.

20 "In the SAW Program" -- S-A-W, and that's
21 the Special Agricultural Workers Program --
22 "eligibility is restricted to those who worked in the
23 fields only one particular year, and therefore many
24 farm laborers who have contributed years of labor to
25 our country's agricultural industry are excluded.

1 "Dissemination of information about the law
2 to employers and to potential applicants and to the
3 general public has been poorly carried out by the INS
4 and has led to misinformation being given out.

5 "Six. The lack of any federal funding for
6 the implementation of the program has led to serious
7 understaffing and subsequently backlog within the
8 agencies which have been qualified to help applicants
9 to prepare their applications.

10 "Seven. The special rule period which
11 lasted from May 1st to September 1st was much too
12 short, given the fact that many workers were faced
13 with having to gather documentation from many
14 different states and from abroad before submitting
15 their applications.

16 "Eight. By excluding those who have left
17 the country under a final order of deportation, the
18 law penalizes those who have exercised their civil
19 right to use the court system.

20 "In summary," it's Miss Watson's opinion
21 that, "the above-mentioned problems must be corrected,
22 with special urgency given to the issue of maintaining
23 family unity, if the Immigration Reform and Control
24 Act of 1986 is to be effectively and justly
25 implemented."

1 The subcommittee felt very strongly that
2 that should be read into the record.

3 There was one complaint about the I-9 form's
4 format. At the top of the form it asks if you are a
5 citizen, and you check yes or no. At the bottom it
6 asks for copies of documentation to prove that. And
7 one individual said that he was having problems with
8 this because it did not require the individual
9 presenting the material to certify that those were his
10 documents; it required the Job Training staff to say
11 that they had received that information. And he
12 thought that it should be the other way around, that
13 the individual should certify that these are the
14 documents they were presenting to Job Training.

15 The major problem some of the employers and
16 others saw or foresaw with these I-9s was that just
17 the physical space that will be required to store the
18 amount of I-9s they perceive that they will be
19 receiving would be substantial. And that if you were
20 to change jobs fairly often, each time you would have
21 to have a new I-9 on file. And farmers, for instance,
22 who were hard-pressed for time and bookkeeping
23 services, for them it would just -- what's the word
24 I'm looking for here -- it would present an unfair
25 burden.

1 And that's essentially what we heard. Would
2 you like to add to that? The subcommittee Chair is
3 here.

4 MS. THOMAS: I wonder if you mentioned the
5 fact that some people are having to promise never to
6 apply for public assistance in the -- as -- even once
7 they become citizens, should they go that far, they
8 would never have that right? That seems to me some
9 deprivation of the normal protection of one's civil
10 liberties, to make that kind of promise forever.

11 You know, I can see -- or at least the
12 person who was presenting the information also said,
13 and it made sense as he said it to me -- that the
14 person who was seeking residency might very well
15 promise that during that two-year period he would not
16 apply for public assistance. But for a person to
17 forecast his entire life saying that he would never
18 apply for public assistance is questionable procedure
19 at any rate.

20 MS. KURTZ: For the record, this is
21 Gwendolyn Thomas, a member of the Advisory Committee.

22 MS. THOMAS: Another thing I would mention,
23 Tom, is it would seem to me that the actual charges
24 which the INS has are also prohibitive, that \$185 per
25 person, then there was -- there's a certain fee per

1 family member up to four members or something like
2 that.

3 MR. PILLA: Right.

4 MS. THOMAS: Did you mention all of those?

5 MR. PILLA: I didn't mention the individual
6 fees.

7 MS. THOMAS: I mean, in addition to the ones
8 that you mentioned, there were those that the INS
9 itself charges, and then there was the problem of
10 process. When some people do not keep the
11 appointments which are made with INS to come pick up
12 their authorizations, the appointments may be canceled
13 and not remade so that people have to go through the
14 same process, the whole process and all of the cost
15 again.

16 It sounded as though this were not exactly a
17 hard and fast rule. The person who was testifying
18 said, "Well, maybe if you had a very good excuse and
19 you notified the INS that you could not keep the
20 appointment, you might be allowed to make a second
21 appointment and to have those fees that you've already
22 paid carry over." But it sounded as though there's
23 some discrepancy in the way that that process is
24 handled and as though the applicant is most likely to
25 be at a disadvantage in that situation.

1 MR. PILLA: Yes. The fees, as I recall,
2 were \$185 per adult in the family, \$50 for the first
3 child and up to \$420 for the family as a whole. Those
4 were the fees that were suggested at the hearing as
5 being required by the INS, and that, in addition to
6 the fees for getting the photographs and the medical
7 exam, were suggested as being too prohibitive and was
8 one of the reasons given as perhaps being why the
9 undocumented were not coming in to take advantage of
10 the program.

11 MS. THOMAS: Travel costs, also. The
12 Catholic agency seemed to be willing to take people
13 from Greeley to Denver, but it seems as though the
14 problem of just getting to Greeley sometimes is
15 significant for people.

16 MS. KURTZ: Anything else?

17 MS. THOMAS: Well, it sounded to me as
18 though if they got to Greeley, somebody in one of
19 those agencies would help them get to Denver. But
20 there is a problem, because they're working in
21 outlying farm areas, in just getting to Denver to the
22 agency.

23 MR. PILLA: And we were not hearing large
24 numbers of applications being submitted by either of
25 the two agencies in Greeley. As I recall, Rocky

1 Mountain SER said they submitted 31.

2 MS. THOMAS: Uh-huh. I was surprised.

3 MR. PILLA: Yes. It was a low number. I
4 thought it would be higher. And the Catholic
5 Community Services, their figure -- I know I have it
6 in here, but I can't recall it right now. It was not
7 that high.

8 MS. THOMAS: And the Job Training -- not Job
9 Training -- employment service, the Weld County
10 Employment Agency said they had processed 6,000 I-9s,
11 but only 10 percent of those were migrants.

12 MR. PILLA: Uh-huh.

13 MS. KURTZ: This would normally be fairly
14 much the peak of the migrant season, because it's
15 harvest time.

16 MR. PILLA: They actually had the best
17 process for dealing with the I-9s, I thought. What
18 they do is they certify your I-9 once, and then you're
19 on their system. And if you do seasonal labor or day
20 jobs as they refer to them, they would come in, and
21 the card they give you to take to the employer, they
22 could put a tag on it that you had an I-9 form on
23 file.

24 And that's all you'd have to take to the
25 employer. Which cuts down on the paperwork, I'm sure,

1 and the storage for the employer.

2 MS. KURTZ: Is that accepted by the INS, or
3 is that something that they're just doing?

4 MR. PILLA: Well --

5 MS. THOMAS: It seems acceptable.

6 MR. PILLA: It seems acceptable. They
7 didn't say they were not allowed to do it. But it may
8 be just their way of getting around the problem of
9 storage.

10 MS. KURTZ: Let me just make this comment,
11 that the employer has to make certain sort of ad hoc
12 decisions with no guidance at all. As an example, I'm
13 with the City and County of Denver Career Service
14 Authority. And we are the centralized agency for
15 handling the I-9s for most of the city work force.

16 And so we tell people, "Well, bring in your
17 Social Security card and a driver's license," for
18 example. Well, for people that are older, and
19 particularly of lower income, they haven't the
20 remotest idea where their original Social Security
21 card is.

22 So they go to the Social Security office and
23 say, "My number was so-and-so, and I want a
24 replacement card so I can get a job."

25 This -- the particular jobs were -- in

1 question where this came up happened to be what we
2 call seasonal laborers with people who maintain the
3 parks in the summertime and that kind of thing.

4 Well, they go over to the Social Security
5 Agency or Administration, and they say, "I want a
6 replacement for my Social Security card." And they're
7 told it will take about six weeks. But they will get
8 a -- they get a printout, a computer printout
9 indicating -- from the Social Security Administration
10 indicating that this number has been issued to
11 Person X, and there is certain other demographic
12 information on the form.

13 And they bring it in, and they say, "This is
14 in lieu of the Social Security card."

15 Now, there is absolutely nothing from INS
16 that says what you do with a Social Security computer
17 printout. They will, on a telephone call, verify that
18 they issue them but gave us no particular guidelines
19 for determining authenticity of it. But as a simply
20 good-faith effort sort of thing, we decided to accept
21 them. But we certainly have no basis from INS or
22 anybody else saying that there is any official status
23 to these things or any criteria for determining
24 whether or not they are valid or whether they've been
25 forged.

1 MR. PILLA: I think that's one of the things
2 we heard over the two days, was there was still a lot
3 of confusion.

4 MS. KURTZ: I recognize that if we get a --
5 somebody brings in a Social Security card and it's got
6 American and Mexican flags in the two corners, as has
7 happened, that's probably not the original document.

8 Also, when they buy from one of these mail
9 order houses the replacement for your Social Security
10 card, which is stamped in brass or something, so that
11 you can always have it and it won't wear out or tear
12 or get dirty or whatever, and they bring that in
13 because the mail order house said that was official.
14 And we say that no, it's not official from our point
15 of view. But they -- they can show us the catalog.
16 It says that's an official substitute for the card.

17 We had another organization somewhere up in
18 the northern part of the state that issued
19 identification forms. They call themselves
20 International Identification Corporation, Inc. or
21 something like that. I've forgotten the exact name,
22 but that's close to it. Had the name, had a
23 photograph, had a fingerprint on it, and people were
24 bringing this in to the City for official
25 identification.

1 The group was not recognized by anyone, and
2 eventually the District Attorney closed them down.
3 But meanwhile, people had paid this organization to
4 issue an official identification to them. It was to
5 be good internationally anywhere they went. And
6 people were kind of appalled to discover that we
7 wouldn't accept it for marriage licenses, we wouldn't
8 accept it for immigration certification, we wouldn't
9 accept that thing for anything.

10 Now, there's no guidelines on the -- on the
11 issuance of the private, if you will -- the private
12 issuance of identification information as to when it
13 might and might not be accepted. We will hear in
14 about a half an hour from the Colorado Motor Vehicle
15 people, who officially issue a Colorado identification
16 form and how they go about doing that. But if a state
17 doesn't have that kind of a service, there certainly
18 is nothing available that I know of so far by way of
19 guidelines from INS on how people can get
20 identification, if they don't have it from the
21 official channels.

22 MS. THOMAS: We had someone yesterday who
23 testified that one of the clients for that agency had
24 taken a Mexican birth certificate to our Motor Vehicle
25 Division and been denied the identification that he

1 requested, that he needed. So there are all kinds of
2 difficulties, even in that.

3 MS. KURTZ: Well, we will have a
4 representative at 10:30 from the Motor Vehicle
5 Department. I think that's a question that we ought
6 to ask them when they come in, as to what they do.

7 Yes, Mr. Chavez.

8 MR. CHAVEZ: I was going to add that on the
9 I-9, a couple of concerns have come up, and one of
10 them has been the fact that the Canadian driver's
11 license is specifically indicated as an acceptable
12 document and concern about why the Mexican driver's
13 license would not be included in the I-9.

14 The other concern that has come up was that
15 refugees or other new legal immigrants to this country
16 normally do not have a picture ID. And it's a problem
17 for them that they have to go out and find a picture
18 ID from other means, that the I-94, which is their
19 arrival document issued by Immigration, is not
20 sufficient, and a picture ID is needed to go through
21 the I-9 documentation process.

22 MS. KURTZ: Did -- was there any indication
23 that has come to your group as to where they can get a
24 picture identification, if for any reason the
25 Department of Motor Vehicles won't give them a

1 Colorado identification?

2 MR. CHAVEZ: Normally, as far as I know,
3 that's been the primary means. I have heard that some
4 counties can issue IDs, and apparently that is
5 acceptable to Immigration. But aside from that, I'm
6 not aware of other means of getting a legal ID.

7 MS. KURTZ: Any other matters that you
8 wanted to have entered into the record?

9 Well, I think we will then stand down for a
10 recess at this point. I might say we've been trying,
11 with total lack of success, to reach the regional
12 office of the Immigration Service for two days now.
13 And we will try again during our recess to see if we
14 can reach them by telephone to have them participate
15 in this proceeding. They have been invited by mail,
16 but nobody has received any indication to date as to
17 whether they will or will not participate.

18 Well, we will now stand down for at least 15
19 minutes or perhaps 30, depending on if additional
20 witnesses appear in the meantime. Thank you,
21 gentlemen.

22 (A recess was taken.)

23 MS. KURTZ: It is now 10:30, and we are
24 reconvening to continue taking testimony. Would you
25 please come up, sir, and have a seat at the witness

1 table. And as I told you when we talked, we have a
2 court reporter here. I'll ask you please to state
3 your full name and your position and the address --
4 and your business address.

5 MR. CHILES: My name is Marvin Joseph
6 Chiles, C-h-i-l-e-s. I'm the chief driver license
7 examiner, Motor Vehicle administrator of the Driver
8 Licensing Section, 516 Acoma Street, Denver, Colorado
9 80204.

10 MS. KURTZ: Thank you, Mr. Chiles. Now, I
11 understand that Colorado has a program which issues
12 both driver's licenses and a Colorado identification
13 card; is that correct?

14 MR. CHILES: One or the other but not both,
15 yes.

16 MS. KURTZ: One or the other but not both?

17 MR. CHILES: Yes.

18 MS. KURTZ: And would you describe those --
19 generally what those documents show on their face.

20 MR. CHILES: The documents contain the name
21 and address of the individual, a general description
22 of the individual, a Social Security number and a
23 photograph and signature of the individual. It also
24 contains the seal of the State of Colorado, and
25 recently it's in two places now.

1 MS. KURTZ: The seal is in two places?

2 MR. CHILES: Yes.

3 MS. KURTZ: All right. What is the process
4 that the state has for issuing those, with specific
5 emphasis on identifying who the person is that is
6 actually applying for the documents in question?

7 MR. CHILES: Yes. Any person who applies
8 for a Colorado license or an identification card is
9 required to identify themselves to us by some
10 acceptable identification. I have a list of documents
11 here. It's rather short, but I'll leave it, of
12 course.

13 MR. KURTZ: Thank you.

14 MR. CHILES: A birth registration or a
15 hospital birth certificate, a photo driver's license
16 or an officially authorized ID card by other states
17 and of any other U.S. territories. We accept
18 passports, the alien registration cards,
19 naturalization papers, military ID card and military
20 dependent ID cards and officially executed court
21 orders.

22 That is the primary list of documents we
23 accept. If a person is 18 years old and they have
24 never been licensed before, we require two documents.
25 One document -- two documents either from the existing

1 list, or if they can't supply that we ask for a
2 photostat copy of the acceptable document and take the
3 fingerprint on the back of that and have them sign it,
4 and that becomes a part of our record.

5 That's the easy and -- I won't say that's
6 the easy way, but that is a primary list. Of course,
7 not all people will have that type of documentation.
8 However, the line personnel, these are the documents
9 they must work with.

10 If a person has some other type
11 documentation, he is directed to the office manager,
12 who has a rather wide discretionary authority to
13 accept certain documents that he feels to be authentic
14 and not forged, that kind of thing. We -- that is all
15 included in this paper here I have on this. That
16 could be marriage licenses, it could be -- I don't
17 want to say almost anything, because we don't accept
18 credit cards, for instance, to establish
19 identification. But it could be a list of things.

20 It could be insurance policies, it could be
21 school records, it could be any number of documents.
22 You could imagine the myriad of documents. As long as
23 a supervisor feels that they match and he's
24 comfortable with them, the office manager may make the
25 decision to accept the documentation.

1 MS. KURTZ: What happens when the
2 documentation has one name and the person comes up
3 with a different name?

4 MR. CHILES: Right, okay. Then we'll ask
5 for proof of change of name. And then we ask for the
6 documents that changes that name. Usually it's a
7 marriage license or a divorce decree, or could be an
8 official court order.

9 MS. KURTZ: Are Indian tribal records
10 accepted?

11 MR. CHILES: Yes, they are.

12 MS. KURTZ: What about foreign documents?

13 MR. CHILES: Foreign documents are
14 acceptable. It opens up another process, however.
15 That is, if a person presents us with a foreign
16 document, then we go further than that, because we
17 have a statutory requirement that we may refuse a
18 license to a person who's in violation of immigration
19 laws.

20 It doesn't necessarily have to be a foreign
21 document, because the application for the
22 identification card and the application for the
23 driver's license asks the question, "Are you a U.S.
24 citizen" and where you were born. So those two
25 questions will trigger -- if a person answers, "I'm

1 not a U.S. citizen," could trigger a process to ask
2 for their legalization papers.

3 MS. KURTZ: Supposing a person has come from
4 Canada, where obviously we have no passports,
5 legalization papers, admission papers or anything of
6 that general sort? Then what happens?

7 MR. CHILES: Okay. Within our process here
8 and our immigration procedures that we have, we will
9 allow that person to apply for a Colorado driver's
10 license and validate that license for a certain period
11 of time, according to what we have established here.
12 But they must surrender the Canadian license, which we
13 will send back to that province.

14 MS. KURTZ: So you're using the Canadian
15 driver's license?

16 MR. CHILES: That's correct.

17 MS. KURTZ: When we were discussing your
18 testimony here yesterday, you indicated that you work
19 with the INS on a variety of issues. Would you please
20 describe for us what that activity entails.

21 MR. CHILES: Yes. Well, a person, as I
22 said, who applied for one of our documents would
23 indicate they were not U.S. citizens and that they did
24 not have a -- the Immigration authorization to be
25 here. Or if they indicated they did have it but it

1 wasn't readily available, then my people are
2 authorized to contact the Immigration Service to see
3 what their status is.

4 We've worked in this area for quite a long
5 time, because we had problems with students in the
6 early '70s and the late '70s. Because the
7 documentation process, if they wanted to extend their
8 time here or even someone who's working here, the
9 process of obtaining the permission from the INS to
10 extend that time or remain there long, it was a long,
11 drawn-out process; it could be months.

12 So we made arrangements with the student
13 advisory councils and any other business person who
14 wanted to be involved. If they appointed a foreign
15 student or a person in their company who oversaw these
16 people, we have a form letter that we would ask them,
17 "We want to know the -- who the person is, we want a
18 copy of their signature so that we can have it on
19 file."

20 We also have a form letter that you can then
21 certify to us on this form letter that you have indeed
22 witnessed -- or are a part of the process whether
23 where this person's passport or whatever has been
24 turned in to the Immigration Service. And based on
25 the letter from the company, we would still issue a

1 license or an ID card validated to a certain date.

2 MS. KURTZ: And then that automatically
3 expires, presumably.

4 MR. CHILES: On that -- it wouldn't
5 automatically expire, because normally these people
6 would get their immigration documentation to remain
7 here. If the date that we put on there did not agree
8 with what's on that documentation, then we would give
9 them a free document to match the date the Immigration
10 people would give them.

11 Colorado law was -- is -- well, I won't say
12 it's peculiar, but of course licenses are issued for a
13 specified period of time. We have a little difficulty
14 in saying -- well, we can't void out a license if it's
15 supposed to be valid for four years, even with the
16 notation that the person on a certain date becomes an
17 illegal alien.

18 So what we decided to do is to take
19 cancellation action on that license. So the license
20 is still in the file but should the person apply
21 again, there's a notation that would alert the office
22 that they call master files where we keep the records
23 to see if anything is changed or find out why.
24 There's this type of action in the file which would
25 again trigger asking the person again, "Have you been

1 revalidated or has your status changed?"

2 MS. KURTZ: I think that's basically the
3 questions I had. Do you have questions?

4 MS. THOMAS: Yes. I'd like to know about
5 the problems that you encounter with immigrants in
6 relationship to the new laws. People, say, who have
7 been here since '82, if they've had no driver's
8 license, can they come in and -- what kind of
9 documentation do you require? Anything different for
10 people who are trying to comply with the new laws?

11 MR. CHILES: Okay. The people who want to
12 enter the legalization process, it is our
13 understanding -- we did have a meeting with the
14 Immigration people here to try to work this problem
15 out. Because there are people who don't have any
16 documentation whatsoever. And, of course, they
17 couldn't follow this list of items that we have here.

18 So our agreement was this, that it's my
19 understanding that the legalization process will
20 accept whatever documentation these people or the
21 people in this category will give them, if they're
22 going to be a part of this legalization process. And
23 one of two types of cards are issued. And based on
24 that card alone, we will issue a license or an ID card
25 for a specified period of time.

1 MS. THOMAS: Well now, it sounds to me from
2 some of the people we've heard testify that some of
3 these people are trying to get licenses in order to
4 get the card that you're talking about.

5 MR. CHILES: That's correct.

6 MS. THOMAS: I mean, there's a cart and
7 horse problem here, isn't there, for some of these
8 people?

9 MR. CHILES: Yes, there is. Yes, there
10 certainly is. The problem has always been that. And
11 when I first became aware of this type of problem back
12 in the early -- in the middle '70s, as a matter of
13 fact, we discovered that people didn't have to use any
14 documentation whatsoever to get a driver's license.

15 It was peculiar to our law, as some lawyers
16 pointed out when they took us to court, that a person
17 is whoever they say they are as long as they sign the
18 certificate saying this is them. Social Security
19 cards were accepted, border crossing cards were
20 accepted, anything that showed a person's name. Or as
21 it was pointed out to us, the law was silent at that
22 time, but we could not require verification of
23 identification.

24 Well, I did ask the legislature to change
25 that. And they did, under this particular process

1 here. And of course at that time, one of the problems
2 -- I don't know if you recall the SAVE Program, it
3 also had to do with certain entitlements that people
4 were receiving who were not -- that's not my area of
5 expertise, but they were receiving welfare payments or
6 whatever they might be, et cetera, so forth, when they
7 were not, in fact, citizens and entitled to them.

8 It was during that period that all of this
9 stuff began to come together, and I said hey, wait a
10 minute. We're going to verify who people are.

11 And certainly, we should have the right to
12 ask for certain types of identification. Well, as a
13 result of that, the legislature did pass a law saying
14 that we could. Now, of course, as you know, the
15 driver's license is an internationally recognized
16 identification card.

17 MS. THOMAS: Yeah.

18 MR. CHILES: And issued by and with the seal
19 of the state, it's not even questioned. So therefore,
20 I won't say I alone, but I -- I will use myself. I
21 decided that hey, wait a minute. If the state's going
22 to verify this, we have a right to say, you know,
23 "Hey, this is you." And this person will say, "Yes,
24 this is you."

25 It's not just a driver's license saying that

1 the person's face on this picture here can drive a car
2 anymore. It is a license to get anything you want.
3 Because the police stops you, they look at it. You've
4 applied for a bank account, if you've got a driver's
5 license you can get it, et cetera, and so forth.

6 So the integrity of the license as an
7 identification document became very important. So
8 that's one of the reasons I tried, as a supervisor, to
9 start tightening up the process to receive these
10 documents.

11 So that is where we stand now with sort of a
12 standoff. They want to get -- want me to issue a
13 driver's license without any documentation or
14 documentation that's not acceptable and then use that
15 to go to the immigration -- to the legalization
16 process, you see.

17 I figure that that is backwards. You go to
18 the legalization process. Because it's my
19 understanding even if you're illegal in any kind of
20 way, they are not allowed, under this legalization
21 process, to turn this person in or do anything to them
22 except investigate to see will he eventually be
23 allowed to stay in the country.

24 MS. THOMAS: Well, that's the point. If a
25 person -- a person who is perhaps here illegally

1 starts the process to become legal, if he gets this
2 I-688-A form, which is his first six-month permit, you
3 will accept that as a basis for giving him a license?

4 MR. CHILES: Yes.

5 MS. THOMAS: But he can't get a license to
6 use to get the I-688?

7 MR. CHILES: That's correct.

8 MS. THOMAS: And if he has --

9 MR. CHILES: Because he is then -- once he
10 applies to the legalization process, he is within a
11 legal status, as far as we're concerned, with the
12 U.S. Government. So we're not going to argue about
13 whether it's illegal or whatever his status may be.
14 He has voluntarily pointed out to the government
15 saying, "I want to do whatever."

16 So based on that alone and those cards, we
17 will give that person --

18 MS. THOMAS: But now, if he comes in with a
19 Mexican birth certificate, you won't give him a
20 license, even though he is validating who he is. He
21 has his birth certificate, but your integration
22 process means that you would have to find out whether
23 the person who had the birth certificate was legal or
24 illegal in the country.

25 MR. CHILES: Well, we would ask the person,

1 as I indicated, "Are you a U.S. citizen?"

2 MS. THOMAS: He's going to say no.

3 MR. CHILES: Then I'll say, "May I see your
4 documentation?"

5 MS. THOMAS: And he'll show you a Mexican
6 birth certificate.

7 MR. CHILES: That's not a documentation from
8 the Immigration Service.

9 MS. THOMAS: So he's got to find a way to
10 get that I-688-A before he can get a driver's license.

11 MR. CHILES: Whatever documentation the
12 Immigration Service in this legalization program will
13 give him, yes.

14 MS. THOMAS: Thank you. That's what I
15 wanted to understand.

16 MS. KURTZ: Mr. Chiles, we conducted
17 hearings in other parts of the state, and we have
18 staff from the U.S. Civil Rights Commission who
19 participated in those hearings. And they, from time
20 to time, have had issues raised there. I was not at
21 all of them, and so I'm going to ask the staff to
22 raise questions, if they have any.

23 MR. PILLA: The main concern was the one
24 that Dr. Thomas had raised. Is that also the
25 procedure to get the picture ID?

1 MR. CHILES: Yes, it is.

2 MR. PILLA: Okay. In regard to a question
3 that Ms. Kurtz asked regarding Canadian licenses, with
4 a Mexican national who had a Mexican license, is it
5 the same procedure?

6 MR. CHILES: No, it is not.

7 MR. PILLA: Could you describe that
8 procedure.

9 MR. CHILES: An Immigration person would
10 have to really explain this to you. I don't know. It
11 has something to do with the agreements between Canada
12 and the United States, which does not exist between
13 the United States and Mexico.

14 MR. PILLA: I see, thank you.

15 MR. PALACIOS: I'm a Mexican. I come to you
16 to try to get a driver's license, and I can't because
17 I don't have the proper -- and I've told you I'm
18 Mexican not American, and I don't have the proper
19 documentation from Immigration. Therefore, you won't
20 issue me a license. But I have a car, and I drive,
21 and I can't get a license. So what am I going to do?

22 MR. CHILES: We will refer you to the
23 Immigration and Naturalization Service. We also -- if
24 you want to go, that's entirely up to you. We have
25 arrangements with the Immigration and Naturalization

1 Service here that even people here on an illegal
2 status, for instance, who are in docket control, as
3 long as they get that form from INS and they're under
4 docket control and will be deported and whatever, we
5 will even use that form to give them a license and ID
6 card validated to that date.

7 People who may apply for amnesty or -- I
8 can't remember all of those terms, I really can't.
9 But the Immigration Department and my department,
10 along with the Attorney General's office, got
11 together, and we came up with a letter that if all
12 other situations could not be satisfied, as long as we
13 got a letter from the Immigration and Naturalization
14 Service saying, in fact, that this person was under
15 some sort of control by the Immigration people and
16 they would put their stamp on this letter, this punch
17 thing, we will accept that also.

18 MR. PALACIOS: And issue a driver's license.

19 MR. CHILES: And issue it, right, as long as
20 they're under some Immigration and Naturalization
21 control. So we try to help the people. We don't try
22 to deny them. But we also try to stay within the law
23 that says we won't issue a license to a person who's
24 in violation of the immigration statutes.

25 And in some cases, they are -- as I said,

1 they may be under docket control to leave. But I'm
2 fine; I don't care if they are. As long as they're
3 under your control and you give me a date, I'm going
4 to put that date on the driver's license and not argue
5 about it. Then it becomes your problem, the
6 Immigration or the Naturalization Department.

7 MR. PILLA: Was this letter developed as a
8 modification of the process based upon the amnesty
9 provisions?

10 MR. CHILES: No. This is way before that,
11 way before that. I have copies of all that here, if
12 you'd like.

13 MR. PILLA: Sure, thank you. Have there
14 been any modifications to your policies based on the
15 amnesty provisions of the Immigration Control Act?

16 MR. CHILES: Well, as I say, the biggest
17 modification, of course, is the fact that if you come
18 with this -- one of these two cards, I can't remember
19 the numbers of them, we're not going to question it.

20 I mean, we have been given some instruction
21 on how to recognize these cards and security features,
22 et cetera and so forth. And if we have any doubt, if
23 any of my people have any doubt, they can call. We
24 have a number to call to verify that they have, in
25 fact, enrolled in this program. But since it started,

1 I am not aware that we had to go to those lengths.

2 It's usually the other people who do not
3 apply for this that we -- I hate to say this, but it's
4 the truth. You know, they'll come in with a -- well,
5 the old green card that's forged or it's not good.
6 And we've been trained to -- not as well as the law
7 enforcement people, but we can recognize them fairly
8 easy.

9 In the Denver office, we also have an INS
10 computer that came as a part of the SAVE Program a
11 long time ago. So if we have an A-number, any of our
12 offices can call, and we can enter that program with
13 the A-number only to see if it's a valid number and
14 what the status of the individual is. That's the only
15 way we can inquire. If we want to do it by name or
16 birth date or whatever, we have to turn it over to the
17 Immigration people. It has something to do with the
18 privacy laws and other laws.

19 MR. PALACIOS: I would suspect there were a
20 number of people here in Colorado that are driving
21 without licenses because they haven't been able to get
22 the documentation to obtain one.

23 MR. CHILES: Oh, yes. There's no doubt
24 about that, just as there are people driving who are
25 under suspension. You just can't do anything about

1 that. I have spoken on television before, and I have
2 -- we went to the community years ago, and we need to
3 update it now, in order to upgrade the Colorado fact
4 booklet in Spanish. And we have the tests in Spanish
5 and that kind of thing.

6 And we have not a large group of employees
7 who speak Spanish, but we do have Spanish-speaking
8 employees, mostly in the -- we don't do it
9 consciously, let's put it that way. But I have found
10 that in most of the areas where we tend to get
11 immigrants or where they're working in the field or so
12 forth, there's somebody in our local office who can
13 speak Spanish.

14 And I know that the word -- I don't know any
15 other way to say it -- that the people are afraid to
16 apply, or seems to be in some cases, for this program
17 because they think we are going to turn them in and
18 that kind of thing. If they come with that card -- as
19 I say, we don't care what status they're in, if they
20 come with that card. But if they come outside of that
21 program, then that's a different thing altogether.

22 If they are illegal, if they have the
23 criminal background, if INS is looking for them, then
24 it's up to the INS to take whatever action they wish
25 to take. We try our best to satisfy people where we

1 can get what we consider to be the proper
2 documentation.

3 MR. PALACIOS: Right. Another question,
4 referring to native Americans. As a native American,
5 am I required to have a valid Colorado driver's
6 license if I drive on the reservation?

7 MR. CHILES: Oh, boy. That question has
8 never come up. I don't know. I would assume --
9 speaking as a layman, as long as -- I would assume as
10 long as you're on an Indian reservation that no, you
11 would not.

12 That was -- as we began talking to the
13 Immigration people years ago, these types -- not that
14 specific question, but the question about the
15 identification that the American Indians carry, and
16 some of them have dual -- well, I will call it
17 citizenship, I guess, but that's what they called it
18 at the time because of the treaties and et cetera and
19 so forth with the United States.

20 So therefore, if we see that sort of tribal
21 birth certificate, et cetera, so forth, that they've
22 been born either here or in Canada, we don't question
23 that at all. They get a license. We leave that to
24 the Immigration people.

25 MS. KURTZ: Well, but you will accept tribal

1 identification?

2 MR. CHILES: Yes.

3 MS. KURTZ: How do you determine validity?

4 We had earlier testimony that no two tribes use the
5 same forms.

6 MR. CHILES: Therein lies a very big
7 problem, yes. We have had -- in my 25 years down
8 there, I think I've had -- I haven't personally come
9 in contact but with one. I would assume -- I have 89
10 offices throughout the state. Since I haven't had any
11 problems directed towards me that way, I would say
12 that it's been a very low applicant rate or my people
13 out there just accept them at face value. Because
14 they're usually rather official looking. Some are
15 not.

16 Now, I have had cause to check. That's a
17 contradiction to what I just said. But we didn't go
18 any further, because when I first saw one of these, it
19 looked just like a piece of paper that didn't mean
20 anything. But I took into consideration the person
21 that I was looking at, the way they were talking and
22 so forth. Besides, he did have other identification.
23 And I said, "As the supervisor, we will accept it."
24 And that was the end of it.

25 MS. KURTZ: The INS issues a receipt for

1 papers requesting legalization. It carries a number
2 of I-689-5 -- I-689; I'm sorry. The 5 belongs to a
3 date. And it simply says this just acknowledges the
4 receipt of your application for legalization, and
5 you're scheduled to appear on such-and-such a date for
6 an interview with a legalization officer. Is that one
7 of the forms that you are accepting?

8 MR. CHILES: I'm not aware of that
9 particular form. I haven't seen it.

10 MS. KURTZ: This is the --

11 MR. CHILES: I could make a determination
12 probably right here, since I'm the chief of driver
13 licensing.

14 MR. ZUBRADT: Could I make a further point
15 about that card? It also acts as a temporary work
16 authorization until the date of the interview. And
17 the reason I was concerned about that is some of these
18 people will need a driver's license in order to get to
19 work and not become a public charge during that time
20 frame which could jeopardize their case.

21 Therefore, I was thinking it's in the best
22 interests of the applicants -- and I guess the whole
23 idea behind the program -- to go ahead and issue them
24 that driver's license. Because there's a couple of
25 things that go on.

1 MS. KURTZ: Well, now wait, wait, wait. If
2 you want to testify, we'll get you up here. The only
3 question here was here is a document from the Internal
4 Revenue -- from the Immigration Service, which is a
5 receipt for an application for legalization and a
6 temporary authorization to work. And the question is,
7 does that result in a driver's license?

8 MR. CHILES: I would have some difficulty
9 accepting this on face value, because it's just a card
10 that anyone could come in with. It has no signature,
11 it has nothing on it except this. Now, it does have
12 the A-number up here, which we, by looking at the
13 A-number, in the instructions that we have from the
14 legalization process would appear to be as it's
15 supposed to be.

16 If I were to say that we would accept this,
17 I would probably say that the person must have
18 something else, at least something. Because as you
19 can see, anyone can pick up this card and bring it in.
20 At least those other two documents we accept, I have a
21 picture and a fingerprint and other things.

22 I won't say that I will not accept it. I
23 might get with the Immigration -- not the Immigration
24 people; the legalization people. But it just doesn't
25 have anything on it. You know, that's my problem

1 here. It doesn't have anything on it except this
2 information.

3 Which, that's a problem not only for this
4 kind of card; it's a problem for other people who come
5 from other states who would get a letter from their
6 Motor Vehicle Division saying, "I have a valid license
7 on file," et cetera and so forth, which does not also
8 contain a picture or signature of that individual.

9 Then, in fact, let's say I'm the office
10 manager. I don't have any reason not to believe the
11 person, but I need to see something else. Let me see
12 your car registration. Does it have a signature on
13 it? Let me see telephone bills from your current
14 address, something to try to match up with this. I
15 would be very reluctant to accept this on its face
16 value like this.

17 MS. KURTZ: All right. Now, let me
18 understand, if I can, what you're saying here. The
19 form -- we've identified the form by a form number, so
20 we can always get a copy of it for our record if we
21 needed it. What you would be seeking would be to show
22 that the individual presenting you this card is, in
23 fact, the person who is named on the card.

24 MR. CHILES: That's correct.

25 MS. KURTZ: In other words, if it's Jose

1 Garcia, that the individual is, in fact, Jose Garcia.

2 MR. CHILES: That's correct.

3 MS. KURTZ: You would ask that the
4 individual identify himself or herself as the person
5 named on the card. That's what you're saying.

6 MR. CHILES: Right.

7 MS. KURTZ: But that in all likelihood, this
8 receipt plus a personal identification could result in
9 a driver's license or a Colorado identification card
10 being issued.

11 MR. CHILES: That is correct. Now, sitting
12 here now as a manager and trying to solve this problem
13 -- I like to try to solve problems -- I can think of a
14 way that I could accept this. That is if the person
15 would be willing for me to take his fingerprint on the
16 back, get his signature on this card, and we take a
17 copy of this for our records.

18 MR. PALACIOS: And then you'd accept that
19 that way?

20 MR. CHILES: Yes.

21 MR. PILLA: It has the A-number.

22 MR. CHILES: Not only that, then we would
23 have in our files a copy of this so if there's some
24 problem later, we can pull it from our files. Then
25 we'd also have a picture to match it.

1 That's a circumstance I could accept this,
2 yes. That's the first time I've seen that card. Are
3 they -- they're, in fact, I suppose, issuing this now?

4 MR. ZUBRADT: Yeah. That's to one of our
5 clients.

6 MS. KURTZ: The gentleman who provided this
7 card to us is a member of the Immigration Bar.

8 MR. ZUBRADT: I'm not an attorney. I work
9 in a law firm, an immigration law firm.

10 MR. CHILES: I'm writing down the form
11 number here. I hope you don't mind.

12 MR. ZUBRADT: Not at all. I also work for a
13 QDE in town.

14 MS. KURTZ: I think let's return the
15 gentleman's card to him.

16 MR. CHILES: Is there any way I can get a
17 copy of this? Or I imagine I can contact the
18 legalization people and see if they have them.

19 MR. ZUBRADT: They'd have copies at the
20 legalization office.

21 MS. KURTZ: Well, this was a little side
22 venture. But in any event, are there any other
23 questions that anyone had with regard to how the
24 Department of Motor Vehicles performs in this process?

25 I'd be rather interested. You don't keep

1 records indefinitely on -- I presume on driver's
2 licenses?

3 MR. CHILES: Not indefinitely. The only
4 time we keep indefinite records is if there has been
5 some sort of criminal action.

6 MS. KURTZ: There are certain groups such as
7 the migrant workers, for instance, who apparently just
8 don't keep records. I mean, they're moving around and
9 the paperwork is probably the least of their concerns
10 on the whole. And they come in, and they want a
11 replacement for a driver's license. What happens?

12 MR. CHILES: If they have already
13 established with us an expiration date through one of
14 these records I've discussed here before, we will give
15 them a license validated to that date or an ID card,
16 if it's on file.

17 MS. KURTZ: Supposing it's expired?

18 MR. CHILES: If the -- okay. We call it the
19 NIA date, that's the non-immigrant alien date. If
20 that date has expired, then they must go and get us
21 another legal document so we can give them a new date.

22 MS. KURTZ: So the fact that they've once
23 received a driver's license doesn't mean that they
24 would continue to receive it?

25 MR. CHILES: That as long as they're a

1 non-immigrant alien, that will be kept in the Colorado
2 files. Now, in some cases -- in most cases -- I think
3 we may be the only state to do this.

4 If the person took the Colorado license and
5 went to another state and applied for that state's
6 license -- well, I don't believe they have this kind
7 of identification on their licenses. So in fact, that
8 person could go to any other state and still get a
9 license based on that license alone, unless probably
10 they would ask them, "Are you a citizen of the United
11 States?" And whether or not they refused the license
12 on that basis, I don't know.

13 But say the person did come back here and we
14 still had that record in the file indicating that he
15 was a non-immigrant alien. If that record is still
16 there, we will still ask, "Have you been -- are you
17 now a legal alien or what? We need to see your
18 documentation."

19 So we won't give it to them just on the
20 basis that he now has a valid license from out of
21 state. We run into all kinds of peculiar problems,
22 because there are American citizens who were born
23 outside of this country. And one of the things that
24 I've decided to do, even if a person puts down that,
25 "I was born in a foreign country" and answers the

1 question, "Yes, I'm a U.S. citizen," we will still
2 issue it. Because we keep this documentation on file.

3 We'll follow through on it only during the
4 interview if we find something that's inconsistent.
5 Then we will go and check with Immigration.

6 MS. KURTZ: Let me ask this question. As I
7 recall, say 30 years ago or thereabouts, one could
8 simply walk into the Motor Vehicle Department and get
9 a driver's license upon passing a -- the test. There
10 was no identification. And then if you don't let your
11 license lapse, you get it renewed each time, you don't
12 get into any difficulties with too many violations of
13 the traffic laws, you just keep renewing it.

14 So that if you don't have -- if you don't --
15 you won't investigate for older persons or at least
16 people who've had a driver's license for some little
17 time, there's no subsequent investigation as to
18 whether or not they are American citizens or that they
19 are who they say they are or anything of that sort.
20 This is simply from a point forward; it's not
21 retroactive in any way, and it doesn't come up again
22 when the person renews the license.

23 MR. CHILES: The Uniform Vehicle Code
24 suggests very strongly that a person should renew
25 their license in person. You may recall years ago --

1 in some cases we're returning to this -- that you may
2 renew your license by mail simply by, "It's time to
3 renew it, here's the fee, and here's my eye test."

4 Well, that really defeats the purpose along
5 safety lines, not only having to do with something
6 along this nature. We don't know if the person is
7 still living. As a matter of fact, in the old
8 Saturday Evening Post there were a couple of stories
9 about people being issued licenses of people who had
10 already been dead for years, but somebody else was
11 using them.

12 Also, it has to do with the physical
13 evaluation of the person who's standing there before
14 you. They may have encountered some affliction that
15 would be dangerous to driving. So we encourage -- not
16 encourage. You have to come in in this state to renew
17 your driver's license. So at that point, even on the
18 record, you have to make an application again,
19 although it's just an administrative process. So the
20 question is still there on the renewals, "Are you a
21 U.S. citizen?"

22 MS. KURTZ: So we are now checking that on
23 renewals.

24 MR. CHILES: Yes. In this state, at least.

25 MS. KURTZ: In this state, yes.

1 MR. CHILES: Yes.

2 MS. KURTZ: All right. Now, you go through
3 all that same process even if it is a renewal versus
4 getting a new driver's license?

5 MR. CHILES: Yes.

6 MS. KURTZ: So that we would be picking up
7 everybody for four or five years --

8 MR. CHILES: -- in Colorado, who would renew
9 the license or get an ID card. The question is on
10 both applications. It's not just a matter of changing
11 cards. You still have to make out an application.

12 MS. KURTZ: Does the ID card, the
13 identification card lapse, or is that open-ended?

14 MR. CHILES: It lapses in three -- I think
15 it's three categories. For minors, it's valid until
16 they're 18. And then we have a provisional license
17 for those under 21. And then the adults are issued
18 indefinitely. People who are 60 and older, they're
19 issued free' also.

20 I just would like to make a comment here.
21 The issuing of an identification card is addressed
22 sometimes as just, "This is just an incidental matter;
23 it's just a card I want."

24 But that identification card bears the same
25 identity crisis-type thing as a driver's license.

1 Because you accept that at face value. It's issued by
2 the state that this person, in fact, is the person
3 pictured there. So the only thing it doesn't do is
4 allow this person to drive.

5 So I've had many encounters with people,
6 "All I want is an ID card." And we have made it -- we
7 did until recently make it a little bit more difficult
8 to get an ID card than a driver's license because of
9 the process you have to go through to get a license,
10 the written test, the eye test, that kind of thing.

11 Whereas with an ID card, you give us the
12 proper identification, and then we just put you
13 through without any real checks at all. But then you
14 take that ID card, and you can go anywhere, establish
15 bank accounts, establish records, get entitlements, go
16 to another state and get a driver's license based on
17 that ID card.

18 So the same weight should be put on issuing
19 a state-certified identification card as we do on a
20 state-certified driver's license, in my opinion.
21 That's the way I try to run my outfit, anyway.

22 MS. KURTZ: So you have essentially the same
23 standards, with the exception of the fact that the
24 identification card for seniors now does not lapse.

25 MR. CHILES: No. It doesn't lapse for anyone

1 who's 21 or older.

2 MS. KURTZ: All right.

3 MR. CHILES: But if you're 60 and older, you
4 don't have to pay for it, is what it amounts to. Now,
5 we encourage people who are adults to come in every 5
6 or 10 years to get another one if they wish, because
7 your physical characteristics do change. And the ID
8 card is strictly for nondrivers.

9 And we've expanded that program greatly,
10 too. Because in some instances, a person may not be
11 what we call a bona fide resident of this state but
12 has need for an ID card. This used to happen,
13 particularly on people who were legal -- how can I say
14 this -- who were here legally under the INS program,
15 for instance. They're here to work or here to do
16 something, and they need identification to cash
17 checks.

18 Well, if the employer would certify to us
19 what is their status and we check with INS, we'd still
20 give those people an identification card to cash their
21 checks, even though the Colorado law states it's for
22 residents of this state only. But we try to help who
23 we can when we can. If they apply for a license, of
24 course, they have to return the identification card or
25 vice versa.

1 MS. KURTZ: Any other questions?

2 MS. THOMAS: I don't think so.

3 MS. KURTZ: Mr. Chiles, we certainly
4 appreciate your coming down and discussing this with
5 us this morning. I think it's a very instructive
6 program, and we appreciate the fine work you're doing.

7 MR. CHILES: I appreciate the opportunity,
8 and I will leave copies of what I have here for anyone
9 who would like.

10 MS. KURTZ: Thank you. You can leave that
11 with Mr. Pilla.

12 (A recess was taken.)

13 MS. KURTZ: We have a representative here of
14 the Immigration and Naturalization Service. The
15 director, I understand, is out of the city. And there
16 have been some communications problems that caused him
17 not to know that this hearing was going to be taking
18 place, apparently. A representative has come who's a
19 specialist in the legalization program. There are
20 other aspects of it in which he is not an expert, but
21 if he happens to know the answers, I'm sure he'll give
22 them to us.

23 To open this portion of the hearing, would
24 you please state your name, your position and the
25 address.

1 MR. KNIGHT: Okay. My name is James W.
2 Knight, and I am the district legalization officer for
3 the Denver District, which encompasses the states of
4 Utah, Wyoming and Colorado. My office is at
5 1961 Stout Street in the Federal Office Building here
6 in Denver, Colorado.

7 MS. KURTZ: Thank you. Mr. Knight, do you
8 have any measure at this point of the volume of
9 applications for legalization by persons who are
10 undocumented aliens?

11 MR. KNIGHT: For the Denver District, I do.

12 MS. KURTZ: Yes.

13 MR. KNIGHT: Okay. So far, I'll go to our
14 year -- now, on applications, we have them broken down
15 into two categories; those for amnesty or legalization
16 for those who have been here prior to January the 1st,
17 1982, and then we have also the Special Agricultural
18 Workers who have worked in qualifying agriculture for
19 the specified period prior to May the 1st of 1986.

20 And together, since the program started on
21 May the 5th of this year, the application acceptance
22 portion of it, we have had a total of 6,922
23 applications filed here in the Denver District, which
24 contains four legalization offices set up to accept
25 these applications; one at Denver, one at Salt Lake

1 City, one at Grand Junction and one at Pueblo.

2 MS. KURTZ: And Denver handles Wyoming?

3 MR. KNIGHT: And we have been handling
4 Wyoming here at Denver. And we have sent -- well, so
5 far, two details up into the state of Wyoming to
6 accept applications and to conduct interviews in
7 relation to applications which have been sent in
8 either by mail or which were presented in person while
9 we were up there on detail.

10 MS. KURTZ: All right. Now, let me -- as I
11 understand how this program operates, it's basically
12 two groups of people; one of them essentially
13 recognized but nonofficial who assist undocumented
14 aliens in preparing their applications, such as the
15 Catholic Community Services --

16 MR. KNIGHT: Right. Qualified Designated
17 Entities.

18 MS. KURTZ: -- and then the INS does the
19 legal work on it.

20 MR. KNIGHT: Well, we accept the
21 applications and adjudicate the applications. Now,
22 besides Qualified Designated Entities, if a person so
23 wants, he can also go through his private attorney.
24 Or he can go and do it on his own, even, if he goes to
25 our office and calls in or requests an application be

1 sent to him, an application packet by mail.

2 MS. KURTZ: Now, I'm interested in these
3 Qualified Designated Entities, if that's the term.

4 MR. KNIGHT: Right.

5 MS. KURTZ: What's the relationship of that
6 group to the INS?

7 MR. KNIGHT: Okay. The relationship is
8 their records are strictly confidential. In fact, the
9 legalization records -- the Immigration Service has
10 set up a separate file system and everything so that
11 the confidentiality of the people who are applying for
12 amnesty or legalization or Special Agricultural Worker
13 status, confidentiality will be protected.

14 Now, in the case of the Qualified Designated
15 Entities, we don't have any access at all to their
16 records. And a person -- for example, say he does
17 want help in preparing his application. Then he will
18 go to one of these Qualified Designated Entities, and
19 the -- actually, the benefit that he has by going to
20 these people is they may charge a little less or a
21 nominal fee, as compared to maybe others.

22 And the Qualified Designated Entities have a
23 contract with our national -- with the Immigration
24 Office out of our central office in Washington, D.C.,
25 the Outreach people up there. And this contract gives

1 the Qualified Designated Entities -- it assigns them
2 a number. And it provides them with free documents to
3 hand out and all other types of -- I think advisory
4 services, too. I'm not real sure on that. But it
5 does provide them with documents.

6 And that number entitles the Qualified
7 Designated Entities to be reimbursed, I think, about
8 \$15 for each application that's a bona fide
9 application that's submitted by them.

10 MS. KURTZ: All right. If this is handled
11 out of Washington, I can see where you may not know
12 all the details. But there was some concern for a
13 time, at least here in Colorado, about the
14 availability of services from these groups. That is,
15 especially in the southern part of the state, that
16 apparently there were no Qualified Designated
17 Entities, say, in the Pueblo area and --

18 MR. KNIGHT: There are now.

19 MS. KURTZ: There are now? Do you have any
20 idea how well the state's covered?

21 MR. KNIGHT: I can't really answer that.
22 Because we had applied for -- had an application for a
23 guy who had sent in his request who I think lives in
24 Bayfield down by Durango. And as far as I know, I
25 don't think we have anybody in the southwestern corner

1 of the state.

2 We do have people in, like I say, Pueblo
3 and over in Grand Junction and around Delta and so
4 forth and up at Craig. But the southwestern portion,
5 I think those people are either going to Pueblo or
6 Grand Junction and contacting the Qualified Designated
7 Entities in that area.

8 MS. KURTZ: Do you have any in northern
9 Colorado like Greeley, Loveland, Fort Collins?

10 MR. KNIGHT: Well, that's pretty close here
11 to Denver. In fact, we arrange -- you know, say a
12 person walks in off the street and files his own
13 application. We will allow those people -- if they'll
14 call ahead of time here at the legalization office,
15 we'll set them up with an appointment for their
16 interview so they won't have to even wait at all in
17 line with the rest of the people who walk in off the
18 street.

19 MS. KURTZ: Okay. Now, there have been
20 several concerns raised about the legalization
21 program, and I'd like to know what the position of the
22 INS is, if it has a position. And I know this is a
23 new program, so it wouldn't surprise me if there are
24 questions that don't have answers at the moment.

25 One question that has come up is the general

1 question of separation of families. In other words,
2 you get a -- immediate families, now I'm talking about
3 father, mother, perhaps teenage youngsters and
4 smaller. What happens if the husband is not eligible,
5 the wife is, and the kids have varying statuses?

6 MR. KNIGHT: Right. We will -- we're under
7 the impression that when Congress drew up the new
8 Immigration Reform Control Act that they did not so
9 desire that derivative benefits would apply. These
10 would -- that only the people who actually qualified
11 for amnesty or Special Agricultural Worker status
12 would be eligible.

13 Because the rest of the -- there's a lot of
14 other things in the immigration law which a person has
15 to apply especially for, like to file a petition for
16 an immediate family relative to become immigrated,
17 where we couldn't just give -- I think Congress
18 decided they couldn't give special benefits to these
19 people here, when they couldn't give special benefits
20 to the rest of the people who were going through the
21 normal procedure to petition for their relatives.

22 The Immigration Service -- I don't know if
23 they're trying to draw up a national policy on it or
24 not, but they're real concerned about it. And in
25 fact, we've been tracking the number of those

1 particular cases that you're talking about right
2 there.

3 And so far in the Denver District, a total
4 of 74 Special Agricultural Worker cases and amnesty
5 cases have had family unity issue problems where an
6 immediate family relative did not qualify, where one
7 of the family members did qualify. And so far,
8 there's been 74 that we know about that people have
9 filed their applications and they had family members
10 who didn't qualify.

11 MS. KURTZ: In this district, the
12 three-state district?

13 MR. KNIGHT: In the Denver District.

14 MS. KURTZ: What have you done with them?

15 MR. KNIGHT: We don't do anything with them.
16 What could we do? We don't do -- they're there, and
17 as far as the confidentiality issue goes for the
18 applications that have been filed, they'll stay there.

19 Now, the only way that they will come across
20 Immigration or Immigration will find out about them
21 probably is if they get arrested or something and get
22 thrown into jail and the police calls Immigration,
23 "Hey, we have an alien over here." In that case, the
24 person will probably be set up for deportation.

25 MS. KURTZ: Well, let me go back to an

1 incident that occurred here not long ago when a number
2 of people were picketing the Federal Building on this
3 ground, and there was some discussion about the
4 discretion -- some kind of discretion being vested in
5 the regional director with regard to this question of
6 separation of families, breaking up of families.

7 MR. KNIGHT: Right. I think our district
8 director, Mr. Russell -- who's not here -- he has
9 stated numerous times that if these people are picked
10 up by the police and they are encountered by the
11 Immigration Service and they do have a family member
12 that is here -- say, for example, a husband or a
13 spouse who is a principal family member who has
14 applied and has been given temporary residence status
15 under the new Immigration Reform Control Act, that he
16 will weigh and judge each individual case on a
17 case-by-case basis, as far as the humanitarian or
18 medical or any other number of things that he might
19 take into consideration.

20 But he said he would do it on a case-by-case
21 basis. He could, at his discretion, grant extended
22 voluntary departure. But he did not say that he would
23 do this in every case; he would do it on a
24 case-by-case basis.

25 And what we would hope is that -- when I say

1 we, the Immigration Service -- is that those family
2 members who do remain here and who don't qualify,
3 well, when the people get their permanent residence
4 status -- which they're eligible to file for 18 months
5 down the road; they have kind of like a probationary
6 period with a temporary residence status, then they
7 have a one-year window, the amnesty applicants do, to
8 file for permanent residence status -- when they get
9 it that they go ahead and file a petition through the
10 normal procedure to immigrate that non-qualifying
11 family member.

12 MS. KURTZ: And then they just follow the
13 normal procedure?

14 MR. KNIGHT: Yes, ma'am.

15 MS. KURTZ: Okay. I won't pursue this
16 further. I just wonder a little bit about the impact
17 on minors if, say, the mother has to leave and the
18 father is allowed to stay. And what happens with the
19 youngsters under the circumstances?

20 MR. KNIGHT: Well, that may be one of the
21 cases that Mr. Russell's talking about, when he says
22 he will judge each case on a case-by-case basis. You
23 know, there's a lot of, you know, small children
24 involved for some other reason. You know, he can --
25 like he says, on a case-by-case basis he can use his

1 discretion.

2 MS. KURTZ: Okay. Another issue that has
3 come up, considering the fact that a lot of the
4 undocumented aliens in Colorado are relatively
5 low-paid -- that is, they're migrant workers, they
6 work in restaurants, they do this kind of thing,
7 hotels as chambermaids, so on -- there's been some
8 discussion of the costs of the legalization program.

9 And for the record, legalization and amnesty
10 are being used as synonyms here. The -- there is a
11 charge by the qualified agency, there is a charge by
12 the Immigration Service, I believe it's \$185 for the
13 first person in the family and so much more up to some
14 cap.

15 MR. KNIGHT: Well, yeah. For one family, a
16 total of only 420. That could be a fee for the whole
17 family, maximum.

18 MS. KURTZ: Maximum, 420.

19 MR. KNIGHT: Yes, ma'am.

20 MS. KURTZ: And plus if they don't happen to
21 have it, apparently some other kinds of information
22 about physical examinations and so forth. Plus for
23 some of them perhaps time off from work and travel
24 into the office, wherever your office may be that's
25 close to where they are, and some feeling that this

1 may be excessive.

2 Is there any arrangement for -- well,
3 essentially for a poverty -- the equivalent of a
4 poverty release or something of that nature, something
5 that could help mitigate the financial outlay that's
6 required of a person under these circumstances?

7 MR. KNIGHT: Well, first of all, we think
8 that when Congress set up the new Immigration Reform
9 and Control Act and made it into law, that the program
10 was designed to be paid for by the users so that the
11 United States citizen taxpayer would not incur the
12 cost of all of these people being adjudicated and
13 setting up all of these offices and paying all the
14 personnel to operate them.

15 The cost, I think, is not exorbitant. And
16 the reason being that I know of many cases where
17 aliens have paid over \$2,000 to be smuggled into this
18 country from other countries, and that's for each
19 alien. And in those cases, those were mostly people
20 from other countries than Mexico that paid that much
21 and were being smuggled to the large cities of, say,
22 Chicago and New York.

23 Your regular smugglers in Mexico generally
24 charge anywhere from 400 to \$600 to smuggle people
25 into the United States from Mexico who are just

1 regular Mexican citizens. That being the case, let's
2 say a family of four at \$400 a head, that would be
3 \$2400 right there for the one family. So I don't
4 think it's an exorbitant fee.

5 And also, we have a long list of people who
6 are trying to legally immigrate to this country who do
7 not have an immediate relative here. These people are
8 -- some of them have been waiting for five years.
9 They would gladly pay \$5,000 to come into the United
10 States.

11 So in this case, these people who actually
12 came through the back door are getting a real freebie,
13 the way I see it, even though they may have to pay up
14 to a thousand dollars before it's all over, you know,
15 to the Immigration Service, the Qualified Designated
16 Entities, the physical, the medicals, the
17 transportation into the office, the fingerprints and
18 so forth.

19 So I think it's a give-away, it's a real
20 deal, and it's a once-in-a-lifetime opportunity for
21 these people to eventually become United States
22 citizens and to eventually escape the poverty that
23 they may have once experienced in their home
24 countries.

25 MS. KURTZ: How long is it taking -- I know

1 that this is a new program, but how long is it taking
2 between the time a person applies for legalization and
3 action occurs on the application --

4 MR. KNIGHT: Okay. About --

5 MS. KURTZ: -- assuming the application is
6 correct?

7 MR. KNIGHT: Right. Well, the application
8 acceptance period started on May the 5th of this year,
9 and about three weeks ago, the first ones started
10 showing up at our offices with their notice from the
11 regional processing facility that their applications
12 had been accepted and for them to go back to the
13 legalization office and pick up their temporary
14 residence cards.

15 So it started May the 5th, and about three
16 weeks ago we had the first few walk-in's starting.
17 Maybe 2-1/2 months.

18 MS. KURTZ: What is -- I bring in this
19 application to the district office --

20 MR. KNIGHT: To the -- yes, the legalization
21 office.

22 MS. KURTZ: -- to the legalization office.
23 Could you tell us what happens after that and about
24 how long it takes and the process.

25 MR. KNIGHT: Okay. Well, when we first

1 started the program, we didn't have that many
2 applications being filed right at first. It started
3 picking up. And you could get your interview the
4 first day you walked in then. Now they're scheduling
5 interviews at about -- once you hand in your
6 application or mail it in through the QDE, you'll be
7 scheduled for an interview approximately 30 days in
8 the future; maybe a little more now, maybe about 40
9 days.

10 And the person goes into the Immigration
11 Office, has his interview, and if his application is
12 recommended for approval, then he is given an
13 employment authorization card, a form I-688-A. And
14 his file is sent off to London, Kentucky who runs the
15 fingerprint check on it to make sure that the guy does
16 not have a criminal record of any sort that would
17 disqualify him.

18 And then from London, Kentucky the file is
19 sent up to the regional processing facility here in
20 the case of the northern region, which is in Lincoln,
21 Nebraska, and there the file is adjudicated.

22 In most cases they'll probably be
23 recommended for approval, I believe. We haven't got
24 that many down. As far as I know, I think -- I was
25 off last week, but I think prior to my leaving, there

1 had been three or four here in the Denver District
2 where there had been people who had been notified to
3 go back in and pick up their temporary residential
4 status.

5 Q That's taking --

6 A 2-1/2 to 3 months. We hope it won't take
7 over six months, because the employment authorization
8 card is only valid for a six-month period. And then
9 18 months down the road, these people can go back into
10 the legalization office and apply for permanent
11 residence status.

12 In the case of the Special Agricultural
13 Workers, they have just automatically, depending upon
14 whether they're Group 1s or Group 2s, they adjust
15 automatically on 12/1/89 or either 12/1/1990.

16 MS. KURTZ: Gwen, do you have any questions?

17 MS. THOMAS: We have heard some testimony to
18 the effect that if a person fails to keep the
19 appointment for this interview to get the I-688-A that
20 it's very difficult to reschedule that appointment and
21 that very often the person has to repay the fees. Is
22 that normal?

23 MR. KNIGHT: I don't know if that's the case
24 or not. I can't answer that. It doesn't sound like
25 it should be. Sounds like if he can't make his first

1 interview, they can reschedule him. Because the
2 computer system has the capability to reschedule the
3 guy -- it wouldn't be right away. He'd have to go
4 through another 30- or 40-day period.

5 MS. THOMAS: Wouldn't the money he's already
6 paid then --

7 MR. KNIGHT: I think so. I think it should
8 suffice. But like I say, I don't know. I don't think
9 it's right if he has to pay again.

10 MS. THOMAS: You don't know if that's
11 standard procedure?

12 MR. KNIGHT: No, ma'am. I sure don't.
13 Doesn't sound like it should be. And I haven't heard
14 of that before. And I will check into it to see if
15 that -- I hope it's not occurring here. Because like
16 I say, don't sound right.

17 MS. KURTZ: Did you say that was in the
18 Greeley office?

19 MS. THOMAS: Yeah.

20 Is it also your assumption that this \$15
21 that a QDE gets covers the QDE's expenses, or do you
22 sort of feel like they're working for the Immigration
23 Service?

24 MR. KNIGHT: I think the program was set up
25 so that we would get applications that were more

1 correctly filled out so that we wouldn't have to hire
2 as many personnel to educate the people and fill out
3 the applications ourselves like the QDEs are helping
4 them do. That, I think, is why the program was
5 designed. As far as their expenses being covered, I
6 don't think \$15 is going to cover their expenses by a
7 long shot.

8 MS. THOMAS: Then why should they help you?

9 MR. KNIGHT: Well, they're eligible to
10 charge up to 75 additional dollars per applicant for
11 each applicant. See, they get -- besides our \$15,
12 they get 75 -- up to 75. Some of them -- I don't know
13 what they're charging. Some of them are pretty cheap,
14 you know.

15 MS. THOMAS: Well, we saw a difference
16 between -- yesterday in the people who testified
17 between 35 and 75 in what they were charging for that
18 initial assistance, I guess the total assistance they
19 give.

20 MR. KNIGHT: Right. Now, they can charge
21 additional fees to cover costs of making copies or
22 xeroxing. And if they I think may send out to do the
23 fingerprints themselves or whatever, they can charge
24 for that, too. You know, above and beyond the 75
25 maximum.

1 MS. THOMAS: They also seem to have a need
2 to translate Mexican birth certificates into
3 English --

4 MR. KNIGHT: Right, absolutely.

5 MS. THOMAS: -- and to notarize them --

6 MR. KNIGHT: Right.

7 MS. THOMAS: -- in order to present them to
8 you?

9 MR. KNIGHT: Yes.

10 MS. THOMAS: You won't accept them in
11 Spanish?

12 MR. KNIGHT: No. I think that's what they
13 told us over at Minneapolis when we were at our
14 training school over there.

15 MS. THOMAS: Now, is it your office that has
16 set up the training programs for the QDEs?

17 MR. KNIGHT: Well, not my office. The
18 Immigration Service set it up. Our Outreach office
19 out of Washington, D.C. set it up. And we just got a
20 position filled in our regional office, which is up in
21 Minneapolis, for an Outreach specialist here about two
22 months ago. And we're also going to have an Outreach
23 specialist here in the district office. She's been
24 selected but hasn't arrived on duty yet.

25 MS. THOMAS: Now, there's another form whose

1 number I probably don't remember, but it's something
2 like I-99 or something that the SAW people get in
3 order to work; is that right?

4 MR. KNIGHT: They get an I-688-A just like
5 the amnesty people.

6 MS. THOMAS: No, no. There's another form
7 I'm talking about. Do you remember the number on it?

8 MR. PILLA: I-9?

9 MS. THOMAS: I-9. That is a work
10 authorization form.

11 MR. KNIGHT: That's the employment
12 verification form that is made out by the employee and
13 the employer.

14 MS. THOMAS: That's what I'm talking about.
15 So just a work permit.

16 MR. KNIGHT: No, it's not a work permit.
17 It's an employee record that's maintained with the
18 employer on each employee by each employer who hired
19 this employee after 11/6/86.

20 MS. THOMAS: Okay. So the Job Services
21 people seem to process -- Job Services people --

22 MR. KNIGHT: With the state, right.

23 MS. THOMAS: They seem to do the processing
24 of this particular form. I want to know if you're
25 getting any protests from employers, farmers or other

1 employers, about the necessity of their maintaining
2 these records.

3 MR. KNIGHT: I don't know if we've had any
4 protests or not. I sure don't.

5 MS. THOMAS: You don't think they're
6 protesting to you?

7 MR. KNIGHT: No one's protested, as far as I
8 know, to the district office.

9 MS. THOMAS: Okay. And apparently they have
10 to keep this form on file for every person who works
11 for them.

12 MR. KNIGHT: Yes, ma'am.

13 MS. THOMAS: That is new with this Act,
14 right?

15 MR. KNIGHT: Yes.

16 MS. THOMAS: It's not been required of
17 farmers before to have every field hand turn in --

18 MR. KNIGHT: Well, I don't know. It could
19 have been required before under IRS for withholding
20 tax and so forth. But I'm not familiar with IRS's
21 laws, so I don't know. But I suspect that -- you
22 know, I do have friends who were employers, and they
23 had to maintain records on each employee.

24 MS. THOMAS: Have you had any protests from
25 people who are just ordinary American citizens who now

1 have to file this form every time they change jobs or
2 get a job?

3 MR. KNIGHT: No, ma'am.

4 MS. THOMAS: So everybody's comfortable with
5 that?

6 MR. KNIGHT: I've read articles in the paper
7 where people, you know -- or rumors and so forth. But
8 actually if somebody had actually come to me and said,
9 "I don't like this" or, "I don't like that," no,
10 ma'am. That hasn't occurred.

11 MS. THOMAS: Okay. Well, you might be
12 interested to know that the rumors have some validity.

13 MS. KURTZ: Would you have known about it if
14 it had generally come into the office, say to the
15 director or someone like that?

16 MR. KNIGHT: I may not have known about it,
17 then. Because, see, we have a person on board here
18 who's the employer-labor relations officer. And he --
19 in fact, I tried to see if he could come down here
20 with me, but he's out serving a Notice of Intent on an
21 employer to check their records at this particular
22 time, so he wasn't available to come down here.

23 Now, he may have had complaints, because
24 they have been in contact with -- I don't know how
25 many. They've contacted employers all over the state

1 and set up little workshops or training sessions to
2 try to assist the employers in filling out the new
3 forms.

4 MS. THOMAS: Everybody who hires more than
5 three people has to have those forms in the office in
6 order to hire anybody; is that right? So you sent
7 these out to every personnel office in the state?

8 MR. KNIGHT: We understand that they've been
9 mailed to every employer in the United States now. We
10 have handed out -- we've got boxes of them. We've
11 handed out lots of them ourselves at our contact rep
12 desk, which is on the first floor of the Federal
13 Building.

14 MS. THOMAS: You mean people come to you and
15 say, "I didn't get any in the mail so give me some in
16 my hand"?

17 MR. KNIGHT: Yes, ma'am. And then also the
18 government printing office. If a big company comes in
19 and says, "We need 100," that would wipe us out
20 overnight if everybody did that. Because there's lots
21 of big companies here in Colorado. We generally refer
22 them to the government printing office or the
23 government bookstore downstairs on the first floor
24 where they're for sale.

25 MS. THOMAS: For sale. Can they xerox these

1 things, or do they have to have originals?

2 MR. KNIGHT: I think they can xerox them,
3 also.

4 MS. THOMAS: Seems like that would be the
5 easiest or the cheaper thing to do.

6 MS. KURTZ: Yes.

7 MR. KNIGHT: I brought one of the handbooks.
8 But see, these handbooks were distributed to -- sent
9 out through the mail and everything to all the
10 employers. And it's kind of a step-by-step thing that
11 shows them with the Form I-9 inside it.

12 So maybe people that want to come in and get
13 a whole bunch of these, they have to go to the
14 bookstore. And it may be easier for them to purchase
15 them than to try copying these little booklets.

16 MS. THOMAS: But they don't need a large
17 number of booklets, do they? They need a form for
18 each employee but the book just for whoever
19 administers the program.

20 MR. KNIGHT: Right. But like I say, we've
21 had requests for lots of them.

22 MS. THOMAS: Now, those I-9 forms, then, are
23 supposed to be kept physically on the premises?
24 Somebody couldn't put that stuff in a computer and
25 just get rid of it physically and run it off when you

1 want to see it? They have to keep a form in the
2 office?

3 MR. KNIGHT: Yes, ma'am. They have to keep
4 the form I-9, which is this form right here
5 (indicating).

6 MS. THOMAS: Seems like you guys ought to
7 come up with the technological age and put that stuff
8 in the computers.

9 MS. KURTZ: Can't get signatures in there.

10 MR. KNIGHT: Well, maybe we don't trust
11 computers completely yet. Might lose it.

12 MS. THOMAS: Indeed. Somebody's always
13 losing something on computers.

14 I don't have any other questions.

15 MS. KURTZ: Gentlemen, do you have any
16 questions from the other forums out in the state?

17 MR. PALACIOS: The only question that we ran
18 into -- concerning native Americans, do the tribal
19 nations have to comply with the Immigration Reform
20 Act?

21 MR. KNIGHT: That's a very good question.
22 And as the tribal nations are treated in many
23 instances as separate sovereign entities, I can't
24 answer that question for you because I don't know the
25 answer.

1 And common sense would dictate due to the
2 way past laws have been going here lately that
3 probably not as long as these Indians were employed on
4 the reservation, so to speak. And I think that's who
5 you're talking about. But I really don't know the
6 answer. It hasn't come up yet.

7 MR. PILLA: The 6,000 applications you've
8 received so far, does that seem high? Does the
9 district office believe that it would get a higher
10 figure or lower figure, or does it seem on target?

11 MR. KNIGHT: To me, it seems about on
12 target. Because I heard different numbers thrown out
13 that there may be anywhere from 10 to 25,000 illegal
14 aliens in this district. Now, all of those people are
15 not going to qualify, you know. They either haven't
16 been here long enough, or they don't have the
17 documentation, or for some reason.

18 MR. PILLA: The reason I ask that is --

19 MR. KNIGHT: So far, we've had about 13,000
20 applications picked up at our office -- the
21 application packets -- 13,000. And I don't know if
22 that's a good indicator of how many are going to be
23 coming. Because they're still requesting applications
24 every day.

25 For example, so far this week we've had, for

1 amnesty applications, 41 picked up. And for the
2 Special Agricultural Workers status applications,
3 there have been 42 picked up in the district so far
4 this week. And that's just for two days this week,
5 Tuesday and Wednesday.

6 MR. PILLA: Some of the other farm sites, we
7 were hearing that many of the undocumented aliens were
8 still afraid that the INS was using this as a ploy to
9 deport them and that this fear was still pretty
10 prevalent.

11 MR. KNIGHT: I heard that that rumor was
12 quite -- I don't know. It was down in El Paso. But I
13 haven't heard that here. And I think the reason it
14 might have been prevalent down in El Paso, Texas is
15 because they had a big sting operation down there a
16 while back. And, you know, naturally people may
17 suspect that this also could be the same thing, you
18 know. But I haven't heard of that rumor around here
19 in Colorado.

20 MR. PILLA: Thank you.

21 MS. KURTZ: Yes.

22 MR. ZUBRADT: Mr. Knight, I had one specific
23 question. My name is Matt Zubradt. I work for Ken
24 Stern and Nancy Elkind. I'm a legal assistant in
25 their office.

1 We had a client that contacted us just
2 recently, had crossed the border after receiving their
3 work authorization card but before being granted
4 advance parole. I was wondering if there was any
5 way --

6 MR. KNIGHT: First of all, can I ask if he
7 was a Special Agricultural Worker?

8 MR. ZUBRADT: He was a pre-1982 applicant.
9 The person, over the Labor Day weekend, received
10 notice from their family in northern Mexico that his
11 father was going to pass away.

12 He went down -- since it was a weekend, he
13 couldn't get in contact with us as his
14 representatives, attorneys, not myself, being a legal
15 assistant, but my employers -- and upon arrival there,
16 his father did pass away.

17 His wife, who remained here, called us,
18 asked us what should be the process at this stage? We
19 said, "For the moment, stay put where you're at.
20 Don't try to cross the border again. Let us see what
21 we can find out about some kind of a retroactive
22 advance parole."

23 Is there going to be any possibility for
24 that kind of a thing?

25 MR. KNIGHT: We haven't run across that case

1 yet either, that I know of. He may be able to get --
2 I don't know. I'll -- I would have to research it. I
3 don't know if advance parole can be granted
4 retroactively. I don't know if the law allows us to
5 do that.

6 What the guy may end up having to do, he may
7 have to get a waiver. I don't know what it would be
8 in this case or not, either. I could say that seems
9 to me like that might be -- if he can document that
10 this did occur as you stated, then it seems to me like
11 the guy would be eligible to be paroled into the
12 United States under a 212-D-4 waiver. That is the not
13 having the proper document, which would be waiver of
14 documentation, which would be the advance parole form.

15 But in that case, he would have to make
16 application at the port of entry in El Paso for the
17 212-D-4 waiver.

18 MR. ZUBRADT: Okay. Could you perhaps just
19 for all of us right now give us some idea of how
20 advance parole should work?

21 MR. KNIGHT: Well, the way it should work is
22 there has to be a humanitarian reason why the person
23 has to depart the United States. He can't stay out --
24 after he's got his temporary residence status, he can
25 come and go all he wants. But under the employment

1 authorization card, he can't stay out over 30 days.

2 MR. ZUBRADT: How would one go about
3 obtaining advance parole at this stage?

4 MR. KNIGHT: He would have to apply at our
5 legalization office. When the program first started,
6 we weren't able to adjudicate those advance parole
7 requests at our local legalization office, but now we
8 can. We've kind of streamlined the program where they
9 can adjudicate those right at the Legalization Office.
10 The supervisor and legalization officer sign off on
11 it.

12 MR. ZUBRADT: What kinds of documentation
13 would you have to show to show the humanitarian need?

14 MR. KNIGHT: A telegram, a letter from home,
15 whatever.

16 MR. ZUBRADT: That would --

17 MR. KNIGHT: Showing that so-and-so is sick,
18 and you're needed back over there and have to go.

19 MR. ZUBRADT: My original understanding in
20 contacting the legalization office here in Denver is
21 we'd need a telegram directly from the attendant
22 doctor. Is that true?

23 MR. KNIGHT: I can't answer that. I don't
24 know; could be. But to me, you know, if they had a
25 telegram even from an immediate relative or close

1 relative -- but like I say, I don't know what the
2 requirements are. I'm not right down at the
3 nuts-and-bolts level of this program.

4 MS. KURTZ: Okay. Let's return here to the
5 hearing, please.

6 MS. THOMAS: If a person is an illegal alien
7 and knows he's in the country illegally and wants to
8 get this I-688-A that would start the first step, what
9 documentation can he use to do that? Or can he?

10 MR. KNIGHT: First of all, he's got to pick
11 up an application at our legalization office. And
12 then he has to -- if he's going to apply for -- we're
13 talking amnesty, those who have been here prior to
14 January 1st, 1982?

15 MS. THOMAS: No, I'm not. I'm talking about
16 somebody who's been here a shorter period of time.

17 MR. KNIGHT: The only way he can qualify --
18 he'd be statutorily ineligible unless he was applying
19 as a Special Agricultural Worker, in which case he
20 would have to have worked in qualifying agricultural
21 work for at least 90 days prior to 5/1/86 and have
22 maintained residence in the United States for six
23 months prior to that time.

24 MS. THOMAS: Now, he can use -- if his
25 employer will certify that he worked, he can use that

1 documentation. But I understand that there are
2 employers who have not paid the withholding fees and
3 so forth and therefore will not give such people the
4 employer's certification of employment. What can such
5 a person do, if his employer won't certify him?

6 MS. KNIGHT: Well, in that particular case
7 -- I hate to see that scenario. Because this alien
8 probably has been working for this employer for a
9 number of years on a seasonal basis helping him get
10 his crops in and everything, and you don't have a lot
11 of people -- well, I'm going to say you have a lot of
12 people who are good people here in the United States,
13 but you have a lot of people who are not so good.

14 MS. THOMAS: So you recognize that this is a
15 real problem?

16 MR. KNIGHT: It could be a problem for some
17 of the aliens that had worked for that type of an
18 employer, and I hate to see it. And I would like to
19 urge that any employer -- in fact, I talked to a lady
20 yesterday, and I urged her, if she had any people
21 working for her who qualified who did request
22 certification from her that they had been working
23 during those periods for her, that she go ahead as a
24 good humanitarian gesture and supply the certification
25 that they requested.

1 And we have emphasized that our records are
2 confidential. And also, if IRS does a random audit on
3 this particular individual or rancher, we're not
4 notifying anybody because of the confidentiality issue
5 of the records -- our records, the legalization
6 records.

7 MS. THOMAS: Well, can a person who does not
8 have the employer's certification use the other kinds
9 of receipts, like rent receipts and telephone receipts
10 and that sort of thing, that the amnesty sort of
11 people seem to be able to use?

12 MR. KNIGHT: Well, it would prove that he
13 was here.

14 MS. THOMAS: But it wouldn't prove he
15 worked.

16 MR. KNIGHT: But it wouldn't prove where he
17 was working.

18 MS. THOMAS: That's right. And I'm saying
19 does he have to prove that he worked? He can't prove
20 that he was here?

21 MR. KNIGHT: Right. He has to prove that he
22 worked in not just agricultural work but qualifying
23 agricultural work, which generally means the
24 production of vegetables or foods for human
25 consumption that are not animal or livestock.

1 MS. THOMAS: So the people who have not been
2 here -- who were not here in 1982 but who have done
3 something other than qualifying agricultural work have
4 no means of becoming legalized?

5 MR. KNIGHT: Yes, ma'am. That's true.

6 MS. THOMAS: That's the case?

7 MR. KNIGHT: Those who entered after January
8 the 1st, 1982 who have not worked in qualifying
9 agricultural work will not qualify for amnesty.

10 MS. THOMAS: Thank you.

11 MS. KURTZ: I'm not going to allow any
12 further questions from the audience. I think we're
13 losing the focus of the hearing in this way.

14 Did you gentlemen have any further
15 questions?

16 MR. PILLA: No further questions.

17 MS. KURTZ: I want to thank you very much
18 for coming in on such very short notice to meet with
19 us. I'm sorry for the breakdown in communications.

20 We will be holding this hearing through noon
21 tomorrow. Is there any possibility that the person
22 working with the employers would be able to meet with
23 us during that more or less 24-hour period?

24 MR. KNIGHT: I'll tell you. The best way to
25 do it would be for you to make a request to our acting

1 district director, who is Mr. Jack Holmes, and the
2 telephone number is 844-4801. And his name is
3 Mr. Jack Holmes. And he is also right now my boss,
4 but he's also the boss of Mr. McClure, Charles
5 McClure, who is the employer-labor relations
6 specialist.

7 MS. KURTZ: All right. Will you --

8 MR. KNIGHT: And I'll also advise Mr. Holmes
9 to expect the telephone call.

10 MS. KURTZ: Thanks. I appreciate that. We
11 certainly appreciate your coming in on very, very
12 short notice and answering I know what must have been
13 some very difficult questions.

14 MR. KNIGHT: No. Most of them, except for
15 one or two, we've already had before. The law on the
16 native Americans hadn't come up. But I had personally
17 wondered about that myself, because I was down in
18 New Mexico last week on an Indian reservation. And
19 while I was there, I was wondering about that. But I
20 didn't even have the answer then, and I don't now.

21 MS. KURTZ: I presume that's a question that
22 we'll have to formally present to legal counsel in
23 Washington and get some kind of a -- general counsel
24 and get some kind of a ruling on.

25 MR. KNIGHT: I think so.

1 MS. KURTZ: Because I can see several
2 scenarios; not only the tribally-owned program
3 handling employing tribal people, but about
4 tribally-franchised operations where the owners or
5 somebody else are all Indians on the reservation.

6 MR. KNIGHT: In fact, the reservation I was
7 on, they have a huge hotel/motel/golf course complex
8 there, and they have a lot of employees. But --

9 MS. KURTZ: I think that may be one that we
10 may want officially to get.

11 We will hear this gentleman.

12 MR. BUSH: I just wanted to ask you if you
13 received testimony on how it really works with migrant
14 field workers. You asked the question about
15 documentation, about how salaries are paid. Did you
16 receive testimony about how it works in the real world
17 for --

18 MS. THOMAS: I think so. Different -- in
19 Greeley yesterday we heard from people who prepare the
20 applications, these QDEs who prepare applications and
21 work directly with migrant farm workers. And the
22 problems that were raised led to the kind of questions
23 that we've asked. Because they're based on the very
24 issues that people deal with.

25 MR. BUSH: Yeah. But I just want to

1 comment. Many of the field workers that I have known
2 in traveling around the state are paid by a crew boss
3 which is not documented, since the farmer does a lot
4 of cash transactions with the crew boss, who then does
5 cash transactions with the workers, who also takes his
6 30 percent or 20 percent. And then there's no
7 documentation along the line.

8 MS. THOMAS: Yeah. We had people who
9 reported that there was as great a problem with the
10 crew chiefs as there was with employers. They did say
11 that, indeed.

12 MR. BUSH: So then how does one document, if
13 it's all in cash? The only way I can -- listening to
14 the testimony for a few minutes, there are health
15 services around the state. Did you talk to those
16 folks who take care of migrant rural health services?
17 Because they have names of folks who have come in for
18 health care and could prove that this person worked at
19 X farm and got sick and came in for health care. And
20 they have the dates and the times and everything else,
21 from my understanding.

22 MS. THOMAS: No. We heard only from people
23 who came to us. But it might be useful for some of
24 the people that work at the QDEs to contact those
25 health services. Because in that way, they could help

1 people get the necessary documentation. And nobody
2 mentioned health services as a source of
3 documentation.

4 MR. BUSH: Yeah, it might be --

5 MS. THOMAS: They simply mentioned it in
6 terms of getting the medical records, medical physical
7 examination, it's a necessary part of the application.
8 But they didn't mention it in terms as a source of
9 documentation.

10 MR. BUSH: The only source that I could
11 figure out, again in listening, is -- if everything is
12 cash transactions for the worker through the crew boss
13 from the farmer, then there's no documentation. If
14 you don't have a telephone and you're living in a
15 shack as many migrants do, there's no rent receipt.

16 So the only documentation that seems
17 reasonable is to do it through the health services
18 because there's no other documentation available. And
19 that's all I wanted to --

20 MS. KURTZ: Sir, your comments are very
21 useful. And I wonder if you would share one other bit
22 of information, please. Would you tell us what your
23 name is?

24 MR. BUSH: My name is Michael Martin Bush,
25 and I'm the people's lobbyist in the state of

1 Colorado. And I lobby for migrant issues. That's how
2 I know about it.

3 MS. KURTZ: What you're saying is very
4 helpful, but we are required --

5 MR. BUSH: The person to contact is a Chuck
6 Stout at the Migrant Rural Health, and that's through
7 the State Department of Health. That might be a lead
8 for you. I think he runs the -- at least he used to
9 run the health services.

10 MS. KURTZ: Did you have anything else that
11 you would like to add?

12 MR. BUSH: No. I'm just trying to help
13 folks get legalized.

14 MS. KURTZ: Your comments have been very
15 constructive, and I appreciate it.

16 I'm going to break for lunch, come back at
17 -- since we're in downtown Denver, we probably better
18 make it 1:30. Because the service in downtown Denver
19 is not the speediest. So we will reconvene at 1:30 in
20 this room this afternoon.

21 (The hearing was recessed at 12:05 p.m.,
22 September 10, 1987, to be reconvened at
23 1:30 p.m. of the same day.)

24

25

1 AFTERNOON SESSION 1:35 p.m.

2 MS. KURTZ: Well, I'm going to reconvene
3 the meeting now at 1:33. And the next person to
4 testify is Mr. David Graham. If you'd come up and sit
5 over here, please, at the witness table.

6 Would you please state for the record your
7 full name, your affiliation and the address of the
8 organization you're affiliated with.

9 MR. GRAHAM: Yes. I work for -- my name is
10 David Charles Graham. I work for Catholic Immigration
11 Services, and our exact address is 3417 West 38th
12 Avenue in Denver.

13 MS. KURTZ: Thank you. Mr. Graham, would
14 you indicate what the Catholic Immigration Services
15 does.

16 MR. GRAHAM: Well, Catholic Immigration
17 Services is related to the parent organization, which
18 is the Archdiocese of Denver. And essentially it's
19 one of a two-pronged organization that the Archdiocese
20 has established in Denver.

21 One aspect of this organization is the
22 refugee program, which is on a separate budget, the
23 other aspect being Catholic Immigration itself. And
24 we function as a QDE, helping people who qualify to
25 apply for temporary residence.

1 As well, there is quite a caseload that we
2 had before the new reforms came into effect,
3 suspension of deportations and the like, many of which
4 have been converted to legalization cases. But
5 basically, it is to serve the needs of a largely
6 Hispanic population in their immigration problems.

7 MS. KURTZ: What -- is there more than one
8 office? Is it a state program or a metropolitan area
9 program?

10 MR. GRAHAM: It's the metropolitan area.
11 However, the program itself is the only one of its
12 kind in the region. So many of our clients are from
13 surrounding areas, Wyoming, Kansas, Nevada. So
14 although it's, strictly speaking, based in Denver,
15 it's established all throughout Colorado. And many of
16 our clients are from elsewhere, as well.

17 MS. KURTZ: And what generally is the
18 service provided by the Colorado Immigration Service?
19 I mean --

20 MR. GRAHAM: The Catholic Immigration
21 Service?

22 MS. KURTZ: Yes, I'm sorry, the Catholic
23 Immigration Service.

24 MR. GRAHAM: Well, there are a variety of
25 services available, one of which is a simple

1 consultation with an attorney or a trained counselor,
2 which is usually a preliminary before actually
3 starting any sort of case work. We handle cases for
4 registration for those who have been in the country
5 from -- since 1971 onward.

6 We also handle cases for the Special
7 Agricultural Workers Program, as well as the
8 legalizations themselves. And currently, that's our
9 main emphasis. The legalization program is absorbing
10 most of our efforts at this time.

11 MS. KURTZ: How big a -- how many people are
12 involved in this --

13 MR. GRAHAM: In terms of staff?

14 MS. KURTZ: Yes.

15 MR. GRAHAM: About a dozen. However, I
16 would just add that in the infrastructure, we're sort
17 of the top of the pyramid, if you will. Working
18 through various parishes throughout the city and the
19 state, there are volunteers who serve in the
20 preliminary aspect of preparing applications. And
21 subsequently when they have done their job, the
22 materials are forwarded to us, and we take it from
23 there.

24 But there are churches throughout the state
25 which are starting at least the preliminary contact

1 work with people who have need of the service.

2 MS. KURTZ: And you train -- I mean not you
3 personally, but your office here in Denver trains
4 those volunteers?

5 MR. GRAHAM: That's correct.

6 MS. KURTZ: And where did your office staff,
7 your professional office staff, get its training? Was
8 that from the INS or --

9 MR. GRAHAM: Well, in some instances. In
10 the case of the attorneys themselves, they'd had
11 practice elsewhere.

12 MS. KURTZ: They were immigration attorneys?

13 MR. GRAHAM: For example, one of our
14 attorneys, Richard Gonzalez, had a practice
15 established in Chicago before he moved out here to
16 Denver. In the case of the counselors, I couldn't say
17 where they received their training. And as for the
18 rest of the staff, they basically came from the
19 Archdiocese working in one capacity or another, and
20 then they moved into this program when it was
21 established.

22 MS. KURTZ: Do you have any approximation,
23 at least, of the number of cases that result from the
24 Immigration Reform Act that are being handled by
25 Catholic Immigration Services?

1 MR. GRAHAM: I could give you a rough
2 estimate of how much -- you see, the problem is as
3 they go through, the cases are closed. But currently,
4 the active cases that we have in the two offices --
5 it's basically divided between an upstairs office and
6 a downstairs office, although they're working out of
7 the same building -- the combined total would probably
8 be in the neighborhood of 200, 250.

9 MS. KURTZ: I know that this program is very
10 new, so statistics, analytical statistics probably
11 wouldn't be meaningful; there just aren't enough
12 cases. But could you give us some indication of where
13 there may have been problem areas, based on the
14 experience that your agency has had?

15 MR. GRAHAM: Well, to be honest, some of
16 it's internal. Because the program is so new and was
17 put into effect with such rapidity, there wasn't
18 adequate time to prepare all of the volunteers. So we
19 find that a lot of the mistakes in the first stages of
20 applications are the result of volunteers who are not
21 aware of something that might exclude somebody from
22 eligibility.

23 Consequently, they will take up that
24 person's time and their money up to the point where we
25 discover what it is, whatever it is that makes them

1 ineligible; a previous deportation, for example. So
2 that creates some in-house confusion for us. But
3 we're ironing that out pretty well.

4 Another problem we've had -- and this is
5 something I was talking with Matt about -- has to do
6 with the sufficiency in evidence for proving residence
7 and proving work history. There has been some
8 question as to what sort of affidavits are acceptable.
9 And each of the attorneys where I work has his or her
10 own opinion as to what constitutes an acceptable
11 affidavit.

12 This results in a problem when requesting
13 such affidavits from employers, because oftentimes
14 they will simply put down a simple statement that such
15 an individual worked, period, and not give all the
16 information that would otherwise be optimum.

17 Another problem we've had has to do with
18 uncertain guidelines as to time frames for proving
19 work and residence. We have heard from various INS
20 sources locally anything from once a month has to be
21 proved with, say, a check stub or a rent receipt to
22 once every three months.

23 And so the lack of a consistent policy, as
24 far as that goes, has proven difficult for us as far
25 as having a coherent policy we could follow ourselves.

1 The other problems that we have are more
2 administrative in nature.

3 And once again, I would just want to, you
4 know, preface the remarks at this point that I am an
5 assistant, so my knowledge of the organization is not
6 all-encompassing.

7 MS. KURTZ: What kind of problems have been
8 brought to your attention with respect to the efforts
9 of your clients, if I may use that term, to secure the
10 documentation?

11 MR. GRAHAM: Well, in some instances, it's
12 simply not available. Because going back years,
13 people who have kept loose records have a very loose
14 idea of where they worked or where they lived. And
15 they can't provide specific accounts of all their
16 activities.

17 In general, we find -- I have found that
18 people tend to break up into one of two groups; either
19 those who save every grocery slip and rent receipt and
20 check stub and those who save relatively nothing,
21 regardless of the fact they may have been here a long
22 time. And the people who come with documents are
23 usually pretty well documented. The ones who aren't
24 have very little to speak of.

25 One problem by way of an anecdote concerns a

1 case I heard of this morning of an individual who was
2 interested in applying in Boulder but was unable to
3 secure a work affidavit from his employer because his
4 employer had been paying him in cash and didn't want
5 the Internal Revenue Service to know about any of the
6 transactions. Consequently, this fellow can't get any
7 kind of letter claiming that he has had work unless he
8 threatens to disclose the whole thing to IRS and INS,
9 which would make him liable for, at the very least,
10 deportation.

11 So in cases where employers don't want to
12 cooperate, there's not a great deal that our clients
13 can do about it. They really are pretty much at the
14 mercy of the goodwill of their employers, past and
15 present.

16 MS. KURTZ: For the second group, in other
17 words those that don't save the paperwork, what kind
18 of assistance or advice or whatever have you been able
19 -- has your organization been able to give them with
20 regard to reconstructing things?

21 MR. GRAHAM: Most -- almost entirely by way
22 of affidavits. Where other evidence is lacking and
23 even where it's present, we like to have employer
24 affidavits, especially for the current job. We feel
25 that's very important to ask for that. In general,

1 even the most skimpy of affidavits we will include
2 with the application, provided we can't get anything
3 better.

4 A lot of it stems from the fact that we have
5 yet to have a case sent back to us by INS suggesting
6 that the documentation was insufficient. So as it is,
7 we're sort of probing in the dark. When we reach a
8 point, by way of a negative reaction from INS, wherein
9 we realize that we've provided far too little, that
10 will serve as a way of telling us by negative example
11 how much we should have by way of evidence.

12 But as I was saying, affidavits mainly are
13 what we use to reconstruct. Also, tax records are
14 very useful. We like to use W-2s, 1040s -- anything
15 that shows that they had some link with the Federal
16 Government is considered to be very good evidence to
17 submit.

18 MS. KURTZ: But do you have any idea of the
19 extent to which your clientele is working for
20 employers who evade the -- or apparently evade the
21 Internal Revenue Service requirements by paying
22 strictly in cash?

23 MR. GRAHAM: Well, a lot of it shows up by
24 way of inference. In a case where hypothetically you
25 have an individual who has a family of five or six to

1 support and on his W-2 for a given year it shows he
2 earned maybe a thousand dollars, you realize that such
3 an individual couldn't have possibly survived.

4 But it's not the sort of admission that
5 people will make freely, that they have been in effect
6 bilking the IRS. So consequently, it can for the most
7 part only be inferred.

8 MS. KURTZ: Have you -- at other sessions of
9 this hearing around the state, this forum, the
10 question of crew bosses -- in other words, there's
11 somebody between the employer and the employee who
12 actually recruits the workers and is responsible for
13 them, pays them, et cetera, and the employer works
14 with the crew chief -- has your firm encountered much
15 of that, especially in the agricultural areas?

16 MR. GRAHAM: I can't speak from personal
17 experience. Most of the case work I've done has been
18 on legalization. However, so far as the Special
19 Agricultural Worker program is concerned, I would
20 assume that it really doesn't matter if it's the
21 employer or the crew boss, so long as a qualified
22 individual provides the affidavit stating that an
23 individual worked for at least 90 man-days in the
24 period stated.

25 Really, the Special Agricultural Workers are

1 the easiest for us to process, because the demands are
2 -- for evidence of residency are so much lighter.

3 MS. THOMAS: May I ask a question?

4 MS. KURTZ: Yes.

5 MS. THOMAS: Is it -- when you get the
6 documentation from an employer or a crew boss, it's
7 only the length of time a person has worked that
8 matters? It's not the amount of pay received?

9 MR. GRAHAM: Well, as far as --

10 MS. THOMAS: Except that you assume --

11 MR. GRAHAM: Well, we have forms which are
12 ideal affidavits. Included amongst them are forms --
13 would be an ideal affidavit from an employer. It is
14 my understanding that the paradigm case for an
15 affidavit from an employer would include dates of
16 employ, position title, residence at the time employed
17 -- in other words, the employer knew where his
18 employee was living -- as well as any specific mention
19 of layoffs. That, included with the statement that
20 the records either are or are not available for INS
21 inspection and if not why, on letterhead, notarized.

22 MS. THOMAS: Oh, the inspection bit?

23 MR. GRAHAM: Yeah.

24 MS. THOMAS: So actually the best case
25 affidavit we could get from an employer would have

1 quite a bit more to say than just the dates the
2 individual was working.

3 If a person were able to get from his
4 employer just the statement of time that he worked,
5 not fill out your particular form, this guy's just
6 going to write a sentence, "He worked for me last
7 summer from June through August," you wouldn't accept
8 it?

9 MR. GRAHAM: Well, it's not a question of
10 whether we accept it. We will urge them to get the
11 best possible documentation we can get. If it's all
12 we have, we'll include it. I've seen affidavits that
13 have been written on sales slips, from menus, in
14 longhand, two or three sentences. And I put them in
15 with the file, because there was simply nothing else.

16 But wherever possible, we try to counsel our
17 clients that we could use better documentation. Once
18 again, it's a question of not really knowing where we
19 stand. Because to this date, we haven't received
20 word, either formally or informally, that a given
21 affidavit was inadequate.

22 MS. THOMAS: But an employer is going to be
23 in trouble if he gives you a time level and it doesn't
24 at least add up to the -- what the minimum wage would
25 have added up to for that time? Or no?

1 MR. GRAHAM: I wouldn't know if I'm in a
2 position to answer that question.

3 MS. THOMAS: Well, all I meant was would
4 that be a kind of inhibiting factor for the employer,
5 making the employer unwilling to document anything? I
6 mean, maybe he wouldn't -- if he were willing to say,
7 "Yes, he worked here," but then he realizes that if he
8 doesn't at least -- hasn't at least accounted for
9 deductions from minimum wage -- or maybe if the person
10 had enough dependents he wouldn't have had to take
11 anything out or something.

12 I don't know. I'm just trying to figure out
13 how employers think about it. And apparently they'd
14 be in trouble whether they gave the amount of wages or
15 whether they didn't because, once again, people could
16 make inferences.

17 MR. GRAHAM: Well, so far as the employer
18 liability, I think anyone who understands the new
19 provisions understands they're only liable for having
20 somebody working for them who received their job after
21 November of 1982 who can't prove that they are either
22 a citizen or that they have permission to work. So
23 far as I know -- excuse me; 1986. So far as I know,
24 that's the only liability they have.

25 The very fact that they were giving

1 employment to an undocumented alien seems to me to be
2 legally improper. And if they were concerned about
3 anything, they wouldn't make the affidavit in the
4 first place.

5 So far as taxes are concerned, where there
6 is an indication of whether or not the employer was
7 kicking into Social Security or paying other taxes for
8 the employee, I don't think that information would
9 necessarily come out on a affidavit. If they were
10 just to put down the amount that the individual earned
11 per annum or hourly, then the only remaining concern
12 would be minimum wage. And I'm not certain that that
13 would apply to an undocumented alien, that they would
14 be entitled to minimum wage. Once again, I simply
15 don't know.

16 (A discussion was had off the record.)

17 MS. THOMAS: Have you felt that there were
18 people who dropped the effort to get legal -- well,
19 first let me ask you this.

20 Are there people or are you aware of people
21 who, while they are seasonal workers, do not have a
22 particular desire to become legalized workers? I
23 mean, are there people that you come in contact with
24 who come here because their life-style is to be
25 seasonal workers in one place and another place

1 another season, but ultimately they really want to
2 remain citizens of Mexico? Do you encounter any
3 people like that?

4 MR. GRAHAM: Well, perforce, the nature of
5 the service we provide is such that we're in contact
6 with people who are soliciting our help to apply.

7 MS. THOMAS: So you don't contact anybody
8 who doesn't.

9 MR. GRAHAM: I haven't, nor have I heard of
10 an individual who simply wasn't interested although
11 they might have been eligible. When people come into
12 our office or when their applications are sent in from
13 a collection center, it's always somebody who is
14 actively seeking our services. So I'm afraid I
15 couldn't answer that question.

16 MS. THOMAS: Okay. The people, then, who
17 are actively seeking your services, do you feel that
18 they are persistent about it? Do they do everything
19 that is within their power to get the documentation,
20 or do they give up because of the red tape, the cost,
21 the -- just the general difficulties of the whole
22 thing? Do you find that some people give up, or are
23 they willing to sort of hang in there and struggle
24 with it?

25 MR. GRAHAM: The question is very much to

1 the point. And, really, the answer is that it's a
2 question of human nature. There are those individuals
3 who are impossible to please who are calling every
4 other day, even after they've been told that there
5 will be a certain delay.

6 There are other individuals who show a
7 certain indifference. We have given materials back to
8 individuals who have felt that we were taking too long
9 to process their requests. But on the whole, I would
10 say --

11 MS. THOMAS: You mean you give them back and
12 tell them, "Do it yourself; you don't like the way
13 we're doing it"?

14 MR. GRAHAM: Well, if they request the
15 materials. You see, people are surrendering to us
16 very important documents -- marriage certificates,
17 birth certificates, various forms of identification --
18 and while we have them in our care, they don't have
19 access to them.

20 So if they want that part of their file or
21 any part of their file, we'll surrender it to them.
22 Because if they're not happy with our services, we're
23 wasting their time, and they're wasting ours.

24 But I was going to say on the whole, the
25 vast majority of the people that I have dealt with

1 have had a tremendous amount of anxiety about how long
2 the program was going to take and if every detail was
3 correct. But I don't think that translated to any
4 sort of impatience on their part to get their
5 documents back or give us a particularly hard time
6 because of delays which may or may not be our fault.

7 Overall, I think that people are -- they
8 feel an urgency. There's a definite sense of an
9 urgency with everyone I've talked to. I've never
10 spoken to anyone who was indifferent about their file,
11 very casual about it. Apprehension is visible.

12 And I do my best, when conducting
13 interviews, to assure them of the program as I
14 understand it. If they've got good documentation,
15 I'll say, "Well, this is good documentation. Once we
16 have it all together, I don't see any problem."

17 And I think they need a certain emotional
18 reassurance that they are going to be all right. They
19 need someone to tell them that, "It looks pretty good.
20 I wouldn't worry if I were you."

21 MS. THOMAS: One other question. Where you
22 have people who have gotten the I-688-A and are trying
23 to get the next document that gives them the total two
24 years of legal residence, you set up an appointment
25 with INS for them, right?

1 MR. GRAHAM: This is a procedure I'm not
2 familiar with, I'm afraid.

3 MS. THOMAS: You don't do that?

4 MR. GRAHAM: I'm sure we do, but I am not
5 familiar with the I-688.

6 MR. ZUBRADT: That's the work authorization
7 card.

8 MS. THOMAS: That's interesting. I thought
9 this was a definite step in the legal residence.
10 You're just doing amnesty?

11 MR. GRAHAM: The majority, yes, using the
12 I-687 and supporting documents for that.

13 MS. THOMAS: Tell me what the I-687 is,
14 please. I haven't heard that number before.

15 MR. GRAHAM: Okay. The I-687 is the form to
16 use for applying for the amnesty program, the
17 temporary residence. And once that is completed, it's
18 submitted along with an I-181, the medicals and the --
19 any other supporting information such as evidence.
20 And that, along with the pictures and the prints,
21 constitute an application.

22 MS. THOMAS: This sounds very much like what
23 other people have been telling us about the I-688,
24 which means there's probably a little difference in
25 the way the numbered documents are used by INS.

1 MR. GRAHAM: I have seen the form in the
2 office. It's just that in my duties, I've never had
3 call to use it.

4 MS. THOMAS: Well, you are not dealing just
5 with the people who are applying for amnesty because
6 they were here by '82. You're dealing with some
7 people who were here whose applications required their
8 having been here by '86.

9 MR. GRAHAM: Are you speaking of the 705,
10 the Special Agricultural Worker?

11 MS. THOMAS: No. I'm really just trying to
12 find out who the people are that you deal with. As I
13 understand it, you've got two main dates. One is
14 1982, and the other is 1986, right?

15 MR. GRAHAM: The '86 date, as far as
16 eligibility for the temporary residence program, I had
17 no idea that that was in effect. It was my
18 understanding that eligibility for legalization meant
19 that somebody had to be in the country prior to
20 January 1, 1982.

21 MS. THOMAS: And are those the only people
22 you deal with?

23 MR. GRAHAM: Well, in my capacity, I have
24 worked with the Special Agricultural Workers, I have
25 worked on the 687 --

1 MS. THOMAS: But, now, they're people that
2 have the 1986 dates in their lives.

3 MR. GRAHAM: Exactly. And I don't know if
4 there's another form that subsequently goes after it,
5 after I do what I do. Maybe that's the I-688 you were
6 referring to. But those are the two main cases.

7 But that and just registration from 1971
8 cases on, where people have that. That was a practice
9 that the attorney I am assisting was doing before the
10 program came into effect, and he's still doing those.

11 MS. THOMAS: I see. Then you don't have the
12 appointment business that some other people have told
13 us about where they have to go to INS to pick up
14 certain documents.

15 MR. GRAHAM: I'm afraid I couldn't answer a
16 question about that.

17 MS. THOMAS: All right. I won't ask any
18 more questions about it, then.

19 MS. KURTZ: Art, do you have any questions?

20 MR. PALACIOS: I'm still a little in the
21 dark about what this application process actually is
22 involved in. What do you actually do? You mentioned
23 some forms. I'm from Mexico, I've been here since
24 1979, and I come to you because I want to apply for
25 the amnesty program. What happens?

1 MR. GRAHAM: Well, first of all, you would
2 probably pass through one of the parishes, either here
3 in Denver or in one of -- Fort Collins, Greeley,
4 Colorado Springs, whatever.

5 MR. PALACIOS: What would they do?

6 MR. GRAHAM: They would interview you. They
7 would ask you questions about your family members,
8 they would ask you questions concerning your work
9 history, your residence history. The interview, at
10 your option, would be conducted in Spanish.

11 They would compile that information and
12 begin the preliminary work on the 687, which is the
13 form that ultimately we'll have to submit with the
14 supporting documents. Having done that, that
15 information would be sent to our office on 38th. We
16 would take that information and review it for
17 sufficiency, find holes in your documentation, see
18 perhaps parts of the 687 that were not answered or
19 were not answered or explained in a satisfactory
20 fashion.

21 Then we'd call you into our office. And in
22 an interview, we would tell you what you have and what
23 you need by way of getting your application ready to
24 go. The file itself would go into a holding stage
25 until it was complete with the documents we needed.

1 Once we had all the documents we needed,
2 we'd make copies of it, one copy for our office, one
3 copy for you, including the originals of all forms of
4 identification and then one copy for INS. Having made
5 the copies, we would split those copies to INS. There
6 would be, as I understand it, a four- to six-week
7 delay until you had an appointment for an interview.

8 And you'd go before them, and they'd review
9 your case just as we had it. In a way, the interview
10 we had prior to the submittal is a rehearsal, just to
11 make sure when they put down Answer A, they don't
12 orally give Answer B so there's no discrepancies. And
13 after that you're either accepted or rejected from
14 Nebraska, once they send the file on there, and you're
15 on your way. Is that sufficient?

16 MR. PALACIOS: Yeah. That 687, is that a
17 one-page kind of form or several pages?

18 MR. GRAHAM: No, sir. It's three pages, one
19 of which is detached. Both the pages are two-sided,
20 so in effect it's a four-page application.

21 MR. PALACIOS: Oh, I see.

22 MS. THOMAS: Now, you just mentioned an
23 appointment with INS. That's the one I'm talking
24 about. Now, do you help the individual get that
25 appointment, or is that something the person has to do

1 on his or her own?

2 MR. GRAHAM: That appointment is set when
3 receipt of the documents is made. They receive in
4 their computer system an applicant's name. If they
5 have an A-number, they register the A-number. If they
6 don't, they give them an A-number. They give them a
7 new A-number anyway just for this program.

8 MS. THOMAS: What do you mean by A-number?

9 MR. GRAHAM: That's the alien registration
10 number. It's an A-prefix followed by, I believe, a
11 six- or eight-digit code, which is the INS's way of
12 computerizing their files. It's the easiest way to
13 keep track of the aliens they have on file.

14 But as soon as receipt is made of the
15 materials at the legalization office out on Peoria, in
16 the receipt for that is a scheduled appointment.
17 Their computer makes that decision. And then that
18 information is passed on to the client.

19 MS. THOMAS: And you never have anything
20 else -- you don't have anything else to do with the
21 client after that?

22 MR. GRAHAM: Well, it depends. In most
23 cases the client is quite capable, once we have
24 prepared their case, of going down there and answering
25 the questions that would be put to them. In the case

1 of somebody who is excludable for one reason or
2 another -- suppose it's for a criminal record -- that
3 would require more time and more cooperation from an
4 attorney.

5 So the service is tailor-made to the needs
6 of the individual. The vast majority of the people
7 who pass through, once their documents are in order
8 don't really need anything more because they're in the
9 system, and their application will go from Denver to
10 Nebraska where it's either accepted or denied, and
11 then they'll get word. And then they can start in the
12 future working on their permanent residence.

13 MS. THOMAS: Do you speak Spanish?

14 MR. GRAHAM: Yes, I do.

15 MS. THOMAS: Does everybody who works with
16 these people in that office or most people in your
17 office?

18 MR. GRAHAM: There is only one employee who
19 works there who doesn't speak Spanish out of a dozen.

20 MS. THOMAS: And are most of the documents
21 you're dealing with both in English and Spanish?

22 MR. GRAHAM: That is correct. As far as
23 documents proving identity, birth certificates,
24 marriage certificates, military registration and the
25 like, those are almost exclusively in Spanish. And

1 they are subsequently translated in the office.

2 MS. THOMAS: Do you do that, or is there
3 somebody special who does nothing but translate and
4 then passes it on to the particular counselor,
5 interviewer, whatever?

6 MR. GRAHAM: Everybody who works there and
7 speaks Spanish is qualified to translate the documents
8 we do translate.

9 MS. THOMAS: But you have to translate it
10 into another piece that then becomes official and is
11 notarized and all that, don't you?

12 MR. GRAHAM: No, actually we don't. The
13 procedure we follow for translating documents -- we
14 have a number of forms which condense the information,
15 for example, of a birth certificate. You'll find that
16 especially in legal and technical matters, Spanish is
17 a very flowery language, and it's very possible to
18 condense it down to the bare facts, which is what we
19 do in our translations.

20 So on a birth certificate we'll provide the
21 name and the date of birth, the place of birth, the
22 parents, the grandparents, witnesses, the judge, and
23 that's it, basically. It's a procedure that is not
24 that complicated. And everybody who works there that
25 I know who has translated them has had no difficulty.

1 MR. PILLA: Have you had need for
2 translations into languages other than Spanish?

3 MR. GRAHAM: Not that I know of. I would
4 say easily well over 90 percent of our caseload is
5 people from Latin America. We have had some people
6 from other parts of the world, but I have yet to come
7 across a case where some other translation facility
8 was required.

9 MR. PILLA: Of that 90 percent from Latin
10 America, what's the percentage you would estimate from
11 Mexico?

12 MR. GRAHAM: Oh, the overwhelming majority.
13 The only exceptions really that stand out are Central
14 Americans. This is a ballpark figure, but I would say
15 out of a figure of 100 percent, we would probably have
16 about 85 percent from Mexico, 5 percent from Central
17 America, and then the rest miscellaneous. Perhaps
18 even higher for Latin America, but most of them are
19 from Mexico.

20 MR. PILLA: Do you get any requests for
21 assistance from Asian groups?

22 MR. GRAHAM: You mean not individuals but
23 groups, as such?

24 MR. PILLA: Individuals or groups.

25 MR. GRAHAM: Sure. We've had some -- I've

1 seen files on individuals from Taiwan, I think I've
2 also seen one for Vietnamese, one from Malaysia, a
3 couple from India, I believe.

4 MR. PILLA: Earlier you gave a figure on the
5 numbers of cases that were ongoing. You mentioned
6 that there were some closed files, because they had
7 been sent on to INS.

8 MR. GRAHAM: Uh-huh.

9 MR. PILLA: How many closed case files have
10 you had since May 5th?

11 MR. GRAHAM: Well, the figure I could give,
12 if I could even give a precise figure, would be
13 somewhat misleading. Because there was a practice
14 going on before the Reform Act came into effect. I
15 would say cases that have been closed out through our
16 actions since we started up is probably in the
17 neighborhood of 100.

18 MR. PILLA: We've heard testimony earlier
19 today from a representative from the Immigration and
20 Naturalization Service who indicated that the files
21 are sent to London, Kentucky. Had they apprised --
22 this is for a criminal check of the fingerprints.
23 During their training or when they told QDEs about the
24 process, did they indicate that that would be part of
25 the process?

1 MR. GRAHAM: I'm sorry. I don't know
2 anything about that.

3 MR. PILLA: Thank you. I have no further
4 questions.

5 MS. KURTZ: Let me ask this question. One
6 of the requirements, I understand, for legalization is
7 that there not be more than three misdemeanors on the
8 individual's record. Now, one of the questions that
9 has been raised in essentially brainstorming this -- I
10 don't have any specific example -- is the relationship
11 of that provision to plea bargaining so that when the
12 person might plead guilty to some misdemeanor, let's
13 say, traffic offenses in his past record before this
14 ever became a consideration.

15 So he now has three plea-bargained
16 misdemeanor -- or four or five -- misdemeanor traffic
17 offenses that are on his record. Now, that would keep
18 him from -- at least theoretically would keep him from
19 being eligible for legalization; is that correct?

20 MR. GRAHAM: Well, as far as the details of
21 a given case are concerned, it would vary from case to
22 case. I know that that is grounds for lack of
23 eligibility, that is grounds for denying an
24 application. Whether INS subsequently decides to do
25 that or not is a mystery to all of us.

1 We won't turn away a case that has legal
2 complications. We'll be very up-front with the client
3 and apprise them of the fact that according to the
4 provisions as we understand them, they could be
5 denied. But we even take on some, you might call
6 them, hopeless cases along those lines, especially
7 with criminal records.

8 But the details of how that is handled would
9 be better answered by a lawyer who could give more
10 specific examples. All I know is we tell them if they
11 have -- at the volunteer level, we tell them if they
12 have three misdemeanors or more, they can be excluded.
13 Or at least that's what should be told to them.

14 MS. KURTZ: They can be. That -- as you
15 understand that provision, that is in the discretion
16 of the INS officials and not a mandatory exclusion?

17 MR. GRAHAM: Yes, ma'am. I understand that
18 to be within their discretion. I don't -- I have not
19 heard of any official policy mandating that sort of
20 decision.

21 The reason I say that is because in all
22 instances of the cases for which a person might be
23 excluded -- being an anarchist, a Nazi, a Communist,
24 having received treatment for a mental disorder --
25 they ask for information accompanying it explaining

1 the nature of the incident. If it were simply a
2 question of excluding them, logic holds that they
3 would simply say, "If these apply, you're out of
4 luck."

5 So that's why I'm led to believe it's a
6 question of discretion more than a strict, inflexible
7 policy.

8 MS. KURTZ: Did you want to say anything
9 about that?

10 MS. THOMAS: No. I just find that an
11 interesting reasoning process.

12 MR. PALACIOS: Makes sense.

13 MS. KURTZ: Any other questions?

14 Mr. Graham, thank you very much for your
15 testimony. We appreciate it.

16 MR. PALACIOS: For my own curiosity, what is
17 the fee you charge for assisting these people?

18 MR. GRAHAM: It depends upon the services
19 rendered. The basic fee we charge for legalization is
20 a \$35 fee plus an additional \$5 for translating any
21 documents and \$5 for photocopies that we have to make.
22 So for \$45, we will process their materials on a basic
23 case.

24 Now, there are other cases where people will
25 just come in, and they want to talk to a lawyer or a

1 counselor. That's \$20. The fees themselves are very
2 low. And the idea is that the service be accessible
3 to as many people as possible. And with subsidies
4 that we do receive from the Archdiocese, we're able to
5 operate on the budget that we have.

6 MS. THOMAS: Somebody who was here from INS
7 said they -- you get \$15 for each application you
8 process. How do they do that? Quarterly, annually,
9 or what have you? Or do you know?

10 MR. GRAHAM: I'm not sure what you're
11 referring to.

12 MS. THOMAS: I'm referring to an INS
13 legalization officer's statement that QDEs receive \$15
14 per application processed.

15 MR. PALACIOS: From the INS.

16 MS. THOMAS: From the INS.

17 MR. GRAHAM: To my knowledge, that statement
18 is incorrect. I have yet to see any evidence of that.
19 However, I don't do the books. So it may very well be
20 that we're getting that, and I simply am unaware of
21 it. But I had heard nothing to that effect.

22 MS. THOMAS: Thank you.

23 MS. KURTZ: Could it be that the Archdiocese
24 is receiving it itself?

25 MR. GRAHAM: I find that unlikely, since the

1 organization is self-sufficient in all respects as far
2 as handling its own books, and we have to handle them
3 on everything else. The money we receive from clients
4 we handle locally without just automatically turning
5 it over to the Archdiocese. We have our own accounts.

6 MR. PILLA: You had to qualify as a QDE on
7 -- not through the Archdiocese but as a separate
8 entity?

9 MR. GRAHAM: That's correct, as a separate
10 entity. As far as I know, the Catholic Archdiocese
11 itself is not a QDE; Catholic Immigration Services is.

12 MR. PALACIOS: It's also my understanding
13 that, at least I believe in Los Angeles, the Catholic
14 entities there that were acting as QDEs were not
15 accepting the money from INS.

16 MS. KURTZ: Oh, all right.

17 MR. PALACIOS: And I can't recall the reason
18 for it. But there was a reason. I believe also in
19 San Antonio or -- yes. In Texas they were doing the
20 same thing. They were not accepting the moneys.

21 MR. GRAHAM: Well, if I may enter my
22 personal opinion at this juncture, I think the people
23 who utilize the program would be better served,
24 assuming that INS reimburses QDEs \$15, simply by
25 cutting their costs by \$15. And that's less money

1 that those people have to pay, since we have our own
2 fee schedule, for whatever it's worth.

3 MS. THOMAS: Well, that's interesting.
4 Incidentally, only one person has told us about that
5 \$15 in the various interviews we've had.

6 MS. KURTZ: Mr. Graham, thank you so very
7 much for your testimony. It's been very helpful.

8 MR. GRAHAM: Sure.

9 MS. KURTZ: I assume you wish to testify,
10 sir?

11 MR. McCLURE: Yes. My name is Charlie
12 McClure. I'm a special agent and employer labor
13 relations coordinator with the Immigration Service.

14 MS. KURTZ: Thank you, Mr. McClure. We have
15 a long list of questions for you. Would you please
16 come up to the witness table.

17 Mr. McClure, this is a forum, if you will,
18 fact-finding forum, of the Colorado Advisory Committee
19 to the U.S. Civil Rights Commission. The Commission
20 was mandated by the Congress to look into how the
21 Immigration Reform and Control Act is being -- how it
22 is working, with some special emphasis on potential
23 for differential impact on various groups who would be
24 affected by the program.

25 Now, this is the sixth of a series of forums

1 that we've held around the state. We've been in
2 Cortez, in Ignacio, in Grand Junction, in Greeley, in
3 Pueblo, and this is our windup. We've heard from a
4 number of employer -- employers and employer
5 organizations, some agricultural and some not. And a
6 number of questions have been raised at these forums
7 around the state.

8 And we apologize for the communications
9 problems we've had so that you didn't have greater
10 advance notice of these forums. And we appreciate
11 your coming here.

12 MR. McCLURE: I heard about it about 40
13 minutes ago.

14 MS. KURTZ: The material was in the mail --
15 you'll probably get it in another few days -- advising
16 you of what's been going on. But in any event, we
17 deeply appreciate your willingness to come over and
18 meet with us today and to answer some of the questions
19 that we may have.

20 We have been looking at two -- well, two
21 basic programs in a -- actually, all three programs,
22 the legalization, the agricultural worker program, and
23 the documentation of the employees in terms of their
24 status, their authorization to work, if you will. All
25 have involved potential for differential impact. All

1 have involved problems with employers. And that's
2 what we'd like to explore for some little while this
3 afternoon.

4 Let me start out with the question of
5 legalization, because that's probably the smallest
6 piece of the information we've received. The
7 particular -- as we understand legalization, part of
8 the documentation for a person who wishes the amnesty
9 program is an affidavit or some sort of assertion from
10 the employer that the non-documented alien has worked
11 so many days in an agricultural occupation each year
12 for a certain period of time.

13 Some employers in the agricultural areas
14 around here use the crew chief system, where the
15 contact between the employer and the worker has an
16 intervening step. The employer contracts with a crew
17 chief or crew boss to have so many workers, and it's
18 up to him to provide it. And there has been some
19 indication that all the transactions wind up being
20 handled in cash because they don't want to bother with
21 the tax paperwork, either. So they don't pay Social
22 Security, they don't withhold for income taxes, so
23 forth. It's a straight cash transaction.

24 The fact that they have not been complying
25 with the Internal Revenue Code apparently has

1 motivated some employers to refuse to provide to the
2 workers the required affidavits so that they can apply
3 for legalization. Do you have any programs -- well,
4 first of all, if an employer provides that information
5 and the legalization service, could the Internal
6 Revenue Service find out about it?

7 MR. McCLURE: Not from INS, they won't. In
8 every seminar we've given throughout Colorado and
9 Wyoming, we stress this to employers attending the
10 seminars. And the movie that we show the employers
11 during the seminars, it also stresses this, that the
12 information we receive or the legalization office
13 receives from the employer will not go to IRS through
14 Immigration.

15 In fact, as far as like myself, being a
16 special agent, we have very little dealings with the
17 legalization part. In fact, they want to keep us
18 separated as much as possible. So most questions that
19 relate to legalization, I'd appreciate if you'd ask
20 one of our legalization officers.

21 MS. KURTZ: Well, we did. I was just trying
22 to get this tied into your information program.

23 MR. McCLURE: Right. But this is one of the
24 things that we stress in all of our seminars and all
25 the speeches that I give to employer groups, is that

1 when we -- and we always recommend that they come
2 forward and give the documentation necessary to help
3 the person who is qualified or claims to be qualified
4 and that none of this information will go to the IRS.

5 Now, that's not saying that somehow down the
6 road that IRS may not obtain this through their own
7 means; I don't know. But they will not obtain it
8 through INS.

9 MS. KURTZ: Has your -- have your forums
10 been reaching the very small employer? Now by that,
11 for instance we had testimony at one of our outlying
12 forums from a rancher with two employees, a son and a
13 son-in-law and intermittently, as workloads required,
14 up to four other employees short-term, just
15 essentially the project -- kind of, "We've got to get
16 our cattle rounded up and shipped off to market."

17 MR. McCLURE: Yeah, seasonal-type.

18 MS. KURTZ: Right, or perhaps shorter.

19 MR. McCLURE: Right.

20 MS. KURTZ: Now, do you have any feel for
21 the extent to which your public information program,
22 whether it be your mailings or your forums or
23 whatever, might have reached those very small
24 employers?

25 MR. McCLURE: Well, they would have the same

1 opportunity, the small employers as the large
2 employers. In Colorado, Governor Romer sent out
3 86,000 letters and 86,000 handbooks to employers, to
4 all the registered employers, if they were registered
5 as an employer, advising them of our 22 seminars in
6 Colorado. And they were placed throughout the state,
7 which would make it accessible to almost -- well,
8 everyone within the state.

9 And the problem is with the first about
10 three seminars that we were relying on the mail like
11 you were relying on the mail in finding out about
12 this, and it took about three weeks for the employers
13 to receive these letters notifying them of the
14 seminars. But the seminars to me were a great
15 success.

16 We had -- in areas that had agriculture, we
17 had morning seminars for regular employers and
18 afternoon seminars for agricultural workers or
19 agricultural employers. And everybody was given the
20 opportunity and encouraged by not only INS but by
21 Governor Romer and the Colorado State Job Service
22 Center.

23 Governor Romer had the same concerns that we
24 did about making it as easy as possible for an
25 employer to implement and adjust to this new law. And

1 that's the reason Governor Romer stepped forward and
2 did these seminars, a situation which the INS wishes
3 that they had thought of first. And then closely
4 behind that, Governor Sullivan of Wyoming implemented
5 the same type, and we participated in 16 seminars in
6 Wyoming in locations that they selected, they thought
7 would be most beneficial.

8 MS. KURTZ: All right. Now, let me -- are
9 the seminars the primary way that you use to educate
10 employers?

11 MR. McCLURE: It's the -- probably the
12 easiest way where we can reach the most number of
13 people, is to advertise it either at a hotel or a room
14 like this and try to get as many employers -- of
15 course, through the governor, the state seminars,
16 every employer was invited, regardless of how small or
17 how large.

18 Other seminars that we've done, we've tried
19 to get -- like the meat industry, we contact the Meat
20 Industry Association. We say, "We would like to give
21 a seminar or a presentation regarding IRCA to your
22 organization. Can you help us?"

23 And the meat industry has come forward. In
24 fact, next Tuesday I am giving a presentation to the
25 meat industry of Colorado. We have given seminars to

1 the hotel and restaurant associations. We've given it
2 to the contractors association. We've given it to --
3 I've gone to Grand Junction and given it to the
4 landscapers association.

5 Every association, every type of business,
6 every chamber of commerce or anything, Rotary Club,
7 anything we can do to get a crowd, we will give a
8 presentation. And we have done so, and we will
9 continue to do so, as long as we can have any
10 attendance at these presentations.

11 MS. KURTZ: Let me turn now to the
12 documentation of employees; the I-9s, in short.

13 MR. McCLURE: Okay.

14 MS. KURTZ: Now, as I recall, the deadline,
15 the last deadline, as far as I know, was September the
16 1st to --

17 MR. McCLURE: Yes, that is correct.

18 MS. KURTZ: -- to have all of your present
19 -- employees who were hired on or after November the
20 6th, 1986 were to be documented by the 1st of
21 September.

22 MR. McCLURE: We have to have the I-9
23 completed by September 1st, which would include the
24 correct documentation from the I-9 handbook.

25 MS. KURTZ: National stories indicate that

1 there was a great big rush just before the 1st of
2 September and that substantial compliance,
3 overwhelmingly substantial compliance, had been
4 attained by that date. Do you have any feel for how
5 Colorado's employers have been coping with that?

6 MR. McCLURE: The presentations that we've
7 done have indicated that the employers really want to
8 comply with the law. We have estimated, just by
9 guesses, wild guesses, and the fact that we have had a
10 program cooperation in Colorado, mainly in Denver,
11 since 1982 -- which is a voluntary program where those
12 interested employers will work with the Immigration
13 Service to eliminate the use of illegal aliens.

14 And we've been very successful in targeting
15 notorious employers, going to them, giving them
16 presentations, showing them how they can verify
17 documentation through our computer operator and
18 working with them to eliminate the present illegal
19 aliens and prevent any future hires.

20 So in Colorado, I think as far as I can
21 tell, for everything that we've seen so far, the
22 program or the law is working very well. But today I
23 did my first I-9 inspection. We received -- the
24 Denver police apprehended an illegal alien who was
25 turned over to us for processing. We processed him

1 and determined that this person was working at an
2 employer. The alien said that when he went to work
3 there, he was not asked by the employer -- he went to
4 work there two months ago, which would have put it in
5 July. And the employer did not ask him to fill out an
6 I-9, did not ask for any type of documentation. So
7 our investigator took a sworn statement from him.

8 So last week, on the 4th, I sent out our
9 first letter of intent to inspect, certified mail, to
10 let the employer know that we were going to be there
11 today -- that's where I was today -- at 10:00 o'clock
12 to review the I-9s, to see if this particular illegal
13 alien was, in fact, or not -- if an I-9 was made out
14 on that person.

15 So I called last Thursday, asked who the
16 manager was, who was responsible for hiring and
17 firing. I was given a name, and I told them that I
18 would be there on this date, and a certified letter
19 would be forthcoming requesting or telling of this I-9
20 inspection.

21 So this morning when I go there, I talked to
22 one of four managers, and immediately he tells me that
23 up until September 1st, they had not made one I-9 on
24 any of their 27 employees. 10 of the employees,
25 including the 4 managers, were employed there prior to

1 the passage of the bill, so they would not need an I-9
2 on them.

3 So that left 17 employees that should have
4 had -- that were hired since November 7th that should
5 have had an I-9. And not one was filled out before.
6 The manager apologized and more or less threw himself
7 on the mercy of the Immigration Service and said,
8 "Hey, we're guilty. Our main office in California
9 sent us an I-9 handbook."

10 The manager who was there, the general
11 manager -- there's a general manager and three shift
12 managers. The general manager looked at it and said,
13 "Oh boy, some more paperwork," and he put this book
14 aside and did nothing else on it until my phone call.
15 My phone call naturally got everybody going around
16 there. And on the 5th, they started filling out I-9s
17 on their employees. So this morning, there were still
18 eight who had not completed the I-9.

19 So just from that one employer, I would say
20 that it was not working very well. But this is from a
21 percent of employers that either thinks it's going to
22 be -- it's not important, that Immigration is not
23 going to enforce it or for some reason or another
24 thinks that this law does not apply to them.

25 Now, we think there's a certain percent of

1 employers out there who actually believe this and for
2 various reasons. Either they think they do not have
3 any illegals working for them -- I had one employer
4 actually say that, "Well, we don't fill out I-9s. I
5 don't have any Mexicans working for me."

6 So I told him that, "With a mentality like
7 that, you're not only going to have Immigration on
8 your back; you're also going to have EEOC and possible
9 civil suits."

10 But for the most part, I do and truly think
11 a minimum of 80 percent, possibly up to 90 percent of
12 employers are going to comply with this law and do
13 everything they can to implement it and do the right
14 thing.

15 MS. KURTZ: Let me get down to the -- one
16 step below essentially the system to specific
17 applications. You have instructions for employers,
18 which is a little -- it has some material over and
19 above what's in the guidelines with regard to what is
20 acceptable documentation.

21 MR. McCLURE: Uh-huh. But there is
22 documentation around other than what is either listed
23 in the guidelines or listed in the instructions for
24 employers.

25 MS. KURTZ: Right. And I might say that my

1 office has been responsible for documenting the new
2 hires in a work force of 8,000, so I'm right now sort
3 of familiar with this.

4 MR. McCLURE: Okay.

5 MS. KURTZ: Your instructions for employers
6 contain some photographic material on what does a
7 passport look like, what does --

8 MR. McCLURE: Right.

9 MS. KURTZ: One of the things that you've
10 got pictured there is a tribal registration form or
11 travel identification form for American Indians.

12 MR. McCLURE: Right.

13 MS. KURTZ: Now, our forums out in the
14 southwestern corner of the state picked up at least
15 three different tribes of Indians. No two of those
16 had the same tribal identification form. It is a form
17 that the tribes used, not one that is handed out by
18 the Bureau of Indian Affairs or anyone else.

19 What criteria are you going to use when
20 native Americans -- births are not registered
21 routinely -- come up with this tribal identification
22 form to prove that they were, let me say, American
23 citizens? And the reason this can become important in
24 certain locations like Denver is that we have
25 intermittently been the target of the relocation

1 programs of the Bureau of Indian Affairs for Indians
2 who are being encouraged to move off the reservations,
3 and they resettle them in the Denver area.

4 MR. McCLURE: Uh-huh.

5 MS. KURTZ: So they don't have their birth
6 certificates, and they don't have any baptismal
7 records.

8 MR. McCLURE: A baptismal record wouldn't be
9 acceptable anyway. A birth certificate would be.

10 MS. KURTZ: Well, all right. In any event,
11 given certain groups in our society who either don't
12 register births because it's not a part of the
13 cultural pattern -- I mean, the mere fact it's
14 required is sort of beside the point; they just don't
15 do it.

16 They don't register the birth, though they
17 might have the child baptized in the local church.
18 And if the church hasn't burned down, there's a
19 baptismal record. But what they have, and perhaps the
20 only thing they have other than a Social Security
21 card, is a tribal identification. But no two of them
22 are going to look alike.

23 Now, what are you expecting as a good-faith
24 effort on the part of the employer who is presented by
25 native Americans with this kind of identification

1 information?

2 MR. McCLURE: This question has been asked
3 several times. And the answer we give and all of our
4 officers give, if it's a tribal identification or
5 looks like a tribal identification, to accept it.
6 Because again, just like you said, no two of them are
7 alike. They don't have necessarily numbers on it you
8 can call and verify. It's not like our immigration
9 documents where we can get on a computer and check.

10 But if it appears to be a tribal document,
11 accept it. Because that's going to be good for either
12 Column B or C, either one. So all they have to do is
13 come up with one other document; either a Social
14 Security card from C or a driver's license from B,
15 which most Indians will have, a driver's license or a
16 Social Security card, and/or both.

17 And that's what we've noticed that most of
18 the American Indians are providing, really, other than
19 their tribal cards, or documents, is a driver's
20 license, Social Security card.

21 MS. KURTZ: And, of course, if you had both
22 of those, you didn't need the tribal --

23 MR. McCLURE: You didn't need it. So I
24 don't think really that's a very big problem. In
25 fact, I haven't really heard it as a problem. The

1 question has been asked just like you have, and I give
2 the same answer. But I've never received any report
3 that there is a problem with it.

4 MS. KURTZ: Now, let me move on to another
5 kind of a situation which isn't covered by any of your
6 documentation. Basically, prior to the Immigration
7 Reform Act, when a new employee came to work, you
8 said, "What's your Social Security number," and they
9 rattle it off, and we write it down, and that's the
10 end of the transaction from the standpoint of the
11 employer verifying that the employee is covered by
12 Social Security or has the credential.

13 Now the Immigration Reform Act is the first
14 time for an awful lot of employees that they have to
15 produce the original Social Security card. I know
16 there are alternatives. But assuming that they don't
17 -- the alternatives won't work.

18 MR. McCLURE: Okay.

19 MS. KURTZ: Now, for many of them, it's 20
20 or 30 years since they saw the original Social
21 Security card. They have not the vaguest idea where
22 in the world the original card is. So they go over to
23 the Social Security Administration to get a
24 replacement.

25 Now, also until some of the recent

1 developments with regard to identification, one could
2 walk into the Social Security card -- the Social
3 Security Administration and say, "I'm John Jones, and
4 my Social Security number is thus and so, and I need a
5 replacement card," and you get it basically. Now if
6 you walk in, it takes six weeks, I think it was --

7 MR. McCLURE: Three to six.

8 MS. KURTZ: It was running closer to six
9 than three to get a replacement. And in the meantime,
10 this person was, in our case, say, was seeking a job
11 as a seasonal laborer, and the jobs were going to be
12 filled within the next three to five days after the
13 applications were received.

14 So the Social Security Administration comes
15 out with a computer printout which has almost -- I
16 mean, it's not what you would call a certified
17 document. There's some indication on there it came
18 from the Social Security Administration, but --

19 MR. McCLURE: And if the person has applied
20 for the Social Security card. That's what it shows.

21 MS. KURTZ: "And the number is -- our
22 records show that that was issued," No. So-and-So was
23 issued and so on.

24 Now, that is not -- that contingency is not
25 covered anywhere in the guidelines or the advisories.

1 MR. McCLURE: Uh-huh.

2 MS. KURTZ: It's a makeshift at best, and
3 it's easily forged. I don't think it would be very
4 difficult, if somebody set their mind to it, to forge
5 that printout that you get from the Internal Revenue
6 Service (sic). Now, that's one that may or may not be
7 bona fide when you get it, in contrast to what you get
8 with private groups issuing what are known as
9 identification cards.

10 Some of them look pretty official. They've
11 got the photograph, they've got the signature, they
12 may have the fingerprint and so forth, but they are a
13 private outfit which has issued this thing which is
14 called an identification card, and people bring that
15 in.

16 MR. McCLURE: And most of those would not be
17 acceptable.

18 MS. KURTZ: Okay. Now, where is the
19 employer liability in this kind of gray area of
20 unidentified documents? I guess I'd put it that way.

21 MR. McCLURE: Okay. Well, first of all, if
22 a person doesn't -- just like you said, lost or can't
23 find their Social Security card, they go to the Social
24 Security office, give them the name, show them any
25 other kinds of identification to back it up, then they

1 file and receive that receipt. If that person is
2 applying for a job, that person has three days to show
3 the employer either the documentation, or a receipt
4 that they have applied for it, or a certified letter
5 that they've sent off to Texas for their birth
6 certificate, or anything notarized or official showing
7 that they have requested a birth certificate, driver's
8 license -- usually you can get the driver's license
9 within a day or two. There's no problem on the
10 driver's license.

11 So they have three days to produce the
12 documentation or a receipt. So that person that same
13 day goes to Social Security, gets the receipt, comes
14 back, shows the employer the receipt, the employer
15 then makes a tickler file saying that this person has
16 provided a receipt showing that they have filed for
17 their Social Security card.

18 And so the law says 21 days. Now, how
19 Congress came up with the 21 days, I don't know. But
20 apparently at the time, they thought it was sufficient
21 enough to get most documentation. Now, we have found
22 out since then that it's not, it's not a practical
23 date. So we advise everybody that the Immigration
24 Service is being extremely lenient on this 21-day
25 rule.

1 We can't change it. We don't have the power
2 to change it, and we can't do anything about it
3 ourselves. All we can tell every employer is to --
4 that we are going to be extremely lenient on the
5 21-day rule. So we know that the Social Security card
6 is going to take -- I should say some areas it's two
7 weeks, they can do it in two weeks. But as a rule,
8 it's three to six weeks on actually getting their
9 card.

10 On getting birth certificates from around
11 the country, it could be from two weeks, again, to six
12 weeks or no telling how long. Just depends on where
13 it gets put in the stack. But again, that person is
14 going to have that receipt or a certified letter or a
15 notarized letter that they have sent off for this.

16 So the employer has created a tickler file,
17 and at the end of that 21 days, the employer may ask
18 the employee, "Have you received your card?"

19 "No, sir, I have not."

20 "Okay. We're going to put it back in and
21 wait a little longer. We know Immigration -- or at
22 least Immigration has told us that we are not going to
23 demand that that person be terminated at 21 days."
24 We're not going to come out and do sanctions on that
25 employer who is waiting for that applicant to come

1 back with their Social Security card.

2 So, say, at 30 days or 40 days the employer
3 again asks the applicant or the person, the person
4 who's presently working for the company, "Have you
5 received it?"

6 "No, I haven't." So again we would ask the
7 employer again to be patient, give them up to six
8 weeks, maybe even give them a little longer.

9 But there has to be a time somewhere where
10 the employer has to say, "All right. I've given you
11 eight weeks, two months or whatever it is, and you
12 still haven't provided this documentation. You're
13 going to have to come up with some other kind of
14 documentation."

15 Or the employer actually should have said
16 this maybe around the 21 days or 30 days. "All right.
17 You haven't got your Social Security card back. Show
18 me a birth certificate. Show me anything else on
19 List C. What I need to do is get documentation from
20 you."

21 And I don't think from talking to the
22 various groups, talking to immigration attorneys, that
23 we've had a real problem in this area. I don't know
24 of anybody that's been terminated on the 21 days. I
25 have not heard of one person in our area that has been

1 terminated.

2 So again, that is the one part of the -- of
3 IRCA that we are asking everybody to be patient with
4 until the applicant or the employee gets their
5 documentation. But again, the problem is, somewhere
6 down the line the employer is going to have to say,
7 "I'm going to have to see documentation. If not your
8 Social Security card -- because maybe you don't have a
9 Social Security card. Maybe you don't have the birth
10 certificate that you're sending for or you showed me a
11 letter that you sent for it from Texas. Maybe you
12 don't really have it. But I'm going to have to see
13 some other type of documentation."

14 MS. KURTZ: I want to interrupt this for
15 just a minute for the benefit of the reporter here.
16 We are using an acronym, IRCA, to mean the Immigration
17 Reform and Control Act. And we've been pronouncing it
18 IRCA. If you haven't run into it, that's what we
19 mean.

20 MR. McCLURE: Along with our documentation,
21 every presentation we give a complete program on
22 documentation, if the documentation is fraudulent.
23 Again, we don't ask employers to be document experts.
24 The law didn't intend that. The law intended that
25 they use good faith and good common sense in looking

1 at documentation.

2 But as with our program cooperation since
3 1982, we know that illegal aliens can buy these
4 counterfeit green cards down here on Larimer Street
5 starting at about \$700 going to about \$1500. And for
6 an extra \$25 they can buy a counterfeit Social
7 Security card. It's very easy. Anybody can do it.
8 There's vendors in every state.

9 So the employers are shown the types of
10 documentation. This is the most counterfeited
11 document in the United States government, the I-151,
12 known as the green card. This card, as you probably
13 know, belongs to a lawful permanent resident, a person
14 who has the same rights as a United States citizen,
15 except they cannot vote or cannot become President of
16 the United States.

17 MS. THOMAS: Do you still issue that?

18 MR. McCLURE: Yes, we do. But they're not
19 really green. And I'm going to show you one, because
20 probably you don't know any more than, say, an
21 employer, a new employer for the first time getting
22 involved in these documentations. All they see is a
23 list. They're told that you must go by List A, B and
24 C. If it's not on A, B and C, it's not acceptable.
25 You have to ask them to bring in a document that's on

1 this line. This (indicating) is the new green card.

2 In 1982, we came out with this I-551 to
3 replace the green card. The reason we came out -- one
4 of the reasons is to make it much more difficult on
5 the counterfeiter. Any idiot can counterfeit this
6 (indicating). It takes a much more of an expert to
7 counterfeit this (indicating).

8 One of the differences is that picture is
9 impregnated into the plastic. On the old green card,
10 all you had to do was go to any little photo store,
11 get a picture and glue it on yourself, get them to
12 laminate it, and boy you've got a counterfeit card.

13 Employers cannot tell the difference between
14 the two cards. And this is what I point out in my
15 demonstration. We have counterfeit green cards, we
16 have authentic green cards. And I pass them around to
17 let them see, let them touch and feel of it. And they
18 cannot tell the difference. Police officers cannot
19 tell the difference. Some Immigration officers can't
20 tell the difference.

21 But our computer operator named Hazel can
22 tell the difference. When an employer calls in to our
23 Immigration Office here in Denver, we have a computer
24 operator, a verification officer. They call in, they
25 identify themselves, they identify they're an

1 employer, they say, "I would like a green card check,"
2 they give us the A-number, name that's on the card and
3 the date of birth.

4 Our computer operator will first run the
5 A-number. And it will come back with, say, a
6 different name. Then the computer operator will run
7 the name and date of birth to cross-check, to make
8 sure that we don't make a mistake. Then we will tell
9 that employer over the phone -- because it only takes
10 less than two minutes -- that, "There appears to be a
11 problem with this card. Would you please ask the
12 applicant to come see Charlie McClure in Denver, and
13 we will help him straighten out the problem."

14 Well, naturally being that this card is
15 counterfeit, that illegal alien is not going to come
16 see Charlie McClure. They are going to leave that
17 employer, not be hired, that job now is going to be
18 open for a citizen or a lawful worker.

19 Now, granted, they may go down the street to
20 the next business or whatever and try again. Where in
21 the past, an employer didn't have to do this. And
22 even now in the new law, they're not obliged to verify
23 through our verification. It's strictly voluntary.
24 There's no charge to the applicant.

25 But what we've done now with IRCA, we have

1 got this alien on the run. They were asked for
2 documentation from the first employer. Now they go to
3 the second, they go down to Albuquerque, my gosh,
4 they're asked again. They go to Dallas, Texas;
5 they're asked again. Finally, they're going to say,
6 "Hey, the heat's on, and we're going home."

7 And that's all we ask of illegal aliens, is
8 just to go home. And by us presenting this type of
9 documentation to all those interested employers who
10 wish to see it, it gives them an advantage in being
11 able to screen out the illegal aliens who are going to
12 buy this type of counterfeit documentation.

13 Because we would hate to see any employer
14 who is sincere in going along with this law, complying
15 with the law, to end up with 10 to 20 percent of his
16 work force still illegal just because they were able
17 to slip through with counterfeit documentation. And
18 we give as lengthy a documentation program as the
19 employer has time to listen to. And it goes on to all
20 what we call the junk-type documents that illegal
21 aliens have, and I'm sure you've seen them.

22 They can buy these anywhere. This top one
23 (indicating) is a United States of America
24 identification card. Well, there's no such thing, but
25 you can buy these. These aren't against the law to

1 sell.

2 The second one here is a universal
3 identification card. The third one is a birth
4 registration card showing that Maria was born in
5 Longmont-Boulder. Okay.

6 As soon as one of our employers saw this --
7 this was presented to an employer, as all of these
8 were -- well, they looked at that and saw
9 Longmont-Boulder. Well, that personnel officer knew
10 we have a Longmont, we have a Boulder, but we don't
11 have a Longmont-Boulder, Colorado. So they called our
12 verification officer, we contacted the Vital
13 Statistics Office here, we ran the name, date of birth
14 through Longmont, Boulder and Colorado, came up
15 negative. Then I went out and arrested the young
16 lady.

17 But this is the type of documentation that
18 employers are being hit with. And this is a little
19 metal Social Security card that I'm sure everybody has
20 seen. Illegal aliens have loved these for years.

21 MS. KURTZ: Excepting some of those we've
22 seen have the Mexican flag, as well as the American.

23 MR. McCLURE: You'll find every kind of
24 flag. Here's (indicating) a U.S. Social Security
25 card. You can buy these anywhere from \$8 to \$15. I

1 understand the price is going up now. But again, it's
2 got two pretty American flags and a blue eagle on it.
3 And they come in all different sizes and shapes.
4 Here's (indicating) another pretty blue one.

5 We show all these things to employers. So
6 they're not going to get caught unaware as, say, these
7 three were here. The one employer accepted a Colorado
8 identification card. "Well, it looked good to me, and
9 there's something on the I-9 handbook about ID issued
10 by a state."

11 And it says it's a Colorado ID. But if you
12 put your glasses on and look a little closer, it also
13 says, "Carrier certifies information to be true and
14 correct."

15 The reason illegal aliens buy these type of
16 documentation -- citizens don't need this junk. You
17 might find a few citizens with the metal card,
18 specially some of the young kids. Because they -- you
19 can put it in your blue jeans and your billfold, you
20 can wash it, and it's not going to disintegrate like
21 the paper ones.

22 But illegal aliens like this because they
23 will not have, as a rule, a Social Security card. And
24 when they're asked by employers, even in the past, for
25 some kind of documentation -- many employers, all they

1 want to do is just see something to feel like maybe in
2 their conscience get them off the hook a little bit.

3 So that's why illegal aliens carry these
4 cards. All of them will have their picture, their
5 name, Social Security number. Every one of them will
6 have a Social Security number. Most of them are just
7 made up, like your metal ones.

8 When they go out to the flea market, they go
9 to the little booth, they give whatever -- the \$10,
10 they tell them their name, and they key in a Social
11 Security number.

12 But this is the type stuff that employers
13 are hit with. And again, all we tell them is every
14 document must be original, no more xerox birth
15 certificates like employers have been used to seeing
16 for years and years. And we go in to show an employer
17 how to at least be on the lookout for one of these old
18 xerox birth certificates that these vendors have been
19 ripping these illegal aliens off with for years.
20 These things go from, oh, \$50 to about 150, some cases
21 up to 300.

22 MS. KURTZ: Mr. McClure, I think we want to
23 move on with some other matters, too.

24 MR. McCLURE: Okay.

25 MS. KURTZ: You want to ask something?

1 MS. THOMAS: I wanted to ask if you have
2 statistics on how many Colorado employers have
3 attended your seminars.

4 MR. McCCLURE: I have that down to the number
5 at the office, but I don't have it in my head. What
6 we do, we have to make a weekly report to our regional
7 office, first of all on number of employers attending
8 our seminars, on number of employers contacted. Not
9 all of our deals are in seminartypes. Like yesterday,
10 I gave a seminar to Vicorp Corporation, which is
11 Village Inn. They have 28,000 employees in stores
12 around the country.

13 They flew in their regional personnel
14 resource managers from Florida, Iowa, Illinois,
15 Colorado and I think maybe Nebraska. And they flew
16 these people in just to hear me give a presentation
17 and to see our movie. So this would count as one
18 employer. And we also have to record each week in our
19 report secondary audience, which would mean employees
20 working for that employer. So in this case my
21 2-1/2-hour presentation reached one employer and a
22 secondary audience of 28,000.

23 But last month, I'm pretty sure it was 2600
24 employers that we contacted for the month of August.

25 MS. THOMAS: Just in Colorado?

1 MR. McCLURE: Colorado and Wyoming and Utah.

2 MS. THOMAS: And in this district, then?

3 MR. McCLURE: In my district, yes.

4 MS. THOMAS: Do you think that half of the
5 86,000 that you've mentioned have attended some kind
6 of seminar?

7 MR. McCLURE: No.

8 MS. THOMAS: Not that many?

9 MR. McCLURE: No, no. We were disappointed
10 in many of our attendances of the seminars. Now, I
11 gave one at the Regency here. We had 247 employers
12 attend, which was very good. And there was a huge,
13 huge secondary audience there. Some of our seminars
14 had probably as low as, say, 15 employers.

15 And it seemed like the areas with the
16 agricultural workers, when we gave it in agriculture,
17 that's where the lowest attendance was, although they
18 had the same opportunity and the same notice to attend
19 these seminars. And we don't know why. We've
20 speculated possibly because they know or they've heard
21 that sanctions are not going to be implemented against
22 them until December 1st of '88. This is possibly one
23 reason. We don't know.

24 MS. THOMAS: Have you any sense of employers
25 being resistant -- knowing that they need to keep

1 these I-9 forms and being resistant to just having
2 that particular responsibility in terms of an added
3 burden, in terms of space to keep things in or any of
4 that kind of stuff?

5 MR. McCLURE: I'm not sure if I understand
6 your question.

7 MS. THOMAS: We have heard from some people
8 that employers feel that the new law is a burden on
9 them, that they have to keep records which they would
10 not have had to keep before. They have to find the
11 space to keep them in, which they did not have to find
12 before. And I'm just wondering -- you know, I've
13 attended only three hearings, so I don't know whether
14 what I heard is representative of a lot of employers
15 or just one or two people with limited association
16 with employers. And I would think that your
17 experience would tell you something.

18 For example, when you have these seminars,
19 do the people who come say, "That's a lot of work
20 you're putting on us to do; now I've got to find
21 someplace to keep this stuff," or, "How often are you
22 going to check on it, and how accessible do my records
23 have to be?"

24 You know, what kind of response?

25 MR. McCLURE: Okay. All of this is gone

1 over in the movie and in my overview of the
2 presentation that we give. I'm sure every employer
3 has said at one time or another, "Oh, boy, here's
4 another piece of government paperwork that's being
5 forced on us," and I'm sure deep down they resent it
6 to a certain degree.

7 And I'm sure they would have resented it a
8 lot more if he'd have seen the original I-9, three or
9 four pages. But this little I-9 we have is very
10 simple now. It can be completed -- in fact, we've had
11 some illegal aliens just as a trial basis, they can
12 complete it in about two minutes, about two minutes to
13 do an I-9. And, of course, that is if everybody's got
14 their documentation together and everything.

15 So as far as being a real burden
16 paperwork-wise, I don't think it's that much of a
17 burden. If they will do it as they should like when
18 the person has already been hired and you start to do
19 the W-4, that's when we advise the person to -- the
20 employer to do the I-9, at the same time they're doing
21 the W-4.

22 Now, it says -- I mean, right in our
23 presentation -- prior to the passage of the bill, the
24 employer had no responsibility to determine if a job
25 applicant had the right to work in the United States.

1 The bill places this burden on the employer, and
2 that's what the law is. It's placing the burden on
3 the employer. Because all of us know that the
4 employer is the magnet that draws these illegal aliens
5 here. And it took Congress --

6 MS. THOMAS: But what about the feelings of
7 people who are not illegal aliens, people who are
8 citizens born and raised and 40 years old --

9 MR. McCLURE: Right. And now they resent
10 being asked for documentation proving they have a
11 right to work.

12 MS. THOMAS: Are you getting any of that?
13 Are employers getting any of that?

14 MR. McCLURE: They're getting some. Usually
15 an employer will come up and say, "Boy, I had a guy
16 come up, he was a veteran of Vietnam, a veteran of
17 Korea, and here he said, 'My gosh, I fought for my
18 country. Why am I having to prove my right to work?'"

19 Well, what I usually tell them like that,
20 "You fought for your country, and you gained this
21 right to work. You gained the opportunity by us
22 winning that war or tying it or whatever, at least you
23 had the opportunity now to work, and all we've asked
24 you to do was prove that you have documentation, first
25 identify yourself, which everybody should have, and

1 then a document to prove that you have the right to
2 work."

3 Veterans, of all people, should be more than
4 happy to show this documentation. This is what they
5 did fight for. They fought for the right to have a
6 job, not to be told by some other country or somebody
7 -- a suppressed country -- who they're going to work
8 for or whatever.

9 But I think that -- in answering your
10 question, I think this has been a very small part of
11 the complaints that we've received and that employers
12 have received.

13 MS. THOMAS: I guess that's all I have.

14 MR. PILLA: At the sessions I attended, the
15 -- a number of Job Training Center people testified.
16 And in most instances, they said that the largest
17 proportions of complaints they were getting were from
18 veterans about this I-9 form.

19 MR. McCLURE: Right. I have never
20 personally received a complaint from veterans, but I
21 have heard this. And it's something we usually bring
22 up during our presentation. Because I'm a veteran.
23 I'm an ex-United States Marine, and I myself really
24 appreciate the opportunity to choose who I'm going to
25 work for. And it doesn't bother me. I had to produce

1 documentation when I joined the United States Border
2 Patrol 20 years ago.

3 MR. PILLA: Another concern that was
4 expressed was the certification on the bottom of the
5 I-9 form. One director of a Job Training Center said
6 that his staff was being required to certify that the
7 documents they saw were qualified, were accurate, were
8 the correct representation of documents that this
9 individual was applying.

10 And he was troubled by that. He was
11 indicating that the onus should be on the person
12 presenting the document so that the phrase at the
13 bottom should be changed to indicate that type of
14 certification.

15 MR. MCCLURE: Well, I don't agree with that.
16 Because I think the employer needs to certify that the
17 documentation that he saw, to the best of his ability,
18 using good faith, good common sense, appeared to be
19 genuine. And that's all we're asking.

20 Otherwise, that would be letting the
21 employer really off the hook. They could accept any
22 dad-gummed thing that came down, if they didn't have
23 to certify that it appeared to be bona fide. I think
24 that is one of the most critical parts on this whole
25 I-9, is the employer's certification.

1 Again, we're not asking that employer to be
2 a document expert. There's no way that we can make
3 him a document expert. But we can ask him, as it
4 says, to do the best he can. And that's all he's
5 saying, that, "I did the best I can. The document
6 that appeared before me, the picture on it appeared to
7 be the person there, and the document appears to be
8 genuine."

9 And that's all we can ask. And we can't
10 come in and criticize or implement sanctions against
11 somebody if that employer did use good faith. Unless
12 half of his employees all of a sudden ended up having
13 the same Social Security number or something like
14 that.

15 But no, I think that is critical, that the
16 employer -- I can see where an employer may not want
17 to do that. Because any time you attest to anything,
18 you're sticking your neck out. But that, I think, is
19 what Congress intended on that by having that on
20 there. And I think again, that that is extremely
21 critical, that the employer verify to the best of his
22 ability that those documents appear to be genuine.
23 And I don't think that's too much to ask.

24 MR. PILLA: Thank you.

25 MR. PALACIOS: Going back to native

1 Americans again, they are sovereign nations. They
2 have their own police departments, their own court
3 systems, they issue their own identification. Do they
4 also have to comply with this I-9 process?

5 MR. McCLURE: Every person in the United
6 States has to comply with the I-9.

7 MR. PALACIOS: Including those who work on a
8 reservation?

9 MR. McCLURE: Yes.

10 MR. PALACIOS: You're the first person
11 that's given us a definitive answer on that.

12 MR. McCLURE: Every person in the United
13 States has to comply with this law. That's one of the
14 problems we're having, when I said like some employers
15 think that they -- this law does not pertain to them.
16 This is one of the biggest problems we're having, is
17 getting the word out that this law applies to every
18 applicant for a job and every employer.

19 MS. KURTZ: All right. Let's pursue that
20 Indian reservation matter a little bit further. There
21 are a variety of treaties between the United States
22 and the Indian nations that relate to the -- to how
23 the reservation -- the Indian reservations will be
24 run. And probably no two are the same there, either.

25 MR. McCLURE: That's right.

1 MS. KURTZ: The Indian leaders apparently --
2 that is, I'm talking about the governors on the Indian
3 reservations -- apparently have not received any
4 advice, at least for the three tribes that we
5 contacted in our Colorado hearings, that's the
6 Navajos, the Southern Utes and the Ute -- Mountain
7 Utes.

8 They have not received any authoritative --
9 I'll put it that way -- indications that this applies
10 to them for their activities on their reservations
11 employing their tribal members. And they -- and this
12 does not fit the problem of the average employer.
13 Because the rest of the employers don't have any --
14 don't have any treaties between the Congress of the
15 United States and the Indian nations.

16 And I'm wondering if -- now, I talked to
17 general counsel for the Internal Revenue Service --
18 for the Immigration Service last April back in
19 Washington, D.C. And at that time, my concern was the
20 fact that they were doing nothing about tribal
21 identification documents.

22 But my impression about the whole
23 relationship between the Immigration and
24 Naturalization Service and the tribal -- the Indian
25 tribal nations is that they just haven't thought about

1 it one way or the other.

2 MR. McCLURE: I think we think of them as
3 American citizens and not any different.

4 MS. KURTZ: I'm not sure that we do think of
5 them as American citizens. I think they have a
6 different standing, a different capacity.

7 In any event, without you and me trying to
8 solve the problem, I personally am wondering if it
9 would not be in order for -- not out in the regions,
10 it has to be uniform, it would not be appropriate --
11 I'm wondering if it wouldn't be appropriate for the
12 national office in Washington to address the questions
13 and come out, in cooperation with the Attorney General
14 of the United States, with some kind of guidance to
15 the Indian nations on what the position is of the
16 United States Government in Washington with regard to
17 how this relates to how the people on the reservations
18 are affected by it.

19 And I say that quite deliberately, because a
20 lot of federal statutes have been held to be
21 inoperative on Indian reservations because of the
22 treaties. And I think that there ought to be a formal
23 position taken by the -- probably the Attorney
24 General, in cooperation with the Immigration and
25 Naturalization Service, as to what position the United

1 States is going to take. And then move on from that
2 base, rather than trying to reach determinations out
3 in the regions and the districts, which might vary
4 from location to location sort of depending upon local
5 history and without having access to the specific
6 Indian treaties, and how they may be interpreted with
7 regard to any specific federal statute.

8 Anyway, that's my basic feeling about this
9 matter. Because I think from a legal standpoint, I
10 think it is extremely complex. And I think that the
11 best legal talents of the Federal Government should be
12 addressed to this maze of complex interrelationships
13 that exist between the Indian nations and the Federal
14 Government and try and figure out where this law is
15 going to fit.

16 Because I have been -- I, as an attorney,
17 have been studying this problem for some little time
18 in this area, and I cannot guess -- to be honest about
19 it, I cannot guess, on any given statute, when the
20 federal law will apply and when the Indian tribal law
21 will apply and under what circumstances.

22 MR. McCLURE: I respect your expertise on
23 this matter, because I am not an expert in the
24 treaties. I would appreciate any kind of guidance
25 coming down on this matter. I would be happy to give

1 a presentation, the same as I give, on any Indian
2 reservation. But I've never heard this come up as a
3 problem. This is the first time that I've ever heard
4 this as a problem.

5 MS. KURTZ: Well, it was raised at hearings
6 that we held in the southwestern part of the state.

7 MR. McCLURE: I don't doubt that. But the
8 Indians, you know, they had the same opportunity to
9 come to any of the seminars. And there were seminars
10 conducted in Durango.

11 MS. KURTZ: Well, but if you perceive that
12 you're not affected by it, why go to a seminar? I
13 mean, if your perception of a given situation is that
14 it doesn't apply to you, why should I go from Ignacio
15 down to Durango to hear about what is going to be
16 applied to the non-Indian employers?

17 Speaking as apparently some of these Indian
18 leaders did, "We didn't think we were covered by it."

19 MR. McCLURE: Well, that's the same problem
20 we've had with a lot of the non-Indians right here in
21 Denver that think they may not be covered by it.

22 MS. KURTZ: Yes. But you didn't have any
23 treaties involved in it. That is the difference.

24 MR. McCLURE: I don't really see where the
25 treaties pertain, when the law says that this law

1 pertains to all American citizens and all lawful
2 workers and all persons applying for jobs. It didn't
3 say this law does not pertain to these people, does
4 not pertain to these people.

5 But I would appreciate anything coming down.
6 I would be more than happy to go to any of these
7 places and give the same talk that we're giving now to
8 any Indian tribe or any Indian person.

9 MS. KURTZ: Well, as I say, they might
10 listen to you, they might be courteous and listen to
11 you. But if they believed that because of the treaty
12 which ceded certain governmental powers exclusively to
13 the Indian nations, they might reach the conclusion
14 that, "This is all very interesting, but under our
15 treaty with the United States Government, that does
16 not apply to us."

17 MR. McCLURE: Okay. Well, like I said, I'm
18 not an expert on treaties, so I don't know. I'll
19 leave that up to you. If you can get Congress or the
20 central office in Washington to come down with that, I
21 think that would be great.

22 MS. KURTZ: Well, I think I may write to the
23 general counsel, with whom I've had some
24 communications in the past.

25 MR. McCLURE: Well, like I said, I have

1 never -- during all these seminars, I have never
2 received any complaint like that.

3 MS. KURTZ: Well, I don't know as I consider
4 that a complaint exactly. It's a perception, at
5 least.

6 MR. McCLURE: Right. Well, in a way, I
7 would feel like the Indians would feel very slighted
8 if they were singled out and we didn't say that this
9 pertains to every American citizen in the United
10 States, every lawful worker, every applicant, and my
11 golly, it applies to the Indian tribes, too.

12 And to me, that would be singling them out,
13 and that wouldn't be fair. In fact, if I was an
14 Indian, I'd kind of resent that.

15 MS. THOMAS: Well, that depends. Let me
16 give you an example. In situations in which we agree
17 that you have to have a hunting license or a fishing
18 license, we say everybody in Colorado that wants to
19 fish or hunt in Colorado has to have a fishing
20 license. An Indian on a reservation doesn't have to
21 have one, and nobody in Colorado can make him have to
22 have one.

23 Now, those kinds of issues have been to the
24 Supreme Court to be decided. There's a difference of
25 opinion, but that's where we are today. There's no

1 question but that there are situations in which
2 Indians have a separate kind of authority over
3 themselves and their territories, their reservations.

4 MR. MCCLURE: Right. I'll go along with
5 that.

6 MS. THOMAS: And it will indeed have to be
7 decided whether this particular law can be applied to
8 them, you see. So it's not unusual for this
9 difference to arise. Because there's a whole body of
10 law about things -- situations under which Indians
11 have a different kind of jurisdiction, a different
12 kind of way of being treated.

13 And they are accustomed to thinking of
14 themselves as having different rights and powers than
15 all of the other citizens of the United States.
16 That's their habit of mind. They think of themselves
17 as different.

18 MR. MCCLURE: Well, see, I don't. I
19 consider them equal to me, I consider them a United
20 States citizen having the same rights as me, no more
21 rights than me.

22 MS. THOMAS: But the fact is that they have
23 different rights than you. In the courts, they have
24 different rights.

25 MR. MCCLURE: Well, then that's not up for

1 me to decide here or us to decide here. If you're the
2 experts on this, I suggest you go to the people that
3 make the decisions on this.

4 MS. KURTZ: We're just simply raising a
5 point that was raised to us.

6 MR. McCLURE: Right. But this is something,
7 again, that of all the people we've talked to, this
8 has never come up. I've never had one Indian step up
9 and say, "I think we're being slighted or we're being
10 whatever."

11 MS. THOMAS: They're probably not even there
12 listening to you, because they think it doesn't
13 pertain to them. They would -- I see no reason why
14 they would go to your seminars.

15 MS. KURTZ: They wouldn't even come to a
16 meeting that we held for the general populace. We had
17 to go to the reservation and hold a meeting
18 exclusively with the Indians in order to get them to
19 participate in this, in these forums.

20 Tom, do you have any further questions?

21 MR. PILLA: No, I do not.

22 MS. KURTZ: Do you, Art?

23 MR. PALACIOS: You did hold a seminar in
24 Durango, correct?

25 MR. McCLURE: Yes.

1 MR. PALACIOS: Anybody from Cortez there
2 that you know of?

3 MR. McCLURE: I don't know. I didn't give
4 the presentation. Our local investigator in Alamosa
5 gave the presentation there.

6 MR. PALACIOS: Did the people -- if the
7 business people in Cortez contacted you and asked you
8 to come down there and give a presentation, would you
9 go down there?

10 MR. McCLURE: Yes.

11 MR. PALACIOS: What is your number?

12 MR. McCLURE: 844-6056. And in fact, I gave
13 an interview to a reporter from the Montezuma press,
14 something Montezuma last week when I was in Grand
15 Junction. And I told that reporter the same thing.
16 If any person in that area, any group of businesses,
17 any business wishes me to come there and help them
18 give a presentation or to show our movie, we'd be more
19 than happy to do so.

20 MR. PALACIOS: I was in Cortez yesterday,
21 and there were some business people there, as well as
22 a couple of ranchers, one native American and a few
23 other people. And they were just totally confused
24 concerning the I-9. They just didn't have any
25 understanding of it at all. And I think they could

1 really, really use a seminar or workshop of some sort.

2 MR. McCLURE: Okay.

3 MR. PALACIOS: I'll contact the main person
4 down there, give him your number and ask him to call
5 you.

6 MR. McCLURE: You bet. I'd be more than
7 happy to. Because my job is to contact as many
8 employers as I can. That's what my job is, is to help
9 those interested employers implement the new law and
10 to prevent those interested employers from having any
11 sanctions imposed against them or any discriminatory
12 complaints filed against them.

13 So that is my job. And I'll be more than
14 happy to fly down there or drive down there and give a
15 seminar any time, as I will anywhere in Colorado or
16 Wyoming.

17 MR. PALACIOS: Okay.

18 MS. KURTZ: Well, I'm going to ask both of
19 you staff people who were covering the seminars in the
20 outlying areas if the tapes of those seminars
21 indicated that there were problem areas that employers
22 were probably seeking help, perhaps we could drop a
23 line to the key contacts out there and advise them of
24 the service which would be available -- without
25 charge?

1 MR. McCLURE: Without charge.

2 MS. KURTZ: -- to assist them with this.

3 And I think perhaps we might be providing a service to
4 the people in the area and minimizing the potential
5 impact for discrimination, which was due perhaps more
6 to ignorance than intent.

7 MR. PALACIOS: We can do that. A couple of
8 people in Cortez did admit that they had received the
9 booklet and had done what so many others did with it
10 unfortunately, set it aside someplace.

11 MR. McCLURE: Right.

12 MR. PALACIOS: And never paid a bit of
13 attention to it. There was one gentleman down there
14 that admitted that he was of the impression that it
15 was just -- that whole I-9 business was strictly for
16 Mexicans, and he didn't think --

17 MR. McCLURE: Well, that's the example I
18 gave you for the one employer I talked to. It's hard
19 for me to believe anybody that reads this book, if
20 they have any intelligence at all -- this is one of
21 the best documents that I've seen the government come
22 out with.

23 MR. PALACIOS: It is. I've read it.

24 MR. McCLURE: It really is. It's amazing we
25 were able to come out with something this good. And

1 after reading this, I don't see how any employer could
2 say that this doesn't pertain to them.

3 MR. PALACIOS: I agree with you.

4 MR. McCLURE: But I know it's happening. It
5 happened this morning.

6 (Ms. Thomas left the hearing room.)

7 MR. McCLURE: All I know is we've got to
8 continue to educate. And that's what we're doing now.
9 This employer this morning did not receive a fine; he
10 received a verbal warning. The next complaint that we
11 get on them, we will go out and give a written
12 citation. So that's two chances he's got. And then
13 the next complaint will be when we come in with a
14 civil fine.

15 MR. PALACIOS: And that fine will be or can
16 be --

17 MR. McCLURE: Minimum of 250 to 2,000 for
18 the first offense. Now, see, this employer violated
19 everything that we have. All right. There's a
20 provision in -- part of the law is employers who fail
21 to make out an I-9, who fail to retain it or fail to
22 present it to Immigration, there is a civil fine
23 minimum of \$100 to a maximum of 1,000 for each
24 violation.

25 Whether that is an illegal alien or a

1 citizen or what, if they fail to make it out -- just
2 like this employer did. He failed to make out 17
3 I-9s, so that would be a minimum \$1700 fine to a
4 maximum of \$17,000 just for that one -- me coming out
5 there this morning.

6 And at the end, when I sit down and show
7 this employer the minimum fines to the maximum, well,
8 again, they were completely amazed. It shocked them.
9 And I really believe that this employer will never --
10 or hopefully -- I don't think this employer will never
11 hire an illegal alien again.

12 But it's going to take that. It's going to
13 take on our part getting out and doing our jobs and
14 inspecting these I-9s, following through, if it's
15 necessary, with some fines before all the employers
16 decide that it does pertain to them.

17 Now, as far as the Indian treaties, you've
18 got a good point. I don't know the answer because,
19 like I say, I'm not an expert on the Indian treaties.
20 But if we can awaken anybody, whether the Indian
21 reservations or Joe's Bar and Grill next door, to the
22 fact that this law pertains to them, then I'm open for
23 any suggestions.

24 MR. PALACIOS: What kind of business was
25 that, the one you visited?

1 MR. McCLURE: It was a barbecue place in
2 town. And it wasn't a beat-up place where a large
3 number of illegals were found. It was just a place
4 that -- the way we're doing this, we're doing it on
5 the fan effect, trying to be as fair as we can to all
6 employers.

7 We're going to start out by, first of all,
8 just taking a certain part of the fan just random
9 checks, I-9s. This will help -- say people at First
10 Interstate bank. If they get a call that they're
11 going to be audited on their I-9s, that word is going
12 to spread to other banks. "Oh, my gosh, this bank has
13 never hired an illegal alien in the history of the
14 company." All right.

15 So a certain part is going to be random
16 checks. The next part will be complaints when we
17 receive written complaints through the mail that
18 so-and-so illegal alien is employed at this employer.
19 So then we will send out a Notice of Intent to
20 inspect.

21 The third part of the fan will be like
22 happened this morning from aliens apprehended who gave
23 testimony that they are, in fact, employed at this
24 employer. And the fourth will be pick up some from
25 past employers who were known to be notorious.

1 That was made clear to us, very clear to us,
2 that they did not want us to pick on only those
3 employers who we knew in the past to be notorious.
4 Everybody was supposed to get a fair shake, start out
5 from ground zero on this new law. And that's what
6 we'll be trying to do.

7 MR. PALACIOS: One last question. You
8 mentioned something earlier. Is it normal procedure
9 for the police department to contact you when they
10 have picked up someone who they believe to be
11 undocumented?

12 MR. McCLURE: It was until just recently,
13 until we ran out of funds as far as picking up illegal
14 aliens. It was very much -- when they found out a
15 person was illegal, they would telephone us. In fact,
16 we have a beeper, a man on duty who would answer
17 police calls. And we also had an investigator who
18 goes to the county jails in the local area on a daily
19 basis to interview those illegal aliens to determine
20 if they are, in fact, illegal.

21 MS. KURTZ: That is suspended at this point?

22 MR. McCLURE: As far as police agencies
23 calling us -- like if they stop a car for running a
24 red light and through their interview they determine
25 all four occupants are illegal. In the past, there's

1 a good chance that they would call us and advise us
2 that they had four suspected illegal aliens, could we
3 interview these four.

4 MS. KURTZ: That program is currently
5 suspended?

6 MR. McCLURE: Right. Because we do not have
7 the funds to carry this on.

8 MS. KURTZ: One question that perhaps you
9 really don't want to answer. But there is one phone
10 number listed in the telephone directory.

11 MR. McCLURE: I know what you're going to
12 ask. I think I have received more complaints over
13 this. Go ahead.

14 MS. KURTZ: Well, in any event, I know that
15 there must be other numbers. Let's say Employer X is
16 -- has an employee sitting next to his or her desk,
17 and there's a problem about whether this person is a
18 legal alien authorized to work or not. But with that
19 one exception, there's every reason why you want to
20 get that person -- you'd like to hire that person,
21 extremely well qualified for whatever it is you want
22 that person to do.

23 How does that person -- you were suggesting,
24 well, you can verify. You can get this card and it's
25 got an A-number, and you can call INS and get it run

1 through your computers and verify this. But there's a
2 step before that. You have to be able to reach the
3 INS so you can do it.

4 What does the employer do? You can't get
5 through on the one line that's on the -- I mean, don't
6 tell me about it, because I'm just one of the
7 employers. What I'm saying is for the average
8 employer who wants to be law-abiding, wants to do the
9 right thing, who knows perfectly well that, "I better
10 not turn this person away if they're eligible to work,
11 because then I'm going to be liable for discrimination
12 under the Act.

13 "I'm caught between a rock and a hard place.
14 I can't hire the person if they're illegal and not
15 authorized to work, but if they are legal and
16 authorized to work and I don't hire them because I
17 suspect they may not be, then I may be subject to
18 discrimination because I might be wrong in my
19 suspicions. So I'm caught in a rather narrow bind
20 over here."

21 The person clearly says, "I'm not an
22 American citizen."

23 Now, how, in a reasonable length of time,
24 can I as an employer find out, verify what this
25 person's status, given the fact that you cannot get in

1 on the phone number that's listed in the telephone
2 book?

3 MR. McCLURE: Okay. First of all, the law
4 does not require that you have to verify this person.

5 MS. KURTZ: I want to, though.

6 MR. McCLURE: All right. You want to. So
7 you would want to participate, you attended one of our
8 seminars, you heard about our program cooperation
9 where we offer a computer check. During these
10 seminars, I pass out a brochure, United States
11 Immigration and Naturalization Service, Charlie
12 McClure, special agent labor relations officer,
13 address, three phone numbers, secret phone numbers --
14 they used to be secret -- where you can get in to
15 three of them. And these are the kind that kind of
16 bounce around.

17 So that an employer who attends the seminars
18 or who is participating in our program cooperation is
19 going to have access to those three numbers. The
20 average employer, say, who did not attend and has an
21 applicant there, the personnel officer has a doubt, is
22 this person legal or is the person not legal?

23 The only obligation that person has, the
24 personnel officer, is to say, "Would you please fill
25 out the I-9; you're going to say whether you're an

1 American citizen, a lawful permanent resident, or do
2 you have some type of documentation showing employment
3 eligibility?"

4 Okay. The person marks one of those three.
5 Then it's your turn -- the person signs, it's your
6 turn, "Let me see the documentation that proves this."

7 So if the person shows you a driver's
8 license, shows you a Social Security card, they appear
9 to be bona fide, they appear to be real, you sign as
10 the attesting officer, that's it. That's as far as
11 you're required to go. You may have a suspicion is
12 this person good or not? But the person, in the top
13 box, claimed to be an American citizen.

14 Second, when you asked for documentation,
15 they presented documentation from Column B and
16 Column C, and that's all you're required to do.
17 You're not required to go any further, and probably
18 the majority of the employers are not going to go any
19 further. They've already covered themselves, they
20 have an employee, they don't have to worry about
21 discrimination because they are going exactly by the
22 handbook.

23 And that's what we advise them. "As long as
24 you go by -- exactly by the 274 handbook and go
25 exactly by the documentation presented to you on

1 Page 11, you're not going to have any problems with
2 Immigration, and you're not going to have any problems
3 with discrimination and EEOC."

4 But you brought up a very good point on that
5 telephone number, and I wish that you could do
6 something about that. We have one young lady I think
7 that sits there, and there's 8 or 10 buttons on the
8 phone, and they're lit up from 7:30 in the morning
9 until 4:00 o'clock in the afternoon. And it's very
10 difficult for an employer to get through or anybody to
11 get through.

12 MS. KURTZ: Anybody to get through. And if
13 you could solve this problem, you ought to get a
14 meritorious pay raise.

15 MR. PILLA: That one number is on a rotary
16 system for all 10 lines? In other words, when the
17 first one lights up, it rings automatically in the
18 second?

19 MR. McCLURE: I'm not really sure how it's
20 worked. I've never worked the phone system. I have
21 gone by and looked at it, and I guarantee you that
22 person is on the phone all day long.

23 MR. PILLA: To get back to an earlier
24 comment when you were discussing those phone numbers,
25 the employer has to go a step further. He has to

1 maintain that I-9 on file accessible for an
2 Immigration officer if he appears.

3 MR. McCLURE: Correct.

4 MR. PILLA: Some of the problems we heard in
5 the outlying areas was people's concerns about storing
6 that and the length of time they would need to store
7 it. Obviously, it has to be there for as long as that
8 individual's employed by that particular entity.

9 MR. McCLURE: The I-9 has to be kept by the
10 employer for a minimum of three years -- a minimum of
11 three years or one year past termination of the
12 employee. So if you have an employee who works with
13 you for two weeks, you have to keep that I-9 for three
14 years. If you have an employee that works with you
15 for 20 years, you have to keep it for 21 years.

16 MR. PILLA: That's where we heard the
17 concerns of some ranchers and growers where they said,
18 "Well, we have seasonal employees. We'll have an I-9
19 form for them, they're here three months, I need 15
20 for three months and then I don't need them again, but
21 I have to keep these 15 on file for X amount of
22 years."

23 MR. McCLURE: For three years.

24 MR. PILLA: "But they're seasonal. So if
25 they leave at the end of three months, I only have to

1 hold them for a year."

2 MR. McCCLURE: No, no. They have to be held
3 for a minimum of three years.

4 MR. PILLA: Okay. So they were a little
5 confused.

6 MR. McCCLURE: When that same employee -- all
7 right, they fill out an I-9 this year. They work,
8 say, two months picking apples or whatever. Then they
9 go to something else. They may go to follow the wheat
10 harvest or whatever. Next year when they come back to
11 that same employer, that same apple orchard, that I-9
12 is still good.

13 MR. PALACIOS: They don't have to fill out a
14 new one?

15 MR. McCCLURE: No. It's good for three
16 years. The I-9 is good for three years. Say the
17 employee only works once a year, or say they work two
18 months, they quit, they go somewhere else, work three
19 months, and then they come back to the same employer.
20 They don't have to fill out a new I-9. Because the
21 I-9 they filled out with that employer is valid for
22 three years.

23 Now, if that person is an alien and they're
24 here on a work permit or employment authorization,
25 it's the obligation of the employer to verify that

1 that person still has permission to be employed.

2 MR. PILLA: I see. That's a different
3 category.

4 MR. McCLURE: Right. So again, that's when
5 the employer creates your tickler files also on
6 employees who are here on a temporary stay and do have
7 permission to be employed for a temporary period of
8 time.

9 MR. PILLA: Thank you.

10 MS. KURTZ: Mr. McClure, we certainly
11 appreciate your coming in on virtually no notice --

12 MR. McCLURE: Well, I appreciate the
13 opportunity to come.

14 MS. KURTZ: -- and answering the questions
15 that have been raised by these hearings we've been
16 holding around the state.

17 MR. McCLURE: Some tough questions.

18 MS. KURTZ: Well, good. Those are -- I
19 think we've had -- I think we've had not -- not from
20 an overwhelming numerical sense, but I think we've had
21 a quite good cross-section of most of the interested
22 parties except the employees themselves, and I'm not
23 surprised that they didn't show. In fact, I would
24 have been very surprised if they did.

25 But the -- other than apparently a few

1 veterans who were rather hot under the collar that
2 they had to prove that they were American citizens --

3 MR. McCLURE: I know this has happened, but
4 I think possibly some of these stories on the veterans
5 have kind of been blown out of proportion as far as
6 the numbers, I think.

7 MS. KURTZ: Well, we're not drawing any
8 assumptions with regard to numbers. All I'm saying is
9 we've had an interesting cross-section of interested
10 parties making their presentation. And we appreciate
11 your coming in on very, very short notice to discuss
12 with us your perceptions of some of the issues that
13 have been raised by these folks so that we can get a
14 balanced report back to the Civil Rights Commission
15 with respect to the --

16 MR. McCLURE: Let me read you one part that
17 we -- on every presentation that we -- on every
18 presentation --

19 (A discussion was had off the record.)

20 MS. KURTZ: Let's go back on the record
21 here.

22 MR. McCLURE: There's one part of our
23 presentation that we give, and we feel it's extremely
24 important. And I'll read it so we'll get it word for
25 word.

1 "Discrimination is a major concern of this
2 government and all of its branches. The new bill
3 strictly prohibits discrimination against any
4 individual other than an unauthorized alien in hiring,
5 discharging, recruiting or referring for a fee.

6 "A good application of common sense will
7 avoid any justified claim of discrimination. Merely
8 treat all people alike. Any claim of discrimination
9 should be referred to the office of Special Counsel,
10 Washington, D.C. or to the local EEOC office."

11 And we've stressed this in every
12 presentation we've given. And so far today, our
13 office here has not received one discriminatory
14 complaint. Now, there may have been some sent in to
15 EEOC that we haven't heard of, but not one has come
16 through our office here.

17 And this is something that we're proud of.
18 We feel like that we have at least gotten the word
19 out, we know not to everybody, not to half the people,
20 but as many as who wish to come to hear it. So
21 hopefully this record will continue.

22 MR. PALACIOS: Speaking of discrimination,
23 it's my understanding that if the Act, in fact, does
24 lead to discriminatory behavior, that within some
25 period of time -- I can't recall what it is, three or

1 five years -- that the Act itself will be rescinded in
2 some automatic way?

3 MR. McCLURE: I think that's called the
4 sunset provision, and I think it's three years, and I
5 don't think it's the whole Act. I think it's the
6 sanctions portion of the Act will be -- will be
7 terminated. And that's one of the other reasons why
8 we're all stressing the discrimination.

9 But what many people do not realize is that
10 for all these years, there has been massive
11 discrimination. You can't get a lot of people to talk
12 about this, but this is a fact. Every time an illegal
13 alien has been hired, there's a good possibility that
14 a American citizen or a lawful worker has been
15 discriminated against. And this is something that
16 this bill hopes to eliminate.

17 But by the same token, we want to prevent
18 any new-type or future-type discrimination by some
19 person or employer not applying -- employing somebody
20 because they may sound -- their name may resemble an
21 illegal alien, they may talk like an illegal alien or
22 dress like one or act like one. And this is something
23 we also stress in our presentations.

24 MS. KURTZ: Well, in one of our outlying
25 forums, a rancher with a quite good -- a very

1 responsible sort of an employer had tried to hire
2 locals every growing season. He was a fruit grower.
3 In the area in which he was working, he started out
4 early in the year to try to recruit fruit pickers,
5 fruit thinners and fruit pickers among the people in
6 the community or in the region, actually.

7 The work is very strenuous, it's monotonous.
8 Somebody who develops skill in the area can apparently
9 make a reasonably good income. But there was --
10 despite the fact that the area had pockets of
11 significant unemployment, he was not able to recruit
12 locals to do this kind of work. They simply do not
13 like that kind of a job.

14 And he then went to the employment of people
15 from Mexico because the -- well, for several reasons
16 he was successful with them. First of all, what is
17 low pay for Americans is not low pay for Mexicans.
18 Secondly, they were accustomed to this kind of rather
19 heavy manual work, they were doing that kind of work
20 in Mexico and apparently adapted readily to doing the
21 work as required in this country for the particular
22 kind of crops that were involved.

23 So that it is true that in some cases, the
24 -- there is a displacement of American workers. But
25 there are other -- there are certain jobs that

1 apparently the employers, acting in total good faith
2 -- I have no reason to say any games were being played
3 -- have been unable to recruit American workers to do
4 this kind of heavy manual labor under a hot sun for
5 hours and hours, day in and day out.

6 They simply will not apply, in the first
7 place. Or if they do, they don't stay very long;
8 certainly not for the period of the harvest. So that
9 this -- I don't think that the question of
10 discrimination against Americans is a black and white
11 affair. I think that there are jobs in this country
12 for which you cannot persuade American workers to
13 apply.

14 MR. McCLURE: That's why I said in almost
15 every case, it could be. I'll agree with that. I
16 think -- and I think Congress agreed with that.
17 That's why they gave the agricultural workers
18 additional time to adjust, to see what's going to
19 happen, to see if anything additional is needed to
20 help them overcome this.

21 But we must also remember that 35 years ago,
22 in 1952, when the last legislation was passed on
23 immigration, approximately two-thirds of our illegal
24 aliens were employed on farms and ranches, with only a
25 third coming into the inner cities.

1 But in the last few years, that role has
2 just reversed. Approximately two-thirds of the
3 illegal aliens are now working in your inner cities,
4 with only about a third working on farms and ranches.
5 And so it's a lot different now than it was, even when
6 I came in 20 years ago or 22 years ago.

7 MS. KURTZ: Mr. McClure, we certainly do
8 appreciate your courtesy in meeting with us today, and
9 it's been very helpful. Thank you very much.

10 I'm going to take about a 15-minute break
11 here.

12 (A recess was taken.)

13 (The hearing recessed at 5:00 p.m.,
14 September 10, 1987, to be reconvened at
15 9:00 a.m., September 11, 1987.)
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1 STATE OF COLORADO)
2) ss. REPORTER'S CERTIFICATE
3 COUNTY OF BOULDER)

4 I, Caroline R. Castle, do hereby certify
5 that I am a Registered Professional Reporter and
6 Notary Public within the State of Colorado.

7 I further certify that these proceedings
8 were taken in shorthand by me at the time and place
9 herein set forth and were thereafter reduced to
10 typewritten form, and that the foregoing constitutes a
11 true and correct transcript.

12 I further certify that I am not related to,
13 employed by, nor of counsel for any of the parties or
14 attorneys herein, nor otherwise interested in the
15 result of the within action.

16 In witness whereof, I have affixed my
17 signature and seal this 24th day of September, 1987.

18 My commission expires May 7, 1988.



Caroline R. Castle

Caroline R. Castle, RPR
1401 Walnut Street,
Suite 203
Boulder, Colorado 80302