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ARIZONA ADVISORY COMMITTEE  
UNITED STATES COMMISSION ON CIVIL RIGHTS

TRANSCRIPT OF PROCEEDINGS

FORUM ON IMMIGRATION REFORM

September 15, 1988

Phoenix, Arizona

Volume I

PADILLA & ASSOCIATES  
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Fountain Hills, Arizona 85268

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STENOGRAPHIC TRANSCRIPT OF PROCEEDINGS

before the Arizona Advisory Committee, United States Commission on Civil Rights, Forum on Immigration Reform, on Thursday, the 15th day of September, 1988, commencing at 9:30 o'clock in the forenoon, at the Howard Johnson Plaza Hotel, 1500 North 51st Avenue, Phoenix, Arizona.

MEMBERS OF THE COMMITTEE:

Dr. John P. White, Chairman

Senator Manuel Pena

Dr. Morrison Warren

Mrs. Shirley Whitlock

Mr. Richard Zazueta

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Reported by Josie Padilla Cademartori and Thomas F. Seemeyer, of the reporting firm of Padilla and Associates, Phoenix, Arizona.

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PROCEEDINGS

DR. WHITE: Good morning, ladies and gentlemen. My name is John White. I am the Chairman of the Arizona Advisory Committee to the United States Civil Rights Commission, and I have a brief opening statement here to describe what it is we hope to do.

This meeting is under the auspices of the Los Angeles regional office of the United States Civil Rights Commission, and we have with us today Mr. Philip Montez who is the Regional Director.

Philip, where are you?

MR. MONTEZ: Right here.

DR. WHITE: Oh, there he is (indicating).

He is the Director of the Western Region, which is a vast area.

How many states is it, Philip?

MR. MONTEZ: Seventeen.

DR. WHITE: Seventeen states.

The Advisory Committee receives information and makes recommendations to the Commission in Washington in areas in which the Committee or any of its subcommittees is authorized to study.

For those of you who are not familiar with the

1 Civil Rights Commission, it is an independent agency of the  
2 United States Government which was established by Congress  
3 in 1957 and which was reauthorized in 1982 under  
4 Public Law 98-183.

5 This is a fact-finding meeting, and I wish to  
6 emphasize that. It is not an adversary proceeding. We're  
7 not here to conduct a debate or to put anybody or anything  
8 on trial.

9 We have invited various individuals to come and  
10 share information with the Committee, and each person who  
11 will participate has voluntarily agreed to meet with the  
12 Committee.

13 This Committee, in any event, does not have  
14 subpoena powers. We cannot compel testimony from anyone,  
15 although the Commission itself does have subpoena powers.

16 Since this is a public meeting, the press and  
17 radio and television stations, as well as individuals, are  
18 welcome. Persons meeting with the Committee, however, may  
19 specifically request that they not be televised. In this  
20 case we will comply with their wishes and ask the media  
21 people to do the same.

22 We are concerned that no defamatory material will  
23 be presented at this meeting. In other words, we ask that  
24 no derogatory references be made to individual persons.

25 In the unlikely event that this should happen, it

1 will be necessary for me to call the attention of the person  
2 making those statements to this policy and to request that  
3 they desist in their action. And such information will be  
4 stricken from the record, if necessary.

5 There is a stenographic record being made. We  
6 have a court reporter here. And derogatory statements  
7 about individuals will not be permitted in that record.

8 This public forum is being held to collect  
9 information on the implementation in Arizona of the  
10 Immigration Reform and Control Act of 1986.

11 Now, before I proceed any further, I want to  
12 introduce the Members of the Committee.

13 And, also, I would like to point out that we do  
14 have in attendance Barbara Rothenberg of the Government  
15 Accounting Office's regional office in Los Angeles.  
16 Miss Rothenberg is sitting right out here (indicating).  
17 She's here to observe.

18 The General Accounting Office, as many of you  
19 know, is an arm of the Congress of the United States which  
20 tries to keep track of the actions taken by government to  
21 see that they are in accordance with the laws enacted by the  
22 Congress of the United States, and as such the GAO has an  
23 interest in such matters as civil rights and alleged  
24 discrimination.

25 So, we're very happy to have Miss Rothenberg in

1 attendance today.

2 Now, next I would like to introduce the Members of  
3 the Committee who are able to be here today. Not all the  
4 Members are. And I'll start to my right.

5 To my extreme right, Senator Manuel Pena who is a  
6 member of the Arizona legislature. And next to him is  
7 Dr. Morrison Warren, Professor Emeritus, Arizona State  
8 University.

9 And I am John White, as I said. I also am a  
10 Professor Emeritus at Arizona State University.

11 And then next to me we have Mrs. Shirley Whitlock  
12 from Mesa, Arizona. And at the other end of the table we  
13 have Mr. Richard Zazueta of Scottsdale, Arizona.

14 Those are the Members present. In addition, we  
15 are expecting later the arrival of Dr. Heinz R. Hink who is  
16 a member of the House of Representatives in the Arizona  
17 legislature. And so those are the Members of the Committee.

18 Next, we will commence by inviting to speak  
19 Mary Rose Wilcox who is Vice Mayor of the City of Phoenix  
20 and chairperson of the Steering Committee on Immigration of  
21 Maricopa County.

22 Miss Wilcox, welcome to you.

23 MS. MARY ROSE WILCOX: Thank you.

24 DR. WHITE: Please have a seat and make your  
25 presentation.



1 MS. WILCOX: Thank you very much, Mr. Chairman and  
2 Members of the Committee. I think it is very timely that  
3 you are here today. We are very pleased.

4 I wear two hats today, one as the Vice Mayor of  
5 the City of Phoenix, and I will speak on the ramifications  
6 of the IRCA bill on the City.

7 The other hat I wear is one of a co-chairman and  
8 one of the founding members of an immigration steering  
9 committee which basically has served as a watchdog of the  
10 IRCA bill on behalf of the community.

11 As the Vice Mayor, I'm pleased to welcome you here  
12 to Phoenix. Some of you are from here. Some of you may  
13 have come in, and we welcome you. We have a beautiful city  
14 and one, because it is close to the border, which has a  
15 large Hispanic population and was very affected by the IRCA  
16 bill.

17 We are here today to talk about the effects of the  
18 Immigration Reform and Control Act. Since the Act became  
19 effective, roughly 50,000 applications for lawful temporary  
20 resident status have been filed in Arizona, with the bulk of  
21 these in the Phoenix area.

22 Phoenix has long been one of the most rapidly  
23 growing cities in the U.S. and has always worked hard to  
24 keep up with the demands of growth, but this new influx is  
25 special. It is a rapid and large population of residents

1 who have lived and worked here but who have not been counted  
2 as residents before; and they have many of the same needs as  
3 other residents, as well as some special needs.

4 At the City level, when the bill became law, we  
5 geared up a lot of our services. We felt very strongly that  
6 the information from the federal government on the IRCA bill  
7 was extremely inadequate.

8 We used our own PR facilities to get the word out  
9 to people who have been living here for a number of years  
10 and were qualified under the bill to become citizens.

11 The City felt a great responsibility, because a  
12 lot of these people had already been paying taxes, both at  
13 the federal, state and city level, and were, in effect,  
14 long-time residents of the City of Phoenix.

15 We have been very active, also, in assisting the  
16 QDEs throughout the city to gear up, as soon as the QDEs  
17 came into existence. The Wesley Community Center and  
18 Friendly House were the main ones in the Phoenix area that  
19 helped, along with the Catholic Social Services.

20 QDEs, in my estimation, in the city were very  
21 underfunded and could not handle the influx of people that  
22 came to their doors. As a result of this, we asked the City  
23 Council for some monies to be lent to these agencies for  
24 clerical assistance so that we could process these people  
25 through.

1           And, again, our main responsibility at the City  
2 level was to make sure that people who had a right to become  
3 citizens under the IRCA bill could become so and would not  
4 be detained because there was no clerical assistance that  
5 could work fast enough to get their documentation in and  
6 their forms signed and help them with immigration.

7           The City has been burdened in many aspects. We,  
8 as many employers who have geared up, now have a whole new  
9 process in our personnel department that complies with the  
10 IRCA guidelines.

11           Our police department, our courts, our social  
12 services are taking the brunt of the impact. There are  
13 many people who, out of fear, had not been reporting crimes,  
14 had not been coming in for help of our social services.

15           Now that we have the influx, our City departments  
16 have had to beef up budgets and we've had to do special  
17 things. We as a city do not mind that.

18           In fact, anything that we can do to assist people  
19 to become citizens, you know, is something that we would  
20 move forward with immediately.

21           What we do have reservations about is the way the  
22 bill was enacted. There are very many citizens still left  
23 in the city who have not had the opportunity to apply under  
24 the bill.

25           With all our efforts to get the word out, because

1 money came down so late for the PR program, I would say the  
2 PR program to let people know how they could become citizens  
3 under this bill was not effective until almost April, with  
4 the deadline being May 4th.

5 When that deadline came, the City, along with the  
6 League of Cities and Towns, passed a resolution asking  
7 Congress to extend the May 4th deadline. We felt very  
8 strongly.

9 There is still a pool of people out there who,  
10 because of their fear and because of the PR that was not  
11 done in order to promote the legalization of this bill, did  
12 not come in and are still out there. They're qualified.  
13 But because of their fear, they just did not get in in  
14 time.

15 You know, I know that issue was not acted upon by  
16 Congress. But, again, the City stands in strong support of  
17 extending that deadline, because we feel we are creating an  
18 underclass with the people who are left and the people who  
19 will still migrate here.

20 Traditionally, Mexico, as our country bordering  
21 the United States, particularly Arizona, and to many of us  
22 our mother country in terms of a lot of ancestors coming  
23 from there, has a natural ebb and flow of immigration. Very  
24 many people will always come back and forth across the  
25 borders.

1           Because of the Immigration Reform Bill, the doors  
2 are shut, and we feel that it is the federal government's  
3 responsibility to look at this issue and to deal humanely  
4 with the people who are still here undocumented and will  
5 still live second-class citizens' lives but are contributing  
6 to the welfare of our country through their taxes and  
7 through the lives they are leading.

8           Now, as the steering committee co-chairman, I take  
9 on a different hat. At the City I help monitor the  
10 immigration reform implementation that we have with this new  
11 bill.

12           The immigration steering committee formed after  
13 IRCA was passed. We came together and formed officially  
14 in February of 1987, and our purpose in forming was for the  
15 purpose of making sure that the bill was implemented in a  
16 fair and equitable manner.

17           I must be quite truthful with you. Some members  
18 of the steering committee, who are a very diverse group from  
19 all parts of our community, were people who had opposed this  
20 bill and fought very long and hard because of the  
21 discriminatory nature of the bill, particularly in employer  
22 sanctions.

23           But once the bill was passed, we as a committee  
24 felt very strongly that we must now work with the  
25 Immigration Department and make sure that the avenue that

1 was given to legalization for a lot of people in the  
2 United States would be open and would be fair and equitable.

3 We have done quite a few things. We immediately  
4 established ourselves. We contacted all of our  
5 congressional offices from Senators McCain and DeConcini to  
6 Congressman Kolbe. And Congressman Udall has been  
7 extremely helpful, along with Senators Deconcini and McCain.

8 We contacted them ourselves and became the link  
9 and became the prime input to the congressional offices as  
10 to the IRCA bill and implementation.

11 What we did early is review the first regulations  
12 and do a lot of input into the legalization regulations. We  
13 worked along with national organizations like the LULAC  
14 organization, and we worked in conjunction with them. We  
15 had a lot of input from our congressional people to back our  
16 input.

17 And as a result, the regulations were changed.  
18 Not all the changes we wanted went in. But at least they  
19 were, in our opinion, more fair and equitable.

20 Throughout the year of legalization, we continued  
21 in a basically watchdog status. We wanted to make sure that  
22 Immigration was reaching out to the community, bringing  
23 people in.

24 And we formed a very good relationship with  
25 Miss Ruth Ann Myers, the Immigration and Naturalization

1 director here in the Phoenix area.

2 We've worked with Immigration. We have had them  
3 sitting at our committee meetings, and we tried to work out  
4 the differences the community was feeling as to the bill  
5 implementation.

6 We have been, I think, very successful in getting  
7 word back to our congressional people and truly serving as a  
8 liaison in the findings and implementation of the first year  
9 of the program.

10 The thing that we have been most disappointed in  
11 is, again, the extension period. We felt strongly that the  
12 Immigration Department did not do the PR they should have.  
13 There was a large sum of money allocated for that, but it  
14 geared up too late.

15 The immigration steering committee joined other  
16 entities--as I mentioned before, the City of Phoenix--in  
17 putting together a very good PR program and getting in more  
18 people than could have gotten in under the regular PR.

19 In the second phase, we're still in existence and  
20 we're keying into the education aspect and the education  
21 requirements of the bill.

22 We stand before you very much in fear that, again,  
23 the one point that did not get taken care of in the first  
24 year of legalization is going to hurt us and will affect the  
25 second year, if it's not improved, and that is public

1 relations.

2 We have to get the word out to the community who  
3 qualified and are now sitting there with papers in their  
4 hands and the first part of legalization done.

5 We have to get the word out and we have to make  
6 them not fearful to come in and take your education classes,  
7 because if they do not, they will not actualize the dream  
8 that they were promised. I believe that firmly.

9 And it is my hope that this Board could take to  
10 the Civil Rights Commission that strong statement, that we  
11 need to get Immigration to key in on the public relations  
12 aspect of the second phase of this bill.

13 SLIAG funding will be distributed throughout our  
14 state, and we're hopeful that that will help. But again we  
15 need to get the word out there. There is still a lot of  
16 fear.

17 There still are a lot of people who applied and,  
18 again, they're holding a piece of paper that says you're  
19 legal now; but you're not legal if, within 18 months of when  
20 you filed, you haven't gotten your citizenship classes, your  
21 English-speaking classes that are required under the second  
22 phase of the bill.

23 We're very fearful that that will not be done,  
24 that people won't get the word in time. We're working  
25 toward that effort, but that is one of our great fears. We



1 also have others, but there are others here from the farm  
2 worker community who will speak on those issues.

3 I come primarily to address our concern about the  
4 poor public relations and, also, the fear of this committee  
5 and that people who were not informed in time will be doomed  
6 to a life in underclass.

7 What are we going to do with the people who are  
8 still here, who were afraid to apply in the first place and  
9 now have no recourse except to live as undocumented?

10 I am open for questions. There are many committee  
11 members who will be here throughout the day. And I would  
12 like to commend this Committee for coming in and hearing the  
13 concerns of the community as related to the IRCA bill.

14 DR. WHITE: Thank you, Miss Wilcox.

15 Does any Member of the Committee have a question?

16 Mrs. Whitlock.

17 MRS. WHITLOCK: Do you have any estimate of what  
18 we're talking about in numbers? Do you have some kind of an  
19 idea?

20 MS. WILCOX: Rough estimates, I would say there's  
21 still about -- When we first came into this, we were told  
22 that there were approximately 150,000 people within the  
23 state of Arizona who could essentially qualify for  
24 legalization.

25 The numbers in the state were only 50,000 who came

1 in and applied and qualified. So, if you take Immigration's  
2 first numbers, there still could be a pool of about 100,000  
3 people.

4 DR. WHITE: Senator?

5 SENATOR PENA: How did the city PR program work?  
6 How did the city try to reach all of those people under the  
7 first phase?

8 MS. WILCOX: Senator, we have a public information  
9 channel, and we have talk shows. We went on the talk  
10 shows, and we also did a series of press releases and kept  
11 reminding people to go out and get into either the QDEs or  
12 attorneys who were doing this and make sure that they filed  
13 before May 4th.

14 We did a series of PSAs that were distributed.  
15 And we also had some of our workers in our customer service  
16 areas, if they felt that they might know of people, remind  
17 people as they came up.

18 We tried to do everything we could within our  
19 realm to make sure that people got the word to come in and  
20 apply.

21 DR. WHITE: Any other questions?

22 MS. WILCOX: Mr. Chairman, if I could take the  
23 prerogative and also congratulate Senator Pena on his  
24 election.

25 DR. WHITE: We all join in that, Senator.

1 MR. ZAZUETA: Vice Mayor, you mentioned the people  
2 that were qualified for amnesty that did not get the word  
3 through the public relations and through other means that  
4 did not get their papers in. What is going to happen to  
5 them?

6 MS. WILCOX: That is our fear. We believe that  
7 there were many people who were afraid. You had a bill that  
8 came down and had it implemented by the department that was  
9 most feared among undocumented.

10 It took almost eight to nine months of the whole  
11 year period for people to even get over a little bit of that  
12 fear, by the time the public relations started kicking in  
13 from Immigration.

14 And they did an excellent job, when it finally  
15 came together. People were just literally out there getting  
16 on radio stations and making sure that people were not  
17 afraid, but it was too late. And you cannot overcome a  
18 lifetime of fear in a one-year period.

19 So, I don't know what will happen to those people,  
20 and that is our fear. I fear that they will live in an  
21 under class forever because of the immigration law, unless  
22 we look at it and do some kind of equitable treatment for  
23 these people who again have lived here and would probably  
24 have qualified quite readily but, because of their fear, did  
25 not come in in time.

1 MR. ZAZUETA: Do you think that some of these  
2 people will be deported?

3 MS. WILCOX: I think they will. I cannot see why  
4 they wouldn't, because once the process goes through and  
5 once the legalization is complete with the second phase  
6 completed, I would think those people who are not holding  
7 papers or who are not in the process still of immigrating in  
8 through that IRCA bill would be deported.

9 I would hope that they wouldn't be because again  
10 very many of these people have been here for years.

11 DR. WHITE: Thank you.

12 Any other questions?

13 If not, we thank you very much, Miss Wilcox.

14 MS. WILCOX: I'd like to thank the Committee.

15 DR. WHITE: Thank you.

16 We'll proceed with our schedule, and I would like  
17 to point out: We do have a very tight schedule here. And,  
18 therefore, I'd like to ask the cooperation of the witnesses  
19 in using only the time which they have been allotted.

20 And witnesses have been asked to speak for no more  
21 than eight to ten minutes, in order that we may allow time  
22 for questions from the Committee.

23 I might also point out that at 4:00 o'clock, or  
24 whenever we finish the scheduled witnesses, members of the  
25 public who are not scheduled will be more than welcome to

1 address the Committee with whatever concerns they might  
2 have.

3 Now, coming back to the time thing: In order for  
4 us to keep on our schedule, as the Chairman I will have to  
5 enforce this rule. And I hope no one will take offense, if  
6 I remind you that your time is up and that you should  
7 conclude as soon as possible.

8 I am sympathetic to the desire to continue. You  
9 have something important to say. In my profession, academic  
10 profession, we're used to talking in 50-minute sound bites,  
11 as they say in television. But there's only so much time  
12 available. So, I do ask your cooperation and understanding  
13 in that matter.

14 Now, therefore, let's continue. Our next witness  
15 is Dr. Ernest Feigenbaum who is Director of Public Health  
16 for the Maricopa County Health Department, and he wishes to  
17 address the Committee on: The Public Health Implications of  
18 IRCA.

19 Dr. Feigenbaum?

20 DR. ERNEST FEIGENBAUM: Mr. Chairman, Members of  
21 the Commission: I'm very pleased to be with you this  
22 morning.

23 Maricopa County, as you know, has a population of  
24 approximately two million people. We estimate that the  
25 number of people undergoing legalization under the amnesty

1 program in the county is somewhere between twenty-five and  
2 thirty thousand people.

3 The county does run a complete health care system  
4 which involves thirteen primary care centers providing  
5 ambulatory care, providing about a quarter of a million  
6 visits per year, and runs a 550-bed acute care hospital, as  
7 well as a long-term care program, and is an AHCCCS-HMO  
8 provider to the Maricopa County health plan.

9 That said, the first area of my concern with  
10 respect to the amnesty program is the question of  
11 entitlements for various and sundry federal programs. I  
12 would also include the two community health centers which  
13 are federally funded in our county.

14 And, of course, with due respect to the taxpayers  
15 and our obligation to the community, we do go through an  
16 entitlement process which involves the people we serve to  
17 make sure that other sources of payment beyond taxpayers'  
18 contributions are used for health care. And this, indeed,  
19 is the purpose of much of the system.

20 Now, where somebody does not have a source of  
21 payment for needed health care, then, of course, the county  
22 provides it. But one of the problems that we're running  
23 into very early on is that there is great confusion as to  
24 who exactly and under what circumstances is entitled, as a  
25 person undergoing amnesty, and for which subsidized either

1 county, state or federal services.

2 To date about the only information that we've been  
3 able to obtain is from essentially a voluntary organization,  
4 which has put out some matrixes which involve the various  
5 cross-references as to what program entitlements are  
6 available to people undergoing amnesty and what program  
7 entitlements might severely compromise a person's amnesty  
8 status and perhaps require that they be rejected from the  
9 program during the preliminary phase or during the entire  
10 five-year period.

11 Such things as cash-grant welfare payments under  
12 many, many circumstances would, of course, make somebody  
13 unqualified to continue in their amnesty status.

14 There's also some vague reference in the Act as  
15 well as to allowability of certain emergency medical care  
16 subsidized assistance types of activities.

17 Emergency medical care is not well defined, and  
18 exactly where emergency care stops and where other types of  
19 medical care entitlement starts which could compromise a  
20 person's eligibility is not clear.

21 So that my impression is, in a nutshell, that much  
22 of the language in the regulations involved in the Act  
23 essentially have been put together from an I.N.S. point of  
24 view, which is understandable, but I think there is a need  
25 for considerably more health and social service input in the

1 defining of the regulations and finding out exactly under  
2 what circumstances people can get needed health services.  
3 This is very, very important.

4 We're experiencing a situation in the county, for  
5 instance, where many people are staying away from needed  
6 services such as prenatal care because of apprehension  
7 having to do with entanglements in a system which might  
8 gravitate against their amnesty status.

9 And this is very, very poor economy, obviously,  
10 because somebody who does not receive proper prenatal care,  
11 for example, ultimately costs the taxpayers considerably  
12 more money creates all kinds of social problems and very,  
13 very severe human problems for the people involved in the  
14 outcome of the pregnancy and whatever.

15 So that many needed services to women and to  
16 children, social, medical and whatever, are being foregone  
17 simply because of apprehension as to what the consequences  
18 might be of the entitlement process which is required by law  
19 in most cases.

20 It's very, very important that we get something  
21 official that allows us to proceed with due deliberation in  
22 putting all this together. We cannot operate on the basis  
23 of some guidelines which a voluntary agency gives us, which  
24 are well thought out, as the basis for an eligibility  
25 screening process in the Department of Economic Security in



1 the state of Arizona for the county eligibility operation.

2 I won't go into the details of the various and  
3 sundry programs. They're very myriad, having to do with  
4 everything from nutritional assistance for pregnant women  
5 and their children to breast feeding. It has to do with  
6 eligibility for medical care. It has to do with an enormous  
7 number of things.

8 But we do need some guidelines as to exactly what  
9 might gravitate against a person and what type of counseling  
10 we can give people.

11 This again is perhaps compounded by the fact that  
12 eligibility workers, of which there are hundreds and  
13 hundreds in the state of Arizona, tend to address every  
14 person that they deal with in accord with the usual,  
15 conventional standards.

16 This leads me into my next point, and that is:  
17 Under the State Legalization Impact Assistance Grant program  
18 which is also part of the Act, there is the requirement that  
19 there be tracking of people who are ELAs, eligible legalized  
20 aliens.

21 The problem with that is that we do not have very  
22 good guidelines from either the federal government or the  
23 state as to finding out how much is an invasion of privacy  
24 and how much is legitimate tracking.

25 And I point out again that in order to recoup the

1 funds under the impact grant program, we have to account for  
2 the services that we provide to people undergoing amnesty;  
3 and we also have to be able to counsel them wisely as to  
4 what programs they are prohibited from becoming involved in  
5 and what programs they are indeed entitled to.

6 . And, again, there is no clarity as to what our  
7 right is to sit down with somebody and ask them: Are you an  
8 alien undergoing amnesty?

9 What circumstances involve that type of  
10 questioning? How is the information to be kept, and with  
11 what degree of confidentiality?

12 There are a whole myriad of ethical issues, and  
13 probably legal issues, which I certainly am not prepared to  
14 address but which have not been particularly clarified.

15 The only other area I'd like to touch on very,  
16 very briefly is the question of AIDS testing. And as you  
17 know, AIDS testing did become a part of the amnesty program  
18 as of December 1st. And there is a catch-up phase. It was  
19 from December 1st forward.

20 A part of the physical examination is a  
21 standardized form that must be filled out starting  
22 December 1st for all people coming into the program. People  
23 who came into the program prior to December 1st must be  
24 tested for AIDS subsequently as a step towards getting  
25 permanent residence status.

1           There is great confusion as to whether people  
2 should be required to pay a second time if they were not  
3 tested for AIDS initially, since the people who came after  
4 December 1st had that test included under their physical  
5 examination, and this can be upwards of \$100 under certain  
6 circumstances.

7           And the price of the physical examination was set  
8 and civil surgeons designated by the I.N.S. to accomplish  
9 all this.

10           So, there is confusion as to whether people who  
11 are not tested should be charged an additional fee. We, as  
12 the civil surgeons of Maricopa County, are running into this  
13 where people are coming around in a second round.

14           I'll stop at that point, and I'll be very pleased  
15 to answer any questions.

16           DR. WHITE: Thank you, Dr. Feigenbaum.

17           Any questions?

18           DR. WARREN: I have one.

19           DR. WHITE: Dr. Warren?

20           DR. WARREN: What percentage of usage of your  
21 services would you say comes from this pool of persons?  
22 Relative. A quarter or -- ?

23           DR. FEIGENBAUM: It's very, very difficult to say,  
24 because we can only account for what we think is a  
25 statistically acceptable random survey of the usage of

1 services by people that we can identify.

2 We did estimate that one year's worth approached  
3 somewhere of the magnitude of perhaps a million and a half  
4 dollars within the county system.

5 This does not include an additional increment  
6 which represents the county's share of the AHCCCS-MedicAid  
7 program. We distributed to the county \$33 million a year,  
8 to the AHCCCS program which covers the medically indigent,  
9 medically needy category.

10 And if you add that up, it's probably approaching  
11 \$2 million a year. It's awfully hard to break it down into  
12 individual and specific services.

13 DR. WARREN: I have a second question.

14 DR. WHITE: Go ahead.

15 DR. WARREN: Are discussions being held between  
16 your office and other concerned offices about the realities  
17 of this problem that you're sharing with us today?

18 DR. FEIGENBAUM: Yes, they are.

19 And I see Miss Wendy Hammon from the state  
20 Department of Administration, who is the single point of  
21 contact of the SLIAG program, is to be heard by your group.  
22 I am on a committee that she chairs.

23 One of the problems is that the federal government  
24 has not been completely responsive in clarifying some of  
25 these very, very important issues.

1 I would come back to, again, my point that since  
2 many of these issues involve health and social service  
3 concerns, it requires something more than Immigration and  
4 Naturalization Service expertise, which has been very good  
5 and very helpful, but it does require an added dimension to  
6 clarify some of these things.

7 We're hard pressed to decide, as is the Department  
8 of Economic Security and AHCCCS, as to exactly how to  
9 proceed.

10 DR. WARREN: I have one question on something  
11 else.

12 Are structures in place where progress is almost  
13 guaranteed in resolving the issue?

14 DR. FEIGENBAUM: I wish I could say yes, but I'm  
15 afraid I still have considerable apprehensions over just  
16 those points.

17 I think there's a lot more that has to be done to  
18 clarify it. We do not have clear guidelines on many of  
19 these things.

20 DR. WARREN: Who is advocating or who is driving  
21 this committee that you're talking about?

22 DR. FEIGENBAUM: The state Department of  
23 Administration.

24 DR. WARREN: Thank you.

25 DR. WHITE: Any other questions?

1 Mrs. Whitlock.

2 MRS. WHITLOCK: Am I to understand that as people  
3 apply for amnesty under the Immigration Act, there are  
4 certain services, medical services, that they are denied as  
5 a part of that Act and others that they can apply for; and  
6 your problem is that it is unclear as to what they are  
7 eligible for and what they're not eligible for?

8 Is that what you're asking?

9 DR. FEIGENBAUM: Basically, yes. It's not a  
10 question of services denied. It's a question of  
11 entitlements. And since this is very, very new, there are  
12 all kinds of pitfalls.

13 So, essentially, the services are there. But the  
14 basis for payment could very well, if it's done wrong,  
15 compromise the person's status under the amnesty program,  
16 simply because they were treated as any other person might  
17 indeed be treated in that particular set of conditions.

18 Briefly, a perfect example would be if a woman  
19 comes in needing a medical care service, not prenatal care  
20 but some other type of service, and she has children and her  
21 income level is somewhat marginal and whatever.

22 That person normally would be sent to the  
23 Department of Economic Security for workup perhaps as an  
24 AFDC recipient. They do not distinguish between medical  
25 services or cash-grant welfare, whatever. That person would

1 simply be channeled to that particular entitlement workup  
2 track.

3 That person should know, the woman, that if they  
4 do indeed go down that road and are certified for cash-grant  
5 welfare and start receiving checks, that she would be  
6 severely compromised as to their amnesty status.

7 That woman should request and should know enough  
8 to request that she should be worked up as a "medically  
9 needy" only person, which requires an awful lot of  
10 sophistication, and should not go through that door; they  
11 should go through the other door.

12 It's a question of DES doing the workup or the  
13 county doing the workup. I have trouble sorting this out  
14 myself, and somebody with limited resources is going to have  
15 a major problem.

16 MRS. WHITLOCK: So, the requirement is up to the  
17 individual, then.

18 DR. FEIGENBAUM: Presuming they have the  
19 knowledge. And, really, we don't even have the knowledge at  
20 the administrative level.

21 MRS. WHITLOCK: Thank you.

22 DR. WHITE: Any other questions?

23 SENATOR PENA: Mr. Chairman:

24 The AIDS testing, who requires that?

25 DR. FEIGENBAUM: That's a federal requirement.

1           SENATOR PENA: That's a federal requirement. What  
2 kind of report is made? Are people informed? Those that  
3 come in that have to be tested, are they informed that  
4 they're going to be tested for AIDS?

5           DR. FEIGENBAUM: Yes, and there is a specific  
6 consent. And it is explained to them.

7           Now, again, I cannot speak for the actual practice  
8 by the civil surgeons designated by the Immigration and  
9 Naturalization Service.

10           Practice in Arizona and state regulation requires  
11 that a positive test be reported to the state. This would  
12 not be an exception.

13           Counseling and consent is uniformly used in  
14 primary care centers and certainly is something that is an  
15 ethical and professional standard for every licensed  
16 physician in Arizona administering these tests because of  
17 the severe social disruption which could accompany a lot of  
18 aspects of AIDS testing, be it negative or positive.

19           So that that said, it's handled essentially as  
20 other AIDS testing in Arizona, yes. But it is required by  
21 the federal government for all people requesting permanent  
22 residence status under the amnesty program or other  
23 provisions of the Immigration Act.

24           SENATOR PENA: Is that information passed on to  
25 other groups, such as if there's a family involved, schools,



1 an employer?

2 Is anybody else told?

3 DR. FEIGENBAUM: Emphatically, no. However, the  
4 legislature did pass a bill and it was signed by the  
5 governor last year that requires that where a child is  
6 positive for AIDS, then that information must by law be  
7 passed on to the school district. That was House Bill 2126.

8 DR. WHITE: Thank you, Dr. Feigenbaum. We  
9 appreciate your testimony.

10 All right, our next scheduled witness is  
11 Mr. Robert Donofrio, Sr. Mr. Robert Donofrio is  
12 Superintendent of the Murphy Elementary Schools, District  
13 No. 21, and he is here to enlighten the Committee on  
14 educational issues.

15 Mr. Donofrio.

16 MR. ROBERT I. DONOFRIO: Thank you.

17 Firstly, I want to thank the Commission. Only in  
18 America with all our faults and flaws in our system could a  
19 forum like this be possible.

20 Secondly, I especially want to thank all those  
21 social agencies, the QDEs who have been in the trenches  
22 working long hours against insurmountable odds to implement  
23 this law.

24 As an educator, I think it's important that I at  
25 least, if only briefly, touch on a little bit of the

1 historical points of immigration. I then will jump right  
2 into three or four major impacts that affect education and  
3 then close with some closing remarks.

4 I will be reading from a prepared text which I  
5 have written which will be provided to the chairperson of  
6 the Committee.

7 DR. WHITE: Be happy to receive it.

8 MR. DONOFRIO: "Give me your tired, your poor,  
9 your huddled masses yearning to breathe free, the wretched  
10 refuse of your teeming shore; send these homeless, tempest-  
11 tossed to me. I lift my lamp beside the golden door."

12 It would appear that the policymakers, especially  
13 those shaping immigration laws, have forgotten this  
14 inscription on the Statue of Liberty.

15 For some 17 million immigrants between 1882 and  
16 1924 who passed through Ellis Island, America became the  
17 land of dreams and hope. Like the people before them, most  
18 came to escape hard lives.

19 They left behind poverty, the army, religious  
20 persecution, hunger and despair. What did they have to  
21 lose? A spirit of optimism lighted their minds with dreams,  
22 giving them the courage to face an unknown world.

23 To many in the United States, the immigrants from  
24 eastern Europe were a shabby, bizarre, ugly group of people.  
25 They complained that the newcomers were too short, too dark-

1 colored, too poor; generally, of a low order. Their  
2 languages were incomprehensible, nothing short of gibberish.  
3 Nativists who favored Nordic types found them "deficient".

4 Others, however, saw their beauty. What a lucky  
5 country, they said, to receive a procession of the people of  
6 the world, people with skills and talents eager to learn.  
7 In the words of poet Pablo Neruda, they brought to their  
8 homeland "gifts precious and golden as wheat."

9 Most of these millions did not go west to farm.  
10 The frontier was closed. They filled the factories with  
11 their cheap labor power. They worked in the coal mine,  
12 wielded a pickax, split rails, converted ore to steel, dug  
13 roads, built tunnels and bridges.

14 Women and children put their labor into textile  
15 mills and the clothing industry. They worked in fire-trap  
16 factories, 12 to 14 hours a day, for low wages. They lived  
17 in slums and died of tuberculosis.

18 And my grandparents on both sides of my family,  
19 like many of yours today in this room, were some of those  
20 people.

21 Close to a hundred years later, we are embroiled  
22 in the same types of controversy, this time impacting  
23 largely our Mexican and Latino neighbors to the south. It  
24 is apparent from a brief review of our history that  
25 immigration policies reflect the economic conditions during

1 that era.

2 In times of opening new frontiers, it was popular  
3 to allow millions to come to our great country so we could  
4 benefit from their cheap labor. In times of historic budget  
5 deficits and high unemployment, it has become popular to  
6 close the door to millions seeking meaningful employment and  
7 a better way of life.

8 It is these times of high unemployment, budget  
9 deficits and ultra-conservative administrations that  
10 reactionary, discriminatory laws such as the Immigration  
11 Reform and Control Act of 1986 are passed.

12 While many hailed this law as a positive step  
13 toward granting millions of undocumented workers legal  
14 access to U.S. citizenry, it is my belief that it is yet  
15 another attempt at discriminatory and racist laws which stem  
16 back as far as 1798 when this then young country passed the  
17 Alien and Sedition Acts which gave the President special  
18 powers.

19 He could deport any alien he considered "dangerous  
20 to the peace and safety of the United States" or anyone  
21 stirring up trouble against the President and Congress.  
22 These acts were declared unconstitutional two years later.

23 The impact on education of the Amnesty Act can  
24 largely be seen by a significant drop in student enrollment  
25 and subsequent loss in revenues to operate our schools.

1 This is particularly true in districts which have high  
2 concentrations of Hispanic students and have lower  
3 socioeconomic status.

4 For example, the Murphy Elementary School District  
5 No. 21 in southwest Phoenix, which I am Superintendent of,  
6 is comprised of four schools with approximately 2,500  
7 students, of which 73 percent are Hispanic and 95 percent  
8 are poor.

9 During the 1987-88 school year, there was a sudden  
10 drop in student enrollment of approximately 200 students in  
11 comparison to the 1986-87 school year, from 2600 in '86-87  
12 to 2400 in '87-88, which was the year of the implementation  
13 of the law. This translated into an average daily  
14 membership drop of 109 students or approximately \$288,850 in  
15 state aid reimbursement lost to our budgets.

16 We have had to lay people off. We have had to cut  
17 back in many areas of our budget, because everything that we  
18 do, as far as our budget, is based on that ADM figure.

19 The district, prior to the enactment of the  
20 Immigration Reform and Control Act of 1986, had a ten-year  
21 history of extremely stable student enrollment, neither  
22 gaining or declining significantly.

23 Upon investigation of this situation, we were able  
24 to track the loss of over 100 students from one large  
25 apartment complex commonly referred to by community members

1 as Little Mexico, due to the large numbers of undocumented  
2 workers.

3 I might add that several Attorneys' General  
4 opinions and the position of the district is not one of  
5 certifying U.S. citizenship but one of educating, provided  
6 they reside within the district and meet legal age entrance  
7 and immunization requirements.

8 In talking with many of the parents who pulled  
9 their children from school, the prevailing comments could be  
10 summarized as follows:

11 Fear that this was an attempt by I.N.S. to deport  
12 them. Uncertainty about their chances for qualifying for  
13 permanent residency.

14 Fear that their families would be broken apart,  
15 especially in cases whereby some members of the family might  
16 be eligible and others not. For example, father eligible  
17 but mother or children may not be eligible.

18 Many immigrant students leaving school on their  
19 own to find jobs to earn the \$400 needed to apply for  
20 amnesty.

21 Working members losing their jobs due to sanctions  
22 placed on employers, thereby forcing families to move back  
23 to Mexico or move ahead of eviction notices because of lost  
24 employment. And, also, negative attitudes of I.N.S.  
25 workers.

1           While the Immigration Reform and Control Act of  
2 1986 cannot be the sole blame for the loss of some 200  
3 students and subsequent revenue loss in the Murphy School  
4 District, it is the single most contributing factor.

5           This has been further substantiated throughout  
6 Los Angeles, where an estimated 40 percent of the nation's  
7 illegal immigrants live. Only about 15,000 new students  
8 enrolled for the '87-88 school year. More than 38,000 new  
9 enrollees were anticipated, according to county and city  
10 officials.

11           And the source is Education Week, Volume VII,  
12 No. 30, April 20, 1986.

13           In a new report, school officials cite as the  
14 reason for the drop what Los Angeles County Superintendent  
15 of Schools, Stuart E. Gothold, calls the "immigration  
16 amnesty hypothesis". Mr. Gothold speculates that families  
17 uncertain about their chances for qualifying for permanent  
18 residency may be leaving the country or pulling their  
19 children out of school until they are more sure of their  
20 status.

21           "Of the reasons why these students are not  
22 enrolling, fear is high on the list," said Bob Grossman, a  
23 spokesman for the Los Angeles County Schools, "fear of  
24 deportation and fear that their families will be broken  
25 apart."

1           After three years of averaging 11,000 new students  
2 per year in the district, only 2,000 new students enrolled  
3 in 1987. The budget figures, however, were based on an  
4 anticipated enrollment of 14,000 new students, and the  
5 result was a loss of \$27 million the district had expected  
6 to receive from the state based on average daily attendance  
7 figures.

8           As a country that places great pride in educating  
9 the masses, the attitude of I.N.S. has been deplorable and  
10 can best be summarized by an I.N.S. spokesman as quoted in  
11 Education Week:

12           "The intent of the bill is to deny illegal aliens  
13 the ability to work illegally in the United States so they  
14 will gradually flow back to their own countries where they  
15 are citizens. If this means that there are fewer illegal  
16 children in school, then the bill is impacting exactly the  
17 way it was supposed to."

18           It is exactly this type of "I don't care" attitude  
19 by I.N.S. which has caused fear and suspicion among our  
20 undocumented workers and caused us to fall far short of our  
21 projections of those persons who would take advantage of the  
22 Amnesty Act.

23           I believe nationwide we talked about somewhere's  
24 in the neighborhood of four million. We will probably come  
25 in somewhere's about half of that.



1           The loss of student enrollment and subsequent  
2 revenue to our schools caused by the Immigration and Control  
3 Act of 1986's impact on education, however, is a distant  
4 second to the psychological, social and emotional scars that  
5 the children and parents have and will continue to suffer  
6 under this Act.

7           The fear of deportation, family separation,  
8 frustrations and the struggle for survival among these  
9 families will be evident long after the bureaucrats have  
10 washed their hands of the whole matter.

11           DR. WHITE: Mr. Donofrio, your time has expired.  
12 So, you can conclude.

13           SENATOR PENA: Mr. Chairman, some of this  
14 testimony is very important to us, and I hope that you'd not  
15 adhere to the schedule.

16           MR. DONOFRIO: About two more minutes, and I will  
17 close it up.

18           DR. WHITE: The Chair will grant two more minutes.

19           SENATOR PENA: Thank you.

20           MR. DONOFRIO: The fear of deportation, family  
21 separation, frustrations and the struggle for survival among  
22 these families will be long evident, and what will be left  
23 will be families who have been emotionally scarred by  
24 elevated anxiety, stress, loss of self-respect, dignity, and  
25 a feeling of second-class status.

1 All of this emotional baggage because someone  
2 picked an arbitrary date which will make someone legal or  
3 not legal. All of this because all these people ever wanted  
4 to do was to better their life for themselves and their  
5 families. All of this because all these people wanted to do  
6 was become tax givers rather than tax takers.

7 As we enter Phase II of the Amnesty Act, we have a  
8 golden opportunity to bring literally millions of persons,  
9 rich in cultural heritage, into the mainstream of America as  
10 productive, educated working members of society.

11 As Woodrow Wilson once said, "We cannot be  
12 separated in interest or divided in purpose." We must work  
13 together to see that Phase II, the education process, greets  
14 these people with patience, motivation and love in our  
15 hearts.

16 We must not lose one person in the process. We  
17 must lobby for increased funding so the millions who have  
18 come forward will complete Phase II.

19 In Phase II we have the greatest power of all, the  
20 power of an educated mind. We must make these classes  
21 accessible to the participants in an environment which is  
22 warm and friendly. We cannot fail. We will not fail.

23 In closing, no doubt you will hear testimony about  
24 specific instances of overt violations of civil rights, but  
25 of greater importance is a system that in and of itself

1 violates the basic principles of a free democracy:

2 A system which pits employer against employee. A  
3 system which chooses an arbitrary date to determine destiny.  
4 A system so embattled in red tape that even the most  
5 educated have had difficulty understanding the process, not  
6 to mention the undereducated who had to use the process. .

7 A system which placed financial means to obtain  
8 citizenry. A system which was totally underfunded,  
9 understaffed and overworked.

10 This, My Friends, is the message that you and your  
11 staff must bring back to Washington on behalf of the people  
12 who make up the back streets of America.

13 DR. WHITE: Thank you.

14 MR. DONOFRIO: I'll take any questions.

15 DR. WHITE: Thank you.

16 Any questions?

17 SENATOR PENA: Mr. Chairman?

18 DR. WHITE: Senator.

19 SENATOR PENA: Mr. Donofrio, that big drop of 200  
20 students that you experienced at that one point, many of  
21 those must have been citizens. Many of those children must  
22 have been citizens of this country, while their parents may  
23 not have been legal residents.

24 Do you have any kind of feeling as to the numbers  
25 of those children who are citizens of this country who were

1 removed by the parents because of their fear?

2 MR. DONOFRIO: I would think -- Again, it's  
3 difficult to get that, but I think your assumption is  
4 correct.

5 I think many of the parents were not here legally,  
6 but the children were born while the parents were here  
7 illegally. Our best estimates would probably say it's about  
8 half and half.

9 Generally, the pattern that we see, if the  
10 children are not born here, is the father comes over first,  
11 establishes himself, seeks and obtains employment, and then  
12 starts sending for the rest of the family members.

13 My guess would be that it would be about half and  
14 half. Of the 200 kids that we lost, maybe half of them were  
15 U.S. born and the other half would have migrated from Mexico  
16 with their parents.

17 SENATOR PENA: One more.

18 Does the system allow your school district to  
19 become involved in Phase II, providing facilities and  
20 teachers?

21 MR. DONOFRIO: Well, in answer to your question,  
22 yes.

23 For several years we have been involved in adult  
24 education; English, a second language class, specifically.  
25 We run anywhere's from two to three classes a year, with

1 upwards of over 100 parents in those classes.

2 Through negotiations with the state Department of  
3 Education and Phoenix Union High School, which is the fiscal  
4 agent for the adult education funds, it would appear that  
5 this year we'll be able to expand from just that ESL  
6 component into civic, citizenship and some basic literacy,  
7 just reading, writing and basic computation.

8 However, we will only begin to touch the surface,  
9 based on the availability of resources and what the demand  
10 is. We have had probably over 200 parents already seek to  
11 get into programs and will fall far short of being able to  
12 accommodate them. Where they will go, I cannot answer that,  
13 sir.

14 DR. WHITE: Any other questions?

15 Mrs. Whitlock.

16 MRS. WHITLOCK: Were you involved in the PR for  
17 these people; in other words, letting the people in your  
18 district know that these programs are available and that  
19 they need to come forward and go through the process?

20 MR. DONOFRIO: Yes, we were, as best we could. We  
21 don't have media specialists, but we did announce some  
22 things in our bulletins that go home with the children to  
23 the home environment.

24 We have some community workers that are here today  
25 who worked with our parents day and night trying to get them

1 through the process.

2 We do fund a migrant program for the farm workers,  
3 and an awful lot of education was disseminated through that  
4 particular program. We have a comprehensive bilingual  
5 program having to do with the parent advisory impact, and an  
6 awful lot of information was passed through there.

7 In rushing to finish, there is one other impact in  
8 education that I didn't really get to; and that is the  
9 influx of students that we are going to have that are going  
10 to need transitional native-language instruction and  
11 English-as-second-language instruction.

12 We're already seeing that just in the eight days  
13 we have been open this year. Our bilingual classes are  
14 sometimes running twice the number of students in those  
15 classes than are nonbilingual classes.

16 And it's very difficult to find resources,  
17 because you're teaching in both languages or using the  
18 dominant language to accomplish transition. And the goal  
19 is, of course, to teach English. But you've got to start  
20 somewhere.

21 DR. WHITE: Mr. Zazueta?

22 MR. ZAZUETA: Yes.

23 As chairman of the Subcommittee on Immigration  
24 Law, I'd like to thank you for your thoughtful and timely  
25 statements.

1 MR. DONOFRIO: I appreciate that.

2 DR. WARREN: I have one other question.

3 There is a metaphor in education which says, in  
4 effect: Great schools only take place where parents know  
5 what schools look like.

6 In other words, schools are driven by parental  
7 perception. Would you agree with that?

8 MR. DONOFRIO: Most certainly.

9 DR. WARREN: So, my question would be as to the  
10 quality of external pressure and organized pressure by  
11 parents in the schools, such as what you speak of.

12 I would suspect parents are recessive, do not  
13 come, raise a lot of questions, systematically, out of fear  
14 and distrust of institutions.

15 MR. DONOFRIO: You know, Dr. Warren, five years  
16 ago I would have agreed with that.

17 But I think through the years, while we certainly  
18 do not have the level that we need to have because of the  
19 fear and the intimidation that, you know, an institution  
20 places on the environment, we're breaking through that.

21 At least, you know, from where I sit and from what  
22 I see, our parent involvement, even among the undocumented  
23 persons, is on the rise.

24 The Immigration Act certainly stepped us  
25 backwards, because now the agency that they most feared all

1 the time they were here illegally is the agency who is  
2 implementing the law.

3 So, while some of them were getting assimilated  
4 into the environment, into the educational community  
5 environment, with the law they took a step back.

6 And I think that's where we lost the 200 students,  
7 in that they were fearful that the school would be connected  
8 somehow in getting them deported. And it took a great PR  
9 program to get around that. And I think, you know, we'll  
10 eventually been able to win that battle.

11 But they do see the school as a safe place and a  
12 place that is there to assist them, not to hurt them. And  
13 that's why we're seeing these hundreds of parents literally  
14 coming out to get into the Phase II process.

15 DR. WARREN: Thank you.

16 DR. WHITE: If there are no further questions, I  
17 wish to thank you, sir, for your testimony.

18 MR. DONOFRIO: You're welcome.

19 MR. WHITE: Our next scheduled witness is  
20 Nancy-Jo Merritt. Is she here?

21 Nancy-Jo Merritt is an attorney and an immigration  
22 specialist, and she wishes to address the Committee on  
23 employer sanctions and work authorization issues.

24 Welcome, Miss Merritt.

25 MS. NANCY-JO MERRITT: Thank you.



1 I'm especially pleased to be here because I  
2 addressed the Committee several years ago at the beginning  
3 of this law, and I'd like to correct some of the statements  
4 I've made, in case anybody ever reads it again.

5 At that time I was unusual among immigration  
6 lawyers because I was in favor of employer sanctions, and I  
7 spoke rather well, I thought, and said that I felt it was  
8 important for employers to bear part or their share of the  
9 burden with respect to the employment of persons who were in  
10 the United States illegally.

11 Prior to that time, I think illegal aliens were  
12 frequently abused; they were discriminated against, and they  
13 were treated very poorly by employers. The only person who  
14 had any part of that burden was the alien himself, and  
15 employers could take advantage of that; and many did, and it  
16 was a serious problem.

17 I thought that this Act would in some sense  
18 correct part of that and put part of the responsibility on  
19 the employer, and I also thought that employers would tend  
20 to be more helpful to their work force and make attempts to  
21 help them become legalized and to do what they could to make  
22 sure that their work force was able to stay here and work  
23 properly.

24 However, I do not believe that that has happened.  
25 And, in fact, some of the things that have really surprised

1 me--though, in retrospect, perhaps I should have known--have  
2 occurred as a result of the employer sanctions provisions of  
3 the Act, which I think is serious and appalling and in some  
4 cases shocking.

5 One of the problems is that employers have to  
6 comply with a law that I.N.S. itself has trouble  
7 administering.

8 I have spoken many, many times about legalization,  
9 and one of the problems of legalization--and I think one of  
10 the main reasons why we had lower numbers applying than  
11 anybody expected--was I.N.S.'s administration of the law.

12 There have been many false statements. Forms  
13 didn't come out until the very last second. Literally,  
14 people did not have forms to comply with employer sanctions  
15 until it was practically upon them.

16 And the rules change. I.N.S. will come out with a  
17 regulation, and then they'll change it or they'll find out  
18 that the regulation is not in conformance with the Act.

19 This type of confusion and disarray at the level  
20 of the agency that has to enforce employer sanctions has  
21 been very difficult for employers to deal with. While the  
22 commercial world kind of kept on going, I.N.S. was going  
23 back and forth and unable to decide.

24 The other day my very own accountant called me to  
25 ask me about employing someone who was not a citizen, and I

1 reminded him about discrimination provisions. We talked  
2 about it a little bit.

3 And I said: Well, now, when she filled out the  
4 I-9s, that should have really answered all your questions  
5 about whether or not you can employ her. He said: The  
6 what?

7 And he had never gotten the form, didn't know what  
8 the I-9 was. He'd heard about employer sanctions. He was  
9 aware that he had to have some concerns, but he'd never  
10 seen the form. It had never been mailed to him, for  
11 whatever reason. He was shocked. And I immediately sent  
12 him everything over in a letter and told him how to do it.

13 But, you know, this is a person who normally  
14 complies with the law and an intelligent, well-educated  
15 man, a good businessman, been around for a while, and he  
16 absolutely did not know what the form was and had never seen  
17 a copy of it.

18 Now, I do know that I.N.S. has made a strong  
19 effort to educate employers. They gave a lot of seminars.  
20 But I think that the overall effort has been lacking and the  
21 many changes that have occurred with respect to the  
22 administration of the law have been very harmful.

23 Now, another aspect, and maybe a little more  
24 subtle, of employer sanctions that I am seeing very  
25 frequently is that:

1           First of all, employers are still somewhat  
2 confused about how to properly comply with the paperwork  
3 aspects of the law, and they frequently do not understand  
4 when they can and cannot hire someone.

5           Employers live in total fear because the anti-  
6 discrimination provisions are so very strong, and the  
7 anti-discrimination provisions themselves are just difficult  
8 to understand.

9           I mean, they have to interface with Title VII.  
10 They apply to so many different aspects, such as if you have  
11 so many employees here, and if you have less there. They're  
12 very confusing, and employers are concerned about them and  
13 they have fear about them.

14           The paperwork violations can be quite expensive,  
15 if you have a lot of employees and you have made errors in  
16 your paperwork violations.

17           What we are seeing happening is that because it is  
18 so expensive to fight a citation, even if you believe it's  
19 been improperly issued, most employers, especially larger  
20 employers, will pay the fine and acquiesce rather than pay  
21 the considerable costs of hiring an attorney and having the  
22 issue properly adjudicated.

23           And so I think what's happening is we frequently  
24 are really not getting definitive standards on what the  
25 merits are of some of the citation violations. That only

1 occurs when there's some kind of adjudication by an  
2 impartial source.

3 So, what is happening now is that the last word at  
4 this point on what is a violation and what is not belongs to  
5 the I.N.S. which is charged with enforcing it.

6 And given the confusion and disarray that led up  
7 to the enforcement procedures beginning, I think that this  
8 is resulting in an enforcement of the Act in ways that's  
9 inappropriate.

10 I don't think that I.N.S. has shouldered its very  
11 responsibility with respect to education, not only with  
12 respect to legalization but with respect to employer  
13 sanctions. And I say that even though I know that it was a  
14 very difficult responsibility for I.N.S. to take upon  
15 itself. But even so, it was not properly handled.

16 It was even more severe in the case of  
17 legalization. But with respect to employer sanctions, where  
18 at least the recipients have the education and are people  
19 who should be able to deal with some of the issues, business  
20 people who are used to dealing with government regulations,  
21 even so, it has not been properly handled.

22 What that means is that we have another law which  
23 has engendered disrespect for the statute. And even worse:  
24 I think many employers, who would not have done so in the  
25 past, are taking a very conservative approach to hiring that

1 will cause a subtle discriminatory affect on nonwhites and  
2 on persons who are not citizens.

3 And I want you to know that two years ago, before  
4 all this started, I argued very strongly in front of many  
5 different groups that this would not happen. And I  
6 apologize to everyone I ever spoke to then, because I do  
7 believe that it is happening, and I think that all  
8 attorneys who deal in this area are seeing the effects of  
9 it.

10 Another aspect of sanctions that I think has been  
11 very difficult is that the agency which has been publicizing  
12 the law is the agency which enforces it.

13 I.N.S. is and has always been a very enforcement-  
14 minded agency, even though some of the laws that it  
15 administers are not enforcement-type laws. It has an  
16 enforcement mentality, and it's publicity with respect to  
17 the law has been in an enforcement mode.

18 Now, I'm sure they've done this in order to get  
19 the maximum prophylactic effect. They want people to abide  
20 by the law and to be concerned about it and to be aware that  
21 it's a serious law with serious repercussions.

22 But what has happened is it's created a real  
23 atmosphere of fear which, combined with a lack of knowledge,  
24 has led to some very inappropriate responses by employers.  
25 And when you add to this the technical difficulties of

1 complying with the law at all, I think that we have been led  
2 to a lot of discrimination.

3 I want to give you a couple of examples where  
4 there are just very subtle things that can lead to difficult  
5 decisions that may be made by employers.

6 One of the benefits of legalization has been that  
7 as so many people have come forward to see if they're  
8 eligible for legalization, we have seen a lot of U.S.  
9 citizens turn up, persons who maybe were born abroad but are  
10 citizens by virtue of the fact that maybe their father or  
11 their grandfather served in the U.S. Army during the wartime  
12 period and became a citizen, or was born in the U.S. and was  
13 a citizen. A lot of Canadians and Mexicans are actually  
14 U.S. citizens.

15 Well, if this person comes to me and shows me all  
16 of his papers and gives me his family tree and I can see  
17 that we have a derivative citizen here, can this person be  
18 employed? And, technically speaking, that person is a  
19 citizen. They were a citizen when they were born.

20 But in order to demonstrate that to an employer,  
21 what can we do? I can give the employer an opinion letter.  
22 But the employer, of course, is not required to care what I  
23 think and, in fact, frequently doesn't care what I think.

24 And so we then must go through a fairly lengthy  
25 process of applying for a certificate of citizenship or for

1 a passport. And although applying for a passport may be  
2 speedy, in some instances it is not. This can drag out for  
3 a long time.

4 In the meantime, the person who is a citizen does  
5 not have employment authorization and will not be hired by  
6 employers who feel they might be subject to sanctions,  
7 unless they, you know, happen to be brave or I beg and plead  
8 for hours on end and they finally give in.

9 There are other issues that arise with respect to  
10 refugees and persons who might be eligible for asylum. And  
11 this leads us into what I think has been the most appalling  
12 aspect of employer sanctions, and that is work  
13 authorization.

14 In order to properly enforce employer sanctions,  
15 there must be some methodology by which employers know that  
16 the people they're hiring have work authorization.

17 Now, a lot of people have the right to stay here.  
18 They may be pursuing appeal. They may be applying for  
19 asylum. They may be applying for citizenship. There may be  
20 a number of avenues available to them that allow them  
21 legally to stay inside the United States. But, they do not  
22 have work authorization.

23 In order to get work authorization, they have to  
24 apply to the Immigration and Naturalization Service, the  
25 very agency that is charged with deporting or excluding or



1 keeping them out and which is charged with enforcement of  
2 employer sanctions. This agency is where you apply for work  
3 authorization.

4 DR. WHITE: Excuse me, the time is expiring.

5 MS. MERRITT: Any questions?

6 DR. WHITE: Well, that's what I'd like to proceed  
7 to. Any questions?

8 SENATOR PENA: Yes.

9 DR. WHITE: Senator Pena?

10 SENATOR PENA: What kind of employers are more  
11 confused than others about the impact of the Act? Surely,  
12 Motorola, banks and those kind of folks are not confused.

13 MS. MERRITT: Well, yes, frequently they are.

14 Now, larger employers either have in-house counsel  
15 or they have labor law counsel or they call an immigration  
16 lawyer, and they have been able to take the time and money  
17 frequently to set up, you know, very sophisticated programs  
18 to handle both employer sanctions and the independent  
19 contractors and all the other aspects of the Act.

20 But there are, even so, large employers who  
21 struggle with it and don't have proper programs and, of  
22 course, smaller employers, you know, who rely upon the  
23 newspaper or word of mouth or a package they get in the  
24 mail.

25 You would find a larger proportion of persons

1 having problems in that area, and I think it cuts across  
2 industries. I don't think that I could point to one  
3 industry having more trouble than any other one. It's  
4 across the board.

5 DR. WARREN: In that you weren't able to complete  
6 your testimony, would you care to make a summary statement  
7 regarding your input?

8 MS. MERRITT: Thank you, I would like to do that.

9 I think really the rest of my testimony has to do  
10 with the very restrictive regulations that I.N.S. has for  
11 allowing people to apply for work authorization.

12 DR. WHITE: Excuse me.

13 Dr. Warren, if you'd like to make a unanimous  
14 consent request that the witness be granted more time, the  
15 Chair will be glad to entertain that.

16 DR. WARREN: Well, I am.

17 DR. WHITE: How much time do you ask for?

18 DR. WARREN: Three minutes.

19 DR. WHITE: Is there objection?

20 MRS. WHITLOCK: No objection.

21 MR. ZAZUETA: No objection.

22 DR. WHITE: I asked if there were objection.

23 Hearing no objection, an additional three minutes  
24 will be allowed.

25 MS. MERRITT: Thank you. I really appreciate

1 that. Let me give you an example, and maybe that's the best  
2 way to use my three minutes.

3 Persons who have applied for legalization but who  
4 have been denied are not given work authorization during the  
5 time that they have to appeal that denial.

6 Now, in just general due-process terms, is that  
7 appropriate? What good is an appeal, if you cannot work and  
8 support your family to stay here while you pursue the  
9 appeal?

10 Legalization and I.N.S. have been kept physically  
11 separate for reasons of confidentiality, as required by the  
12 statute. But the person who made a decision on whether or  
13 not a person can have work authorization during the pendency  
14 of appeal is the regional commissioner of I.N.S.

15 And that is the same man who was present at the  
16 Chandler Heights raid, which was a staged media event to  
17 make employers aware of the problems they have in hiring  
18 illegal persons. It's just inappropriate.

19 Persons who apply for political asylum must ask  
20 for employment authorization. The regulations say if it's  
21 nonfrivolous, it shall be granted. However, if the district  
22 director denies the application for asylum, employment  
23 authorization ends.

24 Then the person, even though they have an appeal,  
25 and can go on in front of an immigration judge and ask for

1 asylum, must first of all be put into the deportation  
2 proceedings, must request it, and then the order to show  
3 cause issued by the department has to be sent over to the  
4 judge. Then and only then can that person reapply for  
5 employment authorization.

6 And this procedure can literally, even with a  
7 lawyer begging, pleading and threatening, can literally take  
8 months.

9 People are not able, cannot pursue appeals. They  
10 may have a life-threatening situation, if they have to go  
11 back to their country, and they are forced between living on  
12 the charity of friends and relatives, if they have any in  
13 this country, or not pursuing valid appeals.

14 Employer sanctions has been used as a hammer by  
15 I.N.S. to deny work authorizations. They have total,  
16 absolute discretion and control over this decision. And it  
17 is this that they are using to keep people who have valid  
18 appeals and valid reasons to stay in the United States from  
19 being able to stay.

20 DR. WHITE: Thank you. The Committee thanks you  
21 for your testimony.

22 Do you have a question?

23 MRS. WHITLOCK: Do you have some specific  
24 recommendations that you have formulated that might address  
25 this, the problems as you see them, to solve these problems?

1 MS. MERRITT: With respect to employer sanctions,  
2 I think nothing will solve that problem but perhaps a really  
3 lengthy education period, with suspension of fines during  
4 that period so that employers can become educated.

5 It's a difficult task, and there are a lot of  
6 employers. It just could not be done in the manner it was  
7 done.

8 With respect to work authorization, I do not  
9 believe that applications for work authorization should be  
10 subject to the whim and the discretion of the Immigration  
11 and Naturalization Service.

12 There surely is, in this government filled with  
13 agencies, some other agency which could process those  
14 applications and make determinations about whether or not  
15 people should have work authorization, when they're allowed  
16 to stay here for some legitimate purpose.

17 And they should be generously granted. In fact,  
18 it should be almost automatic. Otherwise, we have a  
19 different standard of due process for citizens and  
20 noncitizens; and that is clearly unconstitutional.

21 MRS. WHITLOCK: Thank you.

22 DR. WHITE: Mr. Zazueta?

23 MR. ZAZUETA: On the situation with subtle  
24 discrimination or a conservative approach to hiring  
25 nonwhites, what type of solution do you see there?

1 MS. MERRITT: Well, I'll tell you: I don't know  
2 that I see a solution. I'm afraid that the imposition of  
3 sanctions itself brings that type of discrimination.

4 I recognize that the statute made an effort to do  
5 what it could to avoid discrimination, but I don't think  
6 that it works. And I don't think, to tell you the truth,  
7 that it can work in this country.

8 DR. WHITE: Any other questions?

9 If not, we thank you very much.

10 MS. MERRITT: Thank you for hearing me.

11 DR. WHITE: We have three more witnesses scheduled  
12 before our luncheon break, and so we'll proceed.

13 I'd like to invite any of you to partake of the  
14 coffee that we have in the back of the room, and we'll just  
15 proceed and hope that we can catch up on our schedule.

16 Our next witness is Jose Bracamonte. Is he here?  
17 Yes.

18 Mr. Bracamonte is an attorney, also, and a  
19 specialist on immigration.

20 But first we'll declare a two-minute recess, if  
21 anyone wants to get a cup of coffee.

22 (Whereupon, at 11:20 o'clock a.m., a short recess  
23 was taken.)

24 \* \* \*

1 DR. WHITE: Please resume.

2 Mr. Bracamonte, the Committee welcomes you; and  
3 you may proceed.

4 MR. JOSE BRACAMONTE: Thank you for having me.

5 Let me just tell you a little bit about myself, I  
6 come by way of my law profession, through Houston College  
7 and UCLA, where I taught, and I now practice law here in  
8 Phoenix.

9 I'm focusing, and really focusing in a panoramic  
10 way, on legalization, the so-called amnesty. I think it's  
11 important to understand just a little bit of the origin of  
12 amnesty and the concept of immigration law.

13 Amnesty was first brought up by an organization in  
14 the Chicano community, unconditional amnesty. It was during  
15 that time period of amnesty they borrowed from that  
16 possibly and called for a conditional amnesty toward  
17 undocumented persons. Later that notion in the mid 70s was  
18 adopted by various Senators and Congressmen, and at least, in  
19 my opinion, primarily to sugar-coat the bitter pill of  
20 sanctions.

21 Let's start with the principle aim of amnesty.  
22 What is the purpose of legalizing? As stated by Congress it  
23 is to regulate. Okay, it is to regulate and bring forth a  
24 condensed population. Okay, we have a condensed population  
25 that exists in the United States through amnesty. We

1 currently live in this country, that is the future flow the  
2 future will take care of the future flow, but the future  
3 population will take care of amnesty.

4 I think it is fair to say that, unfortunately,  
5 that is not the case and will not be the case. See,  
6 evidently the problem with legalization is that it is much  
7 to limited in scope. The first 5-year requirement since  
8 1982 is much to restrictive, and we know that. And we know  
9 that the population is circular. The flow is circular. Not  
10 so many come in and stay. In fact it's circular for many  
11 reasons and structured that way.

12 Hence, many persons have in fact been in the  
13 United States for many many years but will not qualify  
14 because they happened to have left to visit family, to tend  
15 to their lands, because they were injured and could not get  
16 social services. All kind of reasons. And that reality, that  
17 demographic reality coupled with the facts, eliminated the  
18 vast majority from coverage under the Act.

19 And the question that was raised, and I hope to  
20 come back to it at the end, is: What will happen to that  
21 population? I believe Mr. Feigenbaum raised the question,  
22 what will happen? Even assuming that we accept Congress  
23 limitations on continuous residence, okay, what about those  
24 people that may have been here 35 years; how have they  
25 benefited under the legalization program?



1 Well, reality has been that we must understand  
2 that the bill was passed, and passed in an election rush  
3 literally on the last weeks. It left to be interpreted by  
4 Immigration. I.N.S. has in fact created a law, as it is  
5 mandated to do. Congress drew the outline, I.N.S. has  
6 colored in the laws and, in coloring the regulations and  
7 implementing and in rendering interpretations, has been  
8 excessively, extremely, severely restrictive to the point  
9 of being ridiculous, to the point of being ridiculous in  
10 many of the interpretations.

11 And I will give you a few examples that I hope  
12 will help you.

13 You must understand that those who had looked at  
14 amnesty and the legalization program using it as a  
15 historical example understood that legalization is very much  
16 like arms control.

17 The devil is in detail and indeed the devil has  
18 run havoc with those details. For example: I.N.S. from the  
19 start up to the present has given interpretations to areas  
20 of law. For example: The question known to the  
21 government. Ironically, you must prove that you have been  
22 here, you have to prove you have been here in legal status.  
23 There was a requirement that came in that said lawfully you  
24 had to show that it was known to the government, that you  
25 were lawfully here prior to January 1, 1982.

1           Okay, the Immigration and Naturalization Service  
2 immediately promulgated a regulation and said "No, that  
3 really doesn't mean known to the government, it meant to  
4 I.N.S. and not just known to the I.N.S. but actually  
5 registered in the file with I.N.S. prior to January 1, 1982.

6           I know of a case where an individual came in from  
7 a foreign country lawfully under a student visa, tried to  
8 attend college in August, was denied submission and  
9 therefore it was not valid. Then he was called out of state  
10 for personal reasons, he could not qualify for the reason  
11 that they did not register him until August of 1982, passed  
12 the deadline. Immigration said we didn't know about it.  
13 The person was here unlawfully the response is: But, wait a  
14 minute, the school for this purpose is serving as an agent  
15 of I.N.S. Aren't they the government agency that you  
16 deal with? The answer is, yes. I.N.S. said we don't care.  
17 It must be recorded in the file.

18           The first case in a series of cases after that  
19 said I.N.S. you are wrong. Congress could have said no to  
20 I.N.S., but they didn't. It wasn't known to the government  
21 and the government is a much broader entity than the  
22 immigration. It includes social agencies it includes schools  
23 other agencies as you must suspect, but that is an example  
24 that caused confusion, money and litigation.

25           The other example locally, of local support was

1 cotton workers. I.N.S. took the very particular reason that  
2 cotton workers were not seasonal workers.

3 The final example of I.N.S.'s restrictive  
4 interpretations, regulation and confusion are student loans.  
5 Amnesty people that have been qualified under the amnesty  
6 program are very concerned with getting adult education so  
7 they can meet the civic requirements as posed by the law.

8 The I.N.S. came out with an interpretation, an  
9 interpretation that said any student loan that went beyond  
10 direct educational needs would be public charge.

11 Now, that is in direct contradiction to the very  
12 respective issue itself. IRCA said that Title 4 of the  
13 higher Education Act of 1964 could not be considered as a  
14 public charge. I.N.S. had to be added litigation had to be  
15 threatened finally they came out with a change in policy.  
16 By the way, you are right, the money given through  
17 educational loans will not be considered a public charge.

18 It was, I believe, Vice Mayor-City of Phoenix,  
19 Mary Rose Wilcox, who brought out the point that they  
20 estimated 150,000 people would be eligible under the law as  
21 written by Congress. 50,000 of those eligible actually have  
22 applied. I would say that part of that difference with  
23 people not applying has been I.N.S. has restrictive readings  
24 and interpretations of the law and the statutes, its  
25 restriction regulation and failure to properly educate the

1 community as to what those regulations were.

2 Speaking as an attorney, it has been quite a task  
3 to keep up with all the changes, quite a task. I can  
4 imagine someone in the community would have tremendous  
5 difficulties. Leaving aside that there are two practical  
6 rules in the immigration rules that have been the biggest  
7 barriers, and I think unnecessarily so to the legalization  
8 of individuals. One is the deportation group. If you have  
9 been deported after January 1, 1982 formally deported you  
10 can not qualify for legalization.

11 I know of people, I have a client that has been  
12 here for 20' years. Excellent worker, happened to have been  
13 deported in 1983, which she was not under the general  
14 immigration law, she was not represented by an attorney, she  
15 was deported. She cannot qualify. She is a very deserving  
16 person. That's the law. That's true, that may be the law,  
17 but with general immigration there is a waiver. You can  
18 get those deportations waived under IRCA. They have taken  
19 the position that those cannot be waived. It is an absolute  
20 final barrier to qualification.

21 It's true that IRCA denies certain waivers, but  
22 there is also nothing in the law that denies general  
23 immigration in that area.

24 DR. WHITE: The time of the witness has expired.

25 MR. BRACAMONTE: The last point would be the three

1       misdemeanors or one felony charge.

2               DR. WHITE: Any question of the witness? I hear  
3       none.

4               We thank you for your testimony.

5               All right, the next witness is Rafaela Valenzuela.  
6       Rafaela Valenzuela is with the Volunteer Lawyers Program,  
7       and she will speak on the subject of legalization.

8               Welcome, and you may proceed.

9               MS. RAFAELA VALENZUELA: Good morning. I'm  
10       Rafaela Valenzuela, and I'm with the Volunteer Lawyers  
11       Program. I coordinated the legalization project which  
12       provides legal representation for the undocumented.

13               First I'd like to share with you and I'd like for  
14       you to look at the law and time frame that I.N.S. had to  
15       implement the law.

16               The law went into effect, the Immigration Reform  
17       and Control Act of 1986. In May of 1987 the QDEs, which  
18       are Qualified Designated Entities, were created to help the  
19       individuals prepare their applications.

20               Also, please keep in mind that the program ends in  
21       November of 1988. The regulation did not come out until  
22       mid-1987.

23               So now you have a situation where I.N.S. has an  
24       enormous task in educating the QDEs and the community in  
25       general. If the regulations came out in 1987, how can

1 I.N.S. train the undocumented? How can they train? Do you  
2 think you can handle it?

3 Because of the time frame involved, these are the  
4 issues that I will touch on.

5 Please understand that there are many others, but  
6 we are only allowed five minutes.

7 One issue that I would like to touch on is the  
8 issue provided by the Immigration and Naturalization  
9 Service, the result of the massive confusion among case  
10 applicants and legal personnel as well. In return, aliens  
11 were provided with wrong information.

12 In another case frivolous claims were filed due to  
13 the fact that they were not properly educated by I.N.S.  
14 There was no monitoring by the I.N.S. for the QDEs who  
15 called themselves immigration experts, which in turn led to  
16 frustration and lack of trust by the aliens.

17 One of the other issues that I would like to touch  
18 on is consumer fraud. Why did consumer fraud take place?  
19 IRCA does not allow I.N.S. to report consumer fraud. I.N.S.  
20 states that they are doing everything possible to assist the  
21 undocumented. However, there appears to be a problem  
22 because of the information.

23 They will not provide the QDEs and other reputable  
24 practitioners so that the agencies can make aliens aware of  
25 the suspected wrongdoings.

1           Also, because of the late start, no one gave  
2 thought to businesses that created most of the notary  
3 publics to aid the undocumented aliens.

4           Those businesses were not properly monitored by  
5 I.N.S. so, thus, exorbitant fees were charged and, as I  
6 mentioned before, claims were filed where individuals did  
7 not qualify. But due to the money that the notaries could  
8 make, they followed through with the applications, anyway.

9           The other issue that I would like to share with  
10 you is separation of families. I have encountered various  
11 families that due to the fear that some members of the  
12 family would not qualify and that there would be an  
13 investigation and these family members would be deported,  
14 they in turn did not file or, thus, returned to Mexico and  
15 did not file at all.

16           Another incident that I have seen very often in  
17 the office is individuals that were fired prior to when the  
18 law went into effect. Unfortunately, they did not qualify  
19 for IRCA but were fired by the employer, due to the fact  
20 that the employer was not properly -- that those  
21 grandfathered employers did not have to provide  
22 documentation, but in turn they had to file, as I mentioned  
23 earlier.

24           Our office handles a lot of appeals, as I  
25 mentioned earlier. We are the only pro bono agency in the

1 City of Phoenix. The majority of aliens have been denied  
2 temporary residence.

3 The other thing I'd like you to keep in mind is  
4 when an individual has status of residence, if they commit  
5 any crime, they will be denied permanent residence.

6 Jose Bracamonte touched a bit on the issue of the  
7 three misdemeanor, one felony charges. When you consider  
8 it, anything is a felony. Anything is a misdemeanor,  
9 especially if you have been in jail for five days. And,  
10 unfortunately, that turns toward the undocumented, the poor,  
11 since they do not have the money to be bailed out.

12 Another issue that I've seen a lot is that case  
13 workers were not properly educated on the three-misdemeanor,  
14 one-felony issue. They informed many applicants that they  
15 were eligible, that were not eligible because of a poor  
16 record. There again they did not go into detail. If they  
17 had an arrest, that would also contribute to their  
18 application.

19 Deportation is another serious issue. Many case  
20 workers were not aware that if an individual had been  
21 deported, which interrupts their continuous residence, that  
22 they would not be eligible.

23 My concern is that they do not know what relief is  
24 for them, and I think that needs to be changed.

25 Are there any questions?



1 DR. WHITE: Do any of the Members of the Committee  
2 have a question?

3 Senator Pena.

4 SENATOR PENA: The I.N.S. somehow encourages  
5 notaries and other groups to participate in the  
6 applications.

7 My understanding is that if an individual was a  
8 notary public they could apply to be a QDE without having  
9 any sort of immigration knowledge or background.

10 The I.N.S. has screened these people? I heard  
11 over the radio several people advertising that they were  
12 helping I.N.S., that they were qualified. Those same people  
13 I've noticed have now been charged as people who have  
14 defrauded applicants.

15 So, my question is: By not screening or by not  
16 investigating these organizations that were open to the  
17 public, everybody knew that they were there.

18 Was it an encouragement type of process by the  
19 I.N.S. to say you go ahead and charge people whatever,  
20 thousands of dollars?

21 MS. VALENZUELA: I don't think it was a  
22 discouragement.

23 That I am aware of, these individuals did not  
24 have, like I mentioned earlier, any kind of experience.  
25 Most of the QDEs set up were not proper organizations, and

1 I think that was the basic requirement for a QDE.

2 And as far as notaries, as long as you were a  
3 notary in the State of Arizona, you could apply to be a QDE.  
4 I know that there were a lot of organizational groups that  
5 were doing that kind of work. But I'm also aware of several  
6 who actually defrauded people thousands of dollars to fill  
7 out a simple packet. I just had not heard that I.N.S. was  
8 involved in investigating and stopping them from doing it.  
9 Now they are accusing, but it's after the fact.

10 SENATOR PENA: That's correct.

11 DR. WHITE: Any other questions?

12 If not, the Committee thanks you very much for  
13 your testimony.

14 We have one more scheduled witness before the  
15 lunch break, and that is Mr. Enrique Medina Ochoa.

16 MR. MONTEZ: He's not here. I talked to him  
17 yesterday, Mr. Chairman, and I told him he was scheduled  
18 for 11:30. And I don't know.

19 DR. WHITE: I have an additional witness not  
20 scheduled that we may hear at this time.

21 Ms. Elizondo, would you care to appear now?

22 Ms. Elizondo is with an organization known as  
23 Portable Practical Education Project.

24 Did I get it right, PPEP? You may proceed. And  
25 we thank you for appearing.

1 MS. GLORIA ELIZONDO: My apologies to begin with  
2 my English is sixth grade language in English. I want to be  
3 excused because -- I want to ask for excuse before I start  
4 because you may not be able to understand my English. I'm  
5 going to try very hard.

6 The reason I'm here is that I was told this  
7 morning at 8:00 o'clock to be here by my supervisor, and  
8 that's why I'm here. But I have been listening to every  
9 witness today, and I agree with all of what they have said.

10 And just a few minutes ago Rafaela touched on a  
11 very good subject. I'm one of those workers. I was offered  
12 this job and I took it because I was bilingual and I knew  
13 of the needs of a bilingual person in this particular  
14 office. And I took the job with no preparation, not knowing  
15 what to do, not knowing how to fill out any of these forms.

16 And I'm going to just give you a little bit of my  
17 frustration as a worker.

18 I work at a QDE organization in Tolleson called  
19 PPEP. It is a farm worker's organization that applied for a  
20 QDE in Tolleson trying to help all of the farm workers to be  
21 legalized.

22 And yes, we lacked a lot of information. Yes, I  
23 was never trained for it. Yes, for frustration after  
24 frustration. I'm still having frustration. And I feel like  
25 I.N.S. should have done a lot of publicity before they even

1        tried that program. I thought that maybe we could have  
2        helped a lot more people.

3                If we had we just started to educate the people  
4        first, then trying to educate the employers. I was a farm  
5        worker myself.

6                Yesterday I met with a farm owner and he had never  
7        heard of the I-9 Form or the manual or a booklet or a I-9  
8        Form and this is running all through the community in the  
9        west side. Leaving Rainbow Valley and all this farm workers  
10       farm laborers, farm dairyman and all of these people are not  
11       aware of the I-9 Form. They have not received or heard  
12       about it.

13               Now, since I have more time I have been trying to  
14       locate all these farmers that I have received letters from  
15       their workers to be able to apply for legalization. And I'm  
16       now involved with it, I'm now sending them. We do have  
17       them in the office. Other parts of the program has them.  
18       And so I'm doing that now, and I'm trying to educate the  
19       farmers especially of this.

20               And yes, they required a lot of people, for being  
21       eligible because of their lack of knowledge for the I.N.S.  
22       form.

23               And that's all I can tell you. I'm still  
24       frustrated because I know for a fact -- I was a cashier for  
25       14 years in a grocery store. And I know a lot of people

1 that are eligible that they have let's say for example: In  
2 the Mexican community we all have big families. Myself I  
3 have ten kids. You have all these families that two or  
4 three of them are American citizens but yet the rest of the  
5 family lacks because they are not eligible.

6 I had a question this morning, a letter on my  
7 desk, that said, " Please let me know if I can bring my wife  
8 and my kids back." I don't have the answer.

9 The other question is AHCCCS eligibility workers  
10 sending the people back because they applied. And like the  
11 gentlemen from the Health Department said, it is true, there  
12 is nothing in writing that I.N.S. says, yes, if any apply  
13 and they are eligible they will not be denied the second  
14 phase of their legalization application.

15 There is nothing clear to let you know how to  
16 work, how to help these people, how to do it.

17 And as a worker, I'm frustrated. And that's all I  
18 can tell you. If this helps you in any way, and if you have  
19 any questions, please.

20 MR. ZAZUETA: Mr. Chairman, perhaps the witness,  
21 Ms. Elizondo, will feel a little more comfortable saying a  
22 few words in Spanish, if I have your permission.

23 MS. ELIZONDO: La frustracion de nosotros en la  
24 officina, como dije, es grande. La informacion que nos  
25 dieron veno muy tarde.

1           The other thing, in English: PPEP is the only  
2 organization that sends us workers out once a month to the  
3 State of Sonora. We go two days a month to Hermosio,  
4 Sonora, to fill out these applications to the people that  
5 work there. They come with check stubs with letters with  
6 receipts. So we fill them out the I-700 together with the  
7 I-735 with organizational program. And we do this once a  
8 month because of lack of funds.

9           Like somebody said in the beginning, we are not  
10 able to go for these two days, and we scheduled our visits  
11 until November 5th and 6th.

12           In Arizona there is a lot of people who is  
13 illegal, they don't have the funds, they are lost, they  
14 lose the opportunity for legalization.

15           Gracias.

16           MRS. WHITLOCK: Before the witness leaves, I'd  
17 like to apologize to the witness that some of us are not  
18 bilingual.

19           MS. ELIZONDO: I was born in Mexico. I was a  
20 wetback from the age of 16. And I had an opportunity of being  
21 a farm worker, and that is my only English. But I do have  
22 ten kids, and I'm very proud of them. And I have a freshman  
23 and a junior high.

24           MRS. WHITLOCK: I'd like to compliment the witness  
25 on her speaking ability. I understood it very well. And I

1 didn't understand it when you spoke it in your language, but  
2 you did a beautiful job in my language. Also, I have 21  
3 grandchildren.

4 DR. WHITE: This is a point of personal  
5 privilege, and as Chairman, I wish you would not apologize  
6 for the other people.

7 This meeting is held under the auspices of the  
8 United States Government and not on the Republic of Mexico.

9 No one is apologizing, and you may proceed in  
10 English.

11 MR. ZAZUETA: And sir, I do not agree with you.

12 DR. WHITE: This afternoon we do have a  
13 translator.

14 MR. MONTEZ: I couldn't get him here this morning.

15 DR. WHITE: That is the point, any more use of the  
16 Spanish language, those who wish to use it, those should be  
17 prepared to have it translated into the language of this  
18 country.

19 MR. ZAZUETA: Would you explain that? What is the  
20 language of this country?

21 DR. WHITE: Well, I have always been under the  
22 impression that English was the language of this country.

23 MR. ZAZUETA: Would you get a consensus on that?

24 MR. MONTEZ: Richard, hey, come on now. So we can  
25 conclude before the lunch hour.

1 DR. WHITE: Mr. Ochoa is the Chairman-Board of  
2 Directors, SER-Jobs for Progress. I'm informed that SER  
3 serves employment for redevelopment?

4 MR. ENRIQUE OCHOA: Yes. I thank you, sir. I am  
5 the Chairman for SER. SER Jobs for Progress is a training  
6 program. It is a development community based organization  
7 in the State of Arizona.

8 DR. WHITE: And you are very welcomed, sir. And  
9 you may proceed.

10 MR. OCHOA: My name is Enrique Ochoa and I am, as  
11 I stated before, the Chairman for SER Jobs for Progress. I  
12 also practice law here in Phoenix, and we are in the law  
13 firm that is the legal counsel to the Mexican Consulate.  
14 And I did come in on the tail end of this particular  
15 conversation.

16 I do wish to make one comment, and that is that I  
17 understand from a legal perspective that it hasn't really  
18 been stated or determined by the courts that English is to  
19 be officialized as the English language of this country.

20 I understand that it was started to try to  
21 officialize the language, but at this time that is not the  
22 case.

23 There are treaties that have indicated that the  
24 language and cultures that were here prior to a lot of the  
25 new laws that came in and the efforts to take over the land,



1 those treaties indicated that the language and culture would  
2 be respected. And I would ask that of Mr. White and  
3 everybody that is here.

4 My comments this morning I wish to make in regards  
5 to the training and educational programs and the monies and  
6 resources that have been allocated through IRCA for this  
7 purpose.

8 At SER Jobs for Progress we have made various  
9 attempts to obtain monies to provide educational and  
10 training services for those people that are trying to  
11 legalize their status through the IRCA program.

12 It is our position at this point that the monies  
13 that have been provided and the designation of resources  
14 provided for this purpose is insufficient. We feel that the  
15 monies that have been allocated at the nation-wide level  
16 have been indicated to be in the millions of dollars and  
17 perhaps in the billions of dollars. But for some reason or  
18 another they are not coming down.

19 It seems what is happened with these educational  
20 and training monies to provide citizens with English courses  
21 for these people, have been insufficient and they have been  
22 provided very much as a public relations and information  
23 monies that came out earlier, and that is to say, not  
24 enough, and at the last minute.

25 We have been trying, as a community-based

1 organization, to supplement the efforts that are being  
2 initiated by the educational institution to address this  
3 particular need.

4 But we feel, that at this time, at least, in the  
5 State of Arizona, by what we can tell in the Southwest, that  
6 these monies and these resources will not be enough.

7 To that, as the Chairman of the SER Jobs for  
8 Progress, I wish to state that it makes us very suspicious  
9 of the intent and the real initiative behind the law.

10 We have come to the understanding that those  
11 people that will not be provided the educational services to  
12 learn English, to learn those things that are necessary to  
13 be good citizens, that those people will in turn not qualify  
14 for permanent residence.

15 And so, therefore, it makes us suspicious that  
16 perhaps the intent of the law might have been or might be to  
17 have a mass deportation of those people that will not  
18 qualify.

19 Again, we encourage this Commission and anybody  
20 else that can help in terms of encouraging the Department of  
21 Immigration, U.S. Justice Department, and the Department of  
22 Immigration and Naturalization Service to address these  
23 needs more particularly.

24 And appropriate resources is what is needed, in  
25 order for us to be able to provide educational services for

1 those people that are trying to live under the statutes and,  
2 consequently, be good citizens.

3 Thank you very much.

4 DR. WHITE: Any questions?

5 SENATOR PENA: The funding, then, that is so  
6 necessary to provide education and that is necessary for  
7 these people to qualify for permanent residence, in your  
8 opinion, should come from the federal government? It's  
9 their programs?

10 MR. OCHOA: I believe that it should, because the  
11 law is a federal mandated law. It's a nation-wide law that  
12 came down.

13 And the reason that I say that is, just to give  
14 you an example, that I say they are insufficient: At this  
15 point there is a \$500 cap for educational services to those  
16 people.

17 And a regular elementary secondary school may be  
18 able to provide appropriate educational services to bring  
19 these people up to the English-speaking level or the  
20 citizenship, the learning that is necessary.

21 But we do know that the educational institutions  
22 will not be able, that there are not sufficient educational  
23 institutions to provide these kinds of services at this  
24 time.

25 As community-based organizational entities that

1 are trying to supplement these efforts, the \$500 is really  
2 not sufficient to provide the educational services that are  
3 needed.

4 DR. WHITE: Any other questions?

5 If not, sir, we thank you for your testimony.

6 MR. OCHOA: Thank you.

7 DR. WHITE: The Committee will stand in recess  
8 until 1:00 p.m.

9  
10 (Whereupon, the foregoing proceedings were  
11 recessed, to reconvene at 1:00 o'clock p.m.)

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