

JOINT MEETING OF THE ARIZONA AND CALIFORNIA COMMITTEES
TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS

SATURDAY, APRIL 17, 1993
SAN DIEGO, CALIFORNIA

REPORTED BY RENEE K. PAPIERNIAK, CSR NO. 7056

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Meet.
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1 APPEARANCES:

2 FOR THE PANEL:

3 Manuel Pena, Chairman
 4 Michael Carney, Chairman
 5 Isabel Garcia De Romo
 6 Angela B. Julien
 7 Ramon M. Paz
 8 Richard Zuzueta
 9 Arnoldo Beltran
 10 Ted Cooper
 11 Edward J. Erlar
 12 Andrea W. Patterson
 13 Herman Sillas

14 STAFF MEMBERS:

15 Philip Montez, Regional Director
 16 John F. Dulles
 17 Thomas Pilla
 18 Arthur Palacios
 19 Grace Hernandez

20 INTERPRETER:

21 Annette Ancira

1 A caution that this meeting is not designed to
 2 address immigration policy or economic impacts. The focus
 3 is on issues directly relating to the administration of
 4 justice.

5 Among those invited to address the Joint
 6 Advisory Committee forum are governmental officials,
 7 community leaders, legal and advocacy organizations, and
 8 representatives of the immigration and naturalization
 9 service, the Border Patrol, U.S Customs and local law
 10 enforcement agencies and representatives of Mexican
 11 enforcement entities have also been invited.

12 Based upon the information collected at this
 13 meeting, along with the transcript of a similar forum
 14 convened by the commission's Texas and New Mexico Advisory
 15 Committees in El Paso, Texas in June 1992, a summary report
 16 will be prepared for the United States Commission on Civil
 17 Rights.

18 I am Manuel Pena, Chairman of the Arizona
 19 Advisory Committee. I am also pleased to introduce Michael
 20 Carney, Chairperson of the California Advisory Committee,
 21 who will be co-chairing these proceedings. The Advisory
 22 Committees receive information and make recommendations to
 23 the commission in areas which the committee or any of its
 24 subcommittees are authorized to study.

25 Other members of the committees in attendance
 26 during the meeting will be: From Arizona, Isabel Garcia
 27 De Romo, Angela B. Julien, Ramon M. Paz, and Richard
 28 Zuzueta; and from California, Arnoldo Beltran, Ted Cooper,

1 SAN DIEGO, CALIFORNIA; SATURDAY, APRIL 17, 1993; 8:45 A.M.

2

3 MR. PENA: We want to get started with the
 4 second phase of this hearing.

5 This Joint Meeting of the Arizona and
 6 California Committees to the United States Commission on
 7 Civil Rights will now come to order.

8 The purpose of the meeting is to obtain
 9 information and views relating to civil rights issues
 10 impacting communities along the United States/Mexico border.

11 Participants have been requested to address the
 12 following issues:

13 Perceptions on the status of relationships
 14 between federal immigration enforcement agencies and local
 15 elected officials, minority group populations, and immigrant
 16 communities.

17 And views and information on the conduct of
 18 federal immigration and U.S. Customs enforcement agencies
 19 relating to the use of force, language and cultural
 20 sensitivity, and the protection of civil rights.

21 Information on the accessibility, adequacy and
 22 effectiveness of existing INS, Border Patrol and U.S.
 23 Customs complaint procedures for receiving, investigating
 24 and resolving allegations of misconduct.

25 And information on border violence generally,
 26 as it relates to civil rights and hate crimes specifically
 27 affecting immigrant communities in the United States border
 28 region.

1 Edward J. Erlar, Andrea W. Patterson, and Herman Sillas.

2 Also with us today are staff members: Regional
 3 Director, Philip Montez, John F. Dulles, Thomas Pilla,
 4 Arthur Palacios, and Grace Hernandez from the commission's
 5 western regional office in Los Angeles. We are pleased to
 6 welcome Annette Ancira from San Diego who will be serving as
 7 our official interpreter for these proceedings. Anyone
 8 needing her assistance should advise the chair prior to
 9 making a statement for the record.

10 This factfinding meeting is being held pursuant
 11 to federal rules applicable to state advisory committees and
 12 regulations promulgated by the United States Commission on
 13 Civil Rights. All inquiries regarding these provisions
 14 should be directed to the chairs or to commission staff.

15 The Commission on Civil Rights is an
 16 independent agency of the United States government
 17 established by congress in 1957 and directed to:

18 Investigate complaints alleging that citizens
 19 are being deprived of their right to vote by reason of their
 20 race, color, religion, sex, age, handicap, or national
 21 origin, or by reason of fraudulent practices.

22 Also to study and collect information
 23 concerning legal developments constituting discrimination or
 24 denial of equal protection of the laws under the
 25 constitution because of race, color, religion, sex, age,
 26 handicap, or national origin, or in the administration of
 27 justice.

28 And appraise federal laws and policies with

1 respect to discrimination or denial of equal protection of
2 the laws.

3 And serve as a national clearinghouse for
4 information about discrimination.

5 And submit reports, findings, and
6 recommendations to the president and to the congress.

7 I would like to emphasize that this is a
8 factfinding meeting and not an adversary proceeding.
9 Individuals have been invited to come and share with the
10 committee information relevant to the subject of today's
11 inquiry. Each person who will participate has voluntarily
12 agreed to meet with this committee.

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

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

25 Every effort has been made to invite persons
26 who are knowledgeable in the area to be dealt with here
27 today. In addition, we have allocated time between 12 noon
28 and 1:30 p.m. today, to hear from anyone who wishes to share

1 Commission. I am pleased to testify today on behalf of the
2 commission, because the subjects you are examining in this
3 factfinding meeting are closely allied to our commission's
4 goals and interests. We welcome you to our city and we
5 appreciate your presence here.

6 Since its creation in 1991, the City of San
7 Diego's Human Relations Commission has worked to reduce
8 bigotry and prejudice in San Diego, and to ensure that all
9 residents of the city receive fair and equal treatment,
10 regardless of race, religion, ancestry, age, gender, sexual
11 orientation, or disability.

12 While there are many barriers to achieving
13 these goals, the role of law enforcement is crucial. It has
14 been demonstrated time and time again, in San Diego and in
15 other communities, that when the public perceives that law
16 enforcement agencies and actions are abusive or unfair, the
17 community's sense of justice and equality is deeply
18 diminished.

19 Our commission authored and is responsible for
20 implementing the City of San Diego's recently enacted Hate
21 Crimes Reporting and Tracking Ordinance, and we work closely
22 with community groups and local law enforcement agencies to
23 reduce hate violence, and to improve our community's
24 response to hate violence.

25 We know that governmental as well as private
26 actions can contribute, intentionally or inadvertently, to a
27 climate in which hate violence can flourish. Our community
28 has witnessed troubling incidences of hate violence directed

1 information with the committee about the specific issues
2 under consideration. At that time each person or
3 organization will be afforded a brief opportunity to address
4 the committee and may submit additional information in
5 writing. Those wishing to participate in the open session
6 must contact the commission staff as soon as possible in
7 order to be briefed on procedural matters.

8 In addition, the record of this meeting will
9 remain open for a period of ten days following its
10 conclusion. The committee welcomes additional written
11 statements and exhibits for inclusion in the record. These
12 should be submitted to the western regional office, United
13 States Commission on Civil Rights, 3660 Wilshire Boulevard,
14 Suite 810, Los Angeles, California, 90010.

15 We will now proceed. The first panel is a
16 committee panel composed of Mr. Norman Hahn -- if you would
17 come up to this table on the side -- City of San Diego,
18 Human Relations Commission; Bobbie Morris, San Diego County
19 Human Relations Committee; Bill Radatz, Centro de Asuntos
20 Migratorios; Paul Aceves, Raza Rights Coalition.

21 If the panel would like, I can call you in the
22 same order we have you on the agenda or you may select --

23 MS. MORRIS: That's fine.

24 MR. PENA: That is fine. Okay. Mr. Hahn.

25 MR. HAHN: Honorable Members of the Arizona and
26 California Advisory Committees:

27 My name is Norman L. Hahn, and I am the
28 Chairperson of the City of San Diego's Human Relations

1 toward undocumented workers because of their status. While
2 these incidences are rooted in a complex web of social and
3 economic factors, we know that government entities can
4 affect the public's understanding of human rights of
5 undocumented persons by the example they set by either
6 acknowledging and honoring those human rights in their
7 policies and practices, or by ignoring or trivializing
8 abuses of those rights when they occur at the hands of
9 government officials.

10 Our local newspaper, the San Diego
11 Union-Tribune, recently highlighted these concerns in its
12 editorial entitled "Reward for Misconduct? INS Cases Form a
13 Disturbing Pattern." I have attached a copy of this
14 editorial to my testimony.

15 Because San Diego is a border city, our
16 residents are particularly affected by Border Patrol
17 practices that can and do harm the quality of human
18 relations in our city. For example, many legal residents
19 and U.S. citizens who are Latino have complained that they
20 are frequently stopped and questioned, and sometimes
21 harassed -- on the trolley, on the street, in front of their
22 homes -- by Border Patrol agents demanding proof of
23 citizenship or a green card. It is the experience of many
24 residents that people are treated differently based on the
25 color of their skin. And it appears that these incidences
26 are the tip of the iceberg.

27 We are aware of far more serious abuses, and
28 other witnesses will speak about them, which have led many

1 local residents to believe that once they are in Border
 2 Patrol custody, their constitutional rights cease to exist.
 3 In the climate of accelerating immigrant
 4 bashing and heightened xenophobia, it is increasingly
 5 important that there be genuine accountability for an agency
 6 which is known to be over-zealous in its efforts to fulfill
 7 its statutory charge. A two-tier system of law enforcement,
 8 based on skin color, undermines our community's relationship
 9 with the Border Patrol, and the quality of human relations
 10 in our community as a whole.

11 For these reasons, therefore, we appreciate
 12 having this opportunity to speak about opportunities to
 13 bring about an improved relationship between federal
 14 immigration enforcement agencies and the San Diego
 15 community. There are several avenues for improving this
 16 relationship, including improved training on topics such as
 17 cultural diversity, recognizing and combating
 18 discrimination, civil rights, and effective ways of -- to
 19 minimize the use of force and deescalate potentially violate
 20 situations.

21 I would like to use my brief time today,
 22 however, to address the critical need for an effective,
 23 independent mechanism of the investigation of complaints of
 24 abuses by federal immigration enforcement agents.

25 San Diego area residents have strongly
 26 expressed their approval, in city and county-wide elections
 27 over the past several years, for civilian review mechanisms
 28 for complaints of law enforcement abuse. For those law

1 MR. HAHN: Yes, it is.
 2 MR. PENA: And its members are appointed by the city?
 3 MR. HAHN: The members of the commission are
 4 appointed by the -- each council person has the ability to
 5 appoint one and the mayor has the ability to appoint seven,
 6 so we have a total of 15 commissioners. And the process is
 7 that the recommendations appointed by council persons goes
 8 to the -- to the mayor, then she in turn puts them
 9 altogether, sends them for full approval by the city
 10 counsel. So the process is recommendation, mayor, then the
 11 city counsel approval.

12 MR. PENA: Herman Sillas.

13 MR. SILLAS: What is the ethnic breakdown of the
 14 commission at the present time?

15 MR. HAHN: Well, Anglos, African Americans, Asians,
 16 Hispanics.

17 MR. SILLAS: How many Hispanics do you have on the
 18 commission?

19 MR. HAHN: One. And I think a second. Never
 20 inquired as to the details of the second.

21 MR. SILLAS: Are any of the persons that are on the
 22 commissions persons that are holders of green cards?

23 MR. HAHN: No.

24 MR. SILLAS: How big a staff does the commission
 25 have?

26 MR. HAHN: We have a director, assistant director,
 27 and a office --

28 MR. SILLAS: Are any of those persons Hispanic?

1 enforcement agencies under local control such mechanisms
 2 have been accepted as a -- vital to community trust.

3 An independent, civilian review mechanism is
 4 even more important with respect to law enforcement
 5 agencies, such as the Border Patrol, that have a strong
 6 daily presence in our community but are not locally
 7 controlled. It should come as no surprise that local
 8 residents perceive that they have no viable mechanism for
 9 ensuring that Border Patrol agents are accountable to the
 10 public, because in fact, they have none.

11 Civilian oversight would help to restore the
 12 public confidence and trust in immigration law enforcement
 13 agencies that is so deeply eroded today. Independent
 14 civilian oversight, by a body that represents the full
 15 diversity of our community and has adequate authority to
 16 carry out meaningful investigations and report its findings
 17 to the public, is critical to our community's partnership
 18 with these agencies, because such a partnership can be
 19 maintained only where there is trust and accountability.

20 Our commission stands prepared to assist in
 21 whatever way we can to design and implement an effective
 22 oversight mechanism for federal immigration enforcement
 23 agencies. We are confident that it would be of enormous
 24 benefit to human relations in San Diego. Indeed, the need
 25 for it is compelling.

26 Thank you.

27 MR. PENA: Mr. Hahn, is the Human Relations Committee
 28 an agency of the city?

1 MR. HAHN: Yes.

2 MR. SILLAS: How many?

3 MR. HAHN: One.

4 MR. SILLAS: Do you know whether there is any
 5 requirement that a person serving on the commission must be
 6 a citizen of the United States?

7 MR. HAHN: I believe so, yes.

8 MR. SILLAS: Do you -- in light of where you sit as a
 9 city and its relationship to the border, do you view that
 10 that restriction might prevent the commission from having
 11 the input of persons who are having to deal with the Border
 12 Patrol in terms of their cards, et cetera?

13 MR. HAHN: No, we indeed -- as I stated, we had
 14 complaints.

15 MR. SILLAS: Thank you.

16 MR. PENA: Ms. Garcia.

17 MS. DE ROMO: Mr. Hahn, many of us across the country
 18 know that there is a strong anti-immigrant feeling in this
 19 particular county and this particular area.

20 What does your commission -- what have your
 21 efforts been in regards to these groups? We know -- we
 22 heard from some yesterday, some of the anti-immigrant groups
 23 and such, what has your commission done to try to educate,
 24 to try to sort of quell this hysteria that you described in
 25 your testimony?

26 MR. HAHN: We have held public forums throughout the
 27 city and last year specifically had a forum directed to the
 28 Latino community -- obviously the total community.

1 Very recently the police chief, the Police
2 Community Relations Advisory Board to the police department
3 and myself and other members of our commission, we held a
4 series of 14 forums around the city, frankly from San Ysidro
5 to Rancho Bernardo, in which we did very little talking and
6 mostly listening.

7 Our turnouts at our various forums throughout
8 the city were good. We heard complaints, we heard
9 recommendations, we had some lively discussions, and I think
10 those 14 forums that the chief and myself and our -- and the
11 Chairperson of the Police Advisory Community held is very
12 good.

13 MS. DE ROMO: And in your testimony you stated a
14 minute ago that you believed that government must sent an
15 example.

16 At the same time you're saying that we do need
17 an effective independent mechanism to investigate these
18 abuses.

19 Do you believe the local government and federal
20 government in this area has set such an example?

21 MR. HAHN: Not completely. In some areas I think
22 that the government has. Government has to lead and not
23 have the population do the leading, pulling of them.

24 In some areas I think we have had that both at
25 a local and a national standpoint. In others I don't think
26 so. That's why I'm recommending some sort of a citizen
27 advisory or review process to be over the Border Patrol.

28 MS. DE ROMO: Do you fell the mechanism in place with

1 the only problem that surfaced was the lack of process in
2 dealing with some of the complaints.

3 Is this a true feeling or not true?

4 MR. HAHN: Well, I don't follow your question.

5 MR. BELTRAN: Well, testimony by -- law enforcement
6 officials responded to the same question for our purpose and
7 from my point of view it didn't appear like things were out
8 of control, no real genuine atrocities in the area of human
9 rights that are violated, they performed their duties to the
10 best of their ability in terms of law enforcement and that
11 perhaps there are really no complaints. They provided
12 statistics saying that the complaints are minimal in reality
13 to the proportion of the population. And I personally was
14 left with the feeling that it is not as great an issue as it
15 is believed to be.

16 Would you say that that is a true picture?

17 MR. HAHN: No, I would not. I think it's perception,
18 of course, because -- I think that law enforcement agencies
19 are made up of individuals who have the same weaknesses and
20 strengths that all the rest of us have and I think we -- I
21 don't think that San Diego is free of abuses against people
22 of color.

23 MR. BELTRAN: Are you familiar with the role that the
24 FBI now holds in dealing with complaints?

25 MR. HAHN: Not completely, no.

26 MR. BELTRAN: What is your awareness of it?

27 MR. HAHN: When a complaint is registered there is an
28 investigation made but I can't really speak with great

1 the office of Inspector General is inadequate at this time
2 as a method of redressing these problems?

3 MR. HAHN: Yes, I do.

4 MS. DE ROMO: Thank you.

5 MR. PENA: Ms. Patterson.

6 MS. PATTERSON: Mr. Hahn, you mentioned that your
7 agency has developed a close working relationship with local
8 law enforcement agencies.

9 Does that include the Border Patrol?

10 MR. HAHN: No.

11 MS. PATTERSON: Have you had any meetings with them?

12 MR. HAHN: Yes. Our director I believe has met with
13 them.

14 When I was referring with regard to our hate
15 crimes ordinance our commission wrote, we've started a
16 training program with our local police department on hate
17 crimes and, in fact, indeed as we stand now our police
18 department has a specific unit of individuals assigned to
19 hate crimes and not only retracking hate crimes but we're
20 also doing something in a proactive manner to hopefully
21 alleviate them. So I don't think we've done enough with the
22 Border Patrol. I think we could do much more.

23 MS. PATTERSON: Thank you.

24 MR. PENA: Are there other questions of Mr. Hahn?

25 Mr. Beltran.

26 MR. BELTRAN: Mr. Chairman, Mr. Hahn, yesterday we
27 were left with the feeling or testimony that the issue of
28 human rights is not as great as it is believed to be. That

1 knowledge of the details on how -- what the process is.

2 I know how we investigate a complaint in our
3 city commission and I could answer you directly on that.

4 MR. BELTRAN: Okay.

5 MR. PENA: Are there any other questions? If not,
6 thank you, Mr. Hahn. If you would provide us with a copy of
7 your prepared statement.

8 MR. HAHN: Thank you. I think Mr. Dulles has a copy.

9 MR. PENA: Bobbie Morris.

10 MS. MORRIS: Good morning.

11 MR. PENA: Could you use the mic.

12 MS. MORRIS: Oh, yes. Usually my voice carries so
13 that there is complaints.

14 I am Bobbie Morris and I'm a member of the
15 County of San Diego Human Relations Commission. I'm also
16 Chair of the Commission's Border Issue Subcommittee. And on
17 behalf of our commission I would like to thank the United
18 States Civil Rights Commission for giving us this
19 opportunity to testify.

20 The 15 members of our commission are selected
21 and appointed by the board of supervisors. They represent
22 very diverse groups living in San Diego County. Each
23 supervisor appoints three. So there are 15 members.

24 One of the activities of the commission's
25 Border Issues Subcommittee was a community forum on law
26 enforcement and immigration in -- excuse me -- held in
27 San Ysidro last November. It's one of five that we are in
28 the midsts of.

1 Panelists participating in the forum
2 represented all law enforcement agencies, including Border
3 Patrol Chief De La Vina. Based upon the results of this
4 forum, and other border-related activities of the
5 commission, the following are our observations regarding the
6 situation of the -- at the border:

7 Number one is, the lack of control directly
8 affects the quality of life, not only of those living near
9 the border but those residing throughout the county.

10 Our second is, the lack of effective control on
11 the border results in a disproportionate drain on the
12 resources necessary to support mandated programs, such as
13 health, education, housing, criminal and social services.
14 As a result of this perceived burden there is resentment and
15 some violence against Hispanics/Latinos in general.

16 In 1988 the County Board of Supervisors
17 directed the Human Relations Commission to establish and
18 maintain a registry of hate crimes for the San Diego County.
19 So we've been doing this a long time. Quoting from our
20 second report, "It is probable that many hate crimes against
21 groups such as Hispanics/Latinos (especially immigrants and
22 migrant workers), Southeast Asians, and Native Americans are
23 not reported due to language barriers, distrust of
24 government authorities, fear of creating immigrant-related
25 problems, or lack of knowledge about hate crimes and how to
26 go about reporting them."

27 We have two recommendations, if you'd like to
28 hear them: Federal funds to agencies directly responsible

1 it hasn't been a long time, we have had almost a dozen
2 killings. I happen to live right down near the border.
3 This is my own personal observation. Two little boys are
4 just being buried, they were murdered and -- and I think we
5 welcome all the law enforcement we can get.

6 MR. PENA: Ms. Garcia.

7 MS. DE ROMO: Yes.

8 One of your recommendations is that the
9 employer sanctions of IRCA be fully enforced.

10 Are you aware, Ma'am, that reports have been
11 prepared that indicate that enforcement -- even the lack
12 of -- small enforcement of employer sanctions has resulted
13 in massive discrimination against those of us that appear to
14 be Mexican nationals? Are you aware of that?

15 MS. MORRIS: I think so. I mean, I have heard it,
16 let's put it that way.

17 My brother happens to look black because he's
18 so dark skinned and he's not. But because he's stopped
19 doesn't mean that his rights are violated completely if
20 someone stops and asks a question. I would rather hope that
21 law enforcement would be doing it to protect us.

22 You have to live down where we live in order to
23 appreciate it. I can't drive from my house here without
24 passing the illegal aliens on the freeway in fear of hitting
25 them. So, you know, you're talking to someone who lives
26 through this.

27 MS. DE ROMO: And you're aware that you're part of
28 the Human Relations Commission in this county?

1 for Border Patrol -- for border control should be increased.
2 Two, fully implement the 1986 IRCA and fund SLIAG, enforce
3 employer sanctions, and specifically define casual labor so
4 that we know what we're dealing with.

5 We kept this to a minimum because we figured it
6 would be repetitious, but I'm more than happy to answer any
7 questions.

8 MR. PENA: Are there any questions of Ms. Morris?

9 Mr. Zuzueta.

10 MR. ZUZUETA: Ms. Morris, how many Hispanics do you
11 have on your commission?

12 MS. MORRIS: I would say at least four or five. We
13 have two new commissioners and I don't -- I haven't even met
14 them so I don't know. But we are well-represented.

15 MR. ZUZUETA: What are your powers?

16 MS. MORRIS: Not as great as the city. Ours are
17 mostly information and education.

18 MR. ZUZUETA: Thank you.

19 MS. MORRIS: I would like to make a request --
20 personal request of this commission if I may.

21 MR. PENA: Sure. Go ahead.

22 MS. MORRIS: I sat through the hearing yesterday and
23 this morning. From what I hear, I think some thought might
24 be given by the commission to the effects of the people who
25 are the recipients of the violence at the border who have
26 nothing to do with it, people who are living in their homes,
27 driving on the freeway.

28 In the last, I don't know how many months but

1 MS. MORRIS: Yes.

2 MS. DE ROMO: And as such the commission is concerned
3 about human rights, civil rights, employment rights that
4 people not be discriminated?

5 MS. MORRIS: Oh, yes. Any complaints that come
6 before us.

7 MS. DE ROMO: And do you know that the GAO
8 specifically found that there was massive discrimination in
9 implementation of the employer right sanctions provision of
10 IRCA 1986?

11 MS. MORRIS: No. I'll tell you, though, Diane
12 Fradin, who is also one of our commissioners, is here and
13 she is much more familiar with that aspect of it. And if
14 you don't mind, Diane I'm sure would speak to that for you.

15 MR. PENA: Would you like her to respond?

16 MS. DE ROMO: No, that's quite all right. We can do
17 it later. We can ask her questions.

18 MS. MORRIS: No, I am not that familiar with these
19 two acts so I would defer to Diane Fradin.

20 MR. PENA: Mr. Sillas.

21 MR. SILLAS: I want to make sure that I understand
22 your testimony.

23 You make reference to violence --

24 MS. MORRIS: Uh-huh.

25 MR. SILLAS: And I gather quite rightly so, you're
26 opposed to violence?

27 MS. MORRIS: Yes.

28 MR. SILLAS: And you view the law enforcement as a

1 body that is able to curb violence?
 2 MS. MORRIS: I think their presence certainly does.
 3 MR. SILLAS: And I also gather from your comments
 4 that the more law enforcement personnel that there is then
 5 hopefully the less violence there will be?
 6 MS. MORRIS: Yes.
 7 MR. SILLAS: Having --
 8 MS. MORRIS: Because -- may I amplify on my answer?
 9 The fact is a lot of this violence is done --
 10 and I hate to get amnesty into this because all groups are
 11 involved and suffer -- but a lot of what we are hearing is
 12 the Mexican violence is done by Mexicans. I mean, it's
 13 their own countrymen, and I think this -- I don't want to
 14 say that it's only them.
 15 MR. SILLAS: I understand.
 16 Setting aside for the moment, however, violence
 17 that takes place on the streets by whomever.
 18 MS. MORRIS: Uh-huh.
 19 MR. SILLAS: And assuming that your premise is
 20 correct, the more law enforcement personnel that there is
 21 the less likelihood there will be of violence because of
 22 their presence.
 23 Try to focus for a moment on one -- on the
 24 personnel of law enforcement and what actions or activity
 25 they engage in after they have apprehended or are
 26 approaching a suspect.
 27 Has your commission focused on that particular
 28 arena?

1 MS. MORRIS: We've never been presented with a case
 2 to deal with that, no. Ours are mostly, oh, complaints --
 3 well, there was the man from Iraq or Iran who had -- there
 4 was name calling and graffiti and things like that.
 5 Right now one of our subcommittees is up in
 6 Santee because of the baseball bat incident because -- but
 7 that's under police investigation and that's being handled.
 8 So if you're asking me do I believe in violence after they
 9 are --
 10 MR. SILLAS: No, no, no. My question is: Has your
 11 commission or does your commission do anything -- let me
 12 strike that.
 13 Has your commission received any complaints
 14 from anyone about the actions of law enforcement once they
 15 have been apprehended?
 16 MS. MORRIS: No.
 17 MR. SILLAS: You have --
 18 MS. MORRIS: I've been on the commission eight years
 19 and I cannot say I recall --
 20 MR. SILLAS: Okay.
 21 MS. MORRIS: -- any of that.
 22 MR. SILLAS: All right. Thank you.
 23 MR. PENA: Ms. Patterson.
 24 MS. PATTERSON: Yes.
 25 Ms. Morris, you mentioned that a purpose of the
 26 Human Relations Commission is to educate citizens on human
 27 relations issues and, I suppose, what is being done about
 28 those.

1 Can you tell us what -- how you go about doing
 2 that?
 3 MS. MORRIS: Well, we hold forums, we hold public
 4 hearings. If there are complaints, and I -- most of our
 5 complaints I guess were with the gay community, that seems
 6 to be a lot of where our activities seem to lie.
 7 As I said, we do have some incidents that
 8 involve school districts, discrimination, that type of
 9 thing. And unlike the city we don't have subpoena power --
 10 I'm not even sure you do, do you? Yes, they do. So it --
 11 ours is a different focus.
 12 MS. PATTERSON: Have you held hearings on border
 13 issues?
 14 MS. MORRIS: Yes. The last one was -- because -- we
 15 were told that because we had the law enforcement there none
 16 of the Hispanics wanted to hear anything, even though it was
 17 informational so that we could give them information as to
 18 where to go, where to get help if they were ill, where to go
 19 if they were victims of violence.
 20 In fact, two of your -- two of the people who
 21 testified for you I know told us this, that they thought
 22 that was not what they wanted to hear. So our next forum
 23 will be on health services.
 24 MS. PATTERSON: Thank you.
 25 MR. PENA: To that point, Mr. Zuzueta.
 26 MR. ZUZUETA: Yes.
 27 I just want to make a point of clarification
 28 really, Mrs. Morris, on Mexicans' violence against other

1 Mexicans. And you said that you had hate groups that was
 2 your big priority, hate --
 3 MS. MORRIS: No, no, no. We don't have hate groups.
 4 We have -- we have a subcommittee that has published -- in
 5 fact, we were probably the first in San Diego to publish a
 6 list of hate crimes, because they had not been reported
 7 until we developed a form for them with the police
 8 department to do this.
 9 MR. ZUZUETA: My clarification was: Is there Mexican
 10 hate groups against other Mexicans?
 11 MS. MORRIS: That would be supposition on my part,
 12 but I would say there is resentment because a lot of them
 13 feel like their livelihood is being threatened, yes.
 14 MR. ZUZUETA: Thank you.
 15 MR. PENA: Mr. Beltran.
 16 MR. BELTRAN: Mrs. Morris, are you familiar with the
 17 organizations Light Up the Border, San Diego Crime
 18 Commission?
 19 MS. MORRIS: I've heard of them, yes.
 20 MR. BELTRAN: Have you had any dealings -- any kind
 21 of situations whereby you've had complaints against these
 22 organizations?
 23 MS. MORRIS: No.
 24 MR. BELTRAN: One area yesterday that was presented
 25 to us by Chief De La Vina -- he said he had gone or he
 26 testified that he had extensive public relations with a lot
 27 of agencies and groups and schools in both the city and
 28 county community.

1 What is your relationship with Chief De La Vina
2 in terms of trying to respond to human injustices?

3 MS. MORRIS: Our only relationship with him is that
4 he has been very, very helpful whenever we had a forum or
5 needed information. He is very, very willing to cooperate.
6 He has never turned us down.

7 We've had Carol (phonetic) conferences and
8 forums, public hearings, he's always shown up. In fact, all
9 the law enforcement agencies have.

10 MR. BELTRAN: Specifically in terms of somebody
11 addressing to you a complaint, has he responded to you in
12 helping you deal with a complaint?

13 MS. MORRIS: We don't get those kinds of complaints.
14 I don't know where they go, but we have never, as I said, in
15 the eight years I've been on the commission had someone come
16 before us and say they were a victim of the Border Patrol.

17 MR. BELTRAN: Thank you, Mrs. Morris.

18 Could you -- Mr. Hahn, could you respond to
19 that in terms of your relationship with Chief De La Vina and
20 the commission?

21 MR. HAHN: When a complaint is filed with us our
22 process is that the executive director and the staff
23 investigates it, just typical investigation, brings it to
24 myself as the chairperson, and if it is recommended that we
25 have a hearing, I appoint a hearing panel and a hearing is
26 held, and we either go away with a decision of probable
27 cause or not probable cause.

28 From there the process goes either to the city

1 attorney or to the EEOC or to the federal -- to the State
2 Housing Commission, whatever the case may be.

3 Regarding the Border Patrol, we have people
4 complain that they -- I think the general type of complaints
5 we've got is where Latinos who are citizens or people with
6 green cards are being viewed as possibly undocumented
7 workers and so on.

8 Earlier I said in my testimony that a two-tier
9 system of law enforcement based on skin color undermines our
10 community's relationship with the Border Patrol, and I stand
11 by those words. You know, we're affecting the quality of
12 human relations in the community, whether the individuals
13 are undocumented or citizens or persons here with a green
14 card.

15 MR. BELTRAN: Thank you.

16 MR. PENA: Mr. Paz.

17 MR. PAZ: I have a question both for Mrs. Morris and
18 Mr. Hahn. And what I'm interested in hearing from both of
19 you is the level or type of outreach efforts that you do for
20 the Spanish speaking community. In other words, is there
21 any action or any outreach through the print or electronic
22 media to the Spanish speaking community about the activities
23 of your respective commissions and how people may go about
24 lodging complaints?

25 MS. MORRIS: Yes. We have pamphlets we -- in the
26 past we've had. I don't think they are on now but we have
27 had radio and TV announcements. We have a booklet listing
28 all the organizations, we have it in Spanish -- well, it's

1 supposed to be in Spanish, I'm sure it is and -- I hate to
2 vouch for it, it was supposed to be in print.

3 MR. PAZ: How is that pamphlet disseminated, to your
4 knowledge?

5 MS. MORRIS: It is sent out to every single
6 organization that we can think of. We have a -- our
7 director has a list that is copious and it goes out to just
8 everyone; the schools, the libraries, the city hall, and
9 each one of the commissioners takes a group of them and
10 leaves them wherever we go. It's available I'm sure all
11 over. We've had them at -- well, the fairs, the different
12 festivals that have taken place in Balboa Park.

13 MR. PAZ: Do you provide interpreters at your forums,
14 the forums that you've conducted?

15 MS. MORRIS: We have made arrangements but no one
16 needed them. We did.

17 MR. PAZ: You never had --

18 MS. MORRIS: We had one case of one gentleman who
19 felt more comfortable in Spanish and that was the only case
20 though. We had it available if it was needed.

21 MR. PAZ: Mr. Hahn.

22 MR. HAHN: As far as pamphlets are concerned, we have
23 a brochure which clearly spells out the powers and the
24 duties and responsibilities of the city's commission. That
25 brochure is printed in Spanish as well as in English. It's
26 been distributed through various organizations, community
27 organizations. The distribution for us on that has been our
28 own local police department.

1 We hold -- we had one gigantic public forum
2 last year regarding the Latino community, addressed to the
3 Latino community with concerns that are specifically that
4 community's relationship with the total community. The
5 panel that was on that forum was mainly individuals who are
6 Latino.

7 We -- our commissioners are kept pretty busy
8 with speaking engagements, various organizations, churches,
9 civic organizations, and so on.

10 But I think probably the most effective thing
11 we've done just recently is, as I said earlier, the forums
12 that we held around the city with the police chief and
13 myself as the chair and Andrea Skorepa, who testified I
14 believe to you yesterday, who's chair of the Police
15 Community Relations Advisory Board. And I think I'm
16 satisfied we're doing our effort in outreach to the Latino
17 community and I think our results with some of the
18 complaints and so on are showing that we're being somewhat
19 effective. The way I measure it is if you're causing some
20 problems and some discomfort for some people then we're
21 doing our job, and I think we're doing our job.

22 MR. PAZ: Thank you, sir.

23 MR. PENA: Thank you.

24 Ms. Morris, if you have a prepared statement
25 would you leave it with us?

26 MS. MORRIS: Yes, I will.

27 MR. PENA: Bill, did I butcher your last name?

28 MR. RADATZ: Radatz. It was close.

1 Honorable Members of the Commission, I thank
 2 you for this opportunity of addressing you. I don't come
 3 with a stack of statistics and compiled data of cases but
 4 more out of a general and growing concern that I have for
 5 what I see as an increasing situation of potential dangerous
 6 violence and human rights abuses along the border.

7 That conclusion comes partly out of my function
 8 as presently the Chairperson of the Board of Centro de
 9 Asuntos Migratorios, Center for Migratory Affairs here in
 10 San Diego. As well as out of a number of other concerns.

11 Let me address those, too. I too live at the
 12 border, a mile from the Tijuana border. I experience the
 13 nightly pounding of the helicopters over us and the search
 14 lights that probe my street and my backyard frequently.

15 I was interested that one of the programs in
 16 San Ysidro, I think it was Casa Familiar, the arts project
 17 with our children, 80 percent of their pictures they drew
 18 included helicopters. There is the sense that that whole
 19 area is in some kind of stage of search and I think that
 20 raises the tension level for everyone, particularly the
 21 Latino and Filipino neighbors that are there in the same
 22 area wondering how they are distinguishable from those they
 23 might be chasing.

24 At any one time everyone is aware there are
 25 dangerous elements on both sides; that is, there are drug
 26 runners and people runners who may take whatever measures
 27 are necessary on their behalf to protect themselves and to
 28 keep their business going like anyone crossing there is a

1 immigration. Their concern has grown much more to providing
 2 all kinds of legalization services to assure that people are
 3 given the proper procedure to make applications for whatever
 4 they may be entitled to in terms of appeal for citizenship
 5 here.

6 We -- as I said, I do not have the statistical
 7 figures. We deal very frequently with those that have not
 8 been given the appropriate opportunities, sometimes turned
 9 away from those opportunities by agents who often have much
 10 discretion at the border in what a person -- in what their
 11 alternatives are and are given.

12 I partly am on that board -- my religious
 13 tradition says there is some sense of welcome and
 14 hospitality to the stranger in a foreign land, particularly
 15 those that are coming from a situation of affliction and of
 16 oppression.

17 That certainly is not the atmosphere at our
 18 border, which seems so strange to me with a nation that we
 19 call friend and ally that we are creating an atmosphere
 20 which is much more warlike than friendlike in that
 21 situation.

22 As a member of the board I am not involved with
 23 the day-to-day seeing of cases and monitoring of cases but
 24 I've grown increasingly aware of the number of cases and
 25 number of situations where people's rights are not respected
 26 where, in fact, there's often cases of violence and abuse
 27 that leads me in the sense for their growing concern to be
 28 involved in other ways.

1 dangerous criminal and might respond to them in that way.
 2 In the dark when most of the activity happens it's hard to
 3 know who are the good guys and who are the bad ones and the
 4 usual tendency is then to respond to the most dangerous
 5 which often elevates the abuses that often avail.

6 When I arrived in San Diego some four years ago
 7 I probably -- the month after I arrived I was invited to be
 8 on the CAM board. I was very interested and did join right
 9 away, partly because I had just come from living for five
 10 years out of the United States in Peru, South America, where
 11 I learned a little bit about what it means to cross borders
 12 and have to go through paperwork and to submit to body
 13 searches and the intimidation that can often be there in
 14 that process.

15 I also came to understand in that time living
 16 overseas that the people there do love their countries and
 17 are very patriotic and it is a difficult decision to leave
 18 their own countries.

19 And I learned something, too, about being a
 20 stranger in a foreign land and what that means to me in
 21 those cases and to those who come over here and the
 22 intimidation that one experiences just by that act alone,
 23 and then to be greeted at the crossing, so to speak, by what
 24 seems to be military presence becomes very frightening and
 25 endangering to people.

26 CAM was formed some 13 years ago by a religious
 27 coalition in San Diego that particularly wanted to respond
 28 to the families that had been broken up in the midst of

1 I've also joined the Ground Border Peace Patrol
 2 that chooses to walk the border as a kind of self-appointed
 3 monitoring group in hopes of just by having a monitor
 4 there -- knowing that there is not in the structure of the
 5 border -- of the Border Patrol that citizen review board at
 6 present -- that we can serve part of that function simply by
 7 our presence there to try to keep those situations of
 8 violence down.

9 My sense is that there's kind of schizophrenia
 10 at the border. We know we are -- we live interdependently
 11 with the economy, with the realities, with the population of
 12 the families that are there, and yet we set an almost
 13 impossible goal of trying to stop the immigration that we
 14 know is going to continue.

15 My sense in talking to the border agents as we
 16 walk the border with the Peace Patrol is that most of them
 17 are intent on doing the job that they have been asked to do,
 18 they're trying to do it well. Most are frustrated with the
 19 job, that they see it as an impossible job to accomplish.
 20 That creates an awkward and unusual situation that I think
 21 creates that potential for violence. That is, if you're
 22 given a job you really cannot do anything about and cannot
 23 solve that creates a tension level that I think continues to
 24 rise and presents the opportunity for abuse.

25 My other involvement that I come to be involved
 26 with this issue is my work as a director of a crisis center
 27 in San Diego, the Presbyterian Crisis Center. We happen to
 28 be partially with Spanish speaking staff. We often end up

1 speaking with many folks that have recently crossed the
 2 border, also because we are very near a drop off where
 3 coyotes leave people off when they bring them into the city.
 4 We are often seeing people a day or two after they have
 5 arrived.

6 My greatest concern is actually the growing
 7 feeling of hate and immigrant bashing in our community. We
 8 see some of those folks that have recently crossed, for
 9 instance, a young man who had his ear cut off by a group
 10 that jumped him after he crossed the border. A man who was
 11 so badly beaten that he had his jaw wired shut. We have
 12 women tell us that they have been raped at the border. A
 13 woman who believes intentionally that the Border Patrol
 14 separated her and her two young children, put them in
 15 different cars. We spent two days trying to help her search
 16 for her two children so she could at least have some peace
 17 that they had been safely taken care of.

18 I am concerned that there is no public review
 19 board for the Border Patrol. From what I know of -- the
 20 information I have is that even when complaints have been
 21 brought to the attention of the Border Patrol over specific
 22 incidences, either they are not reported back to us or there
 23 is little or no action taken against agents who have been
 24 accused of that, and I believe in that sense that an
 25 important step is that kind of citizen review board.

26 And I'll stop there and ask for questions.

27 MR. PENA: Thank you. Any questions of Mr. Radatz?

28 Ms. Julien.

1 Committee Border Project and that's the channel we usually
 2 use.

3 MS. JULIEN: Okay.

4 MR. PENA: Ms. Garcia.

5 MS. DE ROMO: Mr. Radatz, what do you attribute
 6 the -- well, the other speaker referred to as this
 7 exhilarating immigrant bashing? What do you attribute that
 8 to here in San Diego?

9 MR. RADATZ: A whole bunch of components of a hard
 10 economy and having to regroup and rearrange our whole life
 11 as a community and needing a scapegoat, and I think because
 12 of our proximity to the border and the presence of
 13 undocumented persons it becomes easy to blame them. And
 14 particularly I think because there are so few protections,
 15 that is for -- partly to address the other question, too, is
 16 many of the people that would come to the place where I
 17 work, for instance, who have been injured or in some cases
 18 women who have been raped do not want to file a complaint
 19 because they're sure that's what that would mean, they will
 20 be arrested by the Border Patrol and deported, and they have
 21 hopes of joining family somewhere else so they will not
 22 report it.

23 MS. JULIEN: And what do you feel the role of
 24 government is in regards to this anti-immigrant sentiment?

25 MR. RADATZ: I would hope a partnership with human
 26 rights groups and concerns that are here.

27 CAM, for instance, sees part of its role as
 28 community education. We try to seize any opportunity we can

1 MS. JULIEN: Mr. Radatz, what's the reception that
 2 you receive from the Border Patrol when you are on your
 3 Peace Patrol? Are they receptive to you, do they appreciate
 4 your presence?

5 MR. RADATZ: I certainly wouldn't use the word
 6 appreciate. Very frequently we're told we have to leave and
 7 we don't because we have had a meeting with De La Vina and
 8 he understands our purpose and we understand we do have a
 9 right to be there. Yet we continue to be asked to leave by
 10 the Border Patrol when we walk.

11 In talking to individual officers there,
 12 usually it is cordial, their conversation with us, we enjoy
 13 the opportunity of speaking with them. In some ways we see
 14 our role as making sure they do their very best job and not
 15 fall into abuse and I wish there were more opportunities
 16 like that.

17 MS. JULIEN: How many people are involved in the
 18 Peace Patrol?

19 MR. RADATZ: It kind of goes up and down. It's been
 20 working out some two and a half years -- there's probably a
 21 core group of 12 to 15 and then often invited guests who are
 22 down for a short time might walk with us.

23 MS. JULIEN: And one last question. Have you ever
 24 helped any of the people with whom you work file a
 25 complaint? Are you aware of the process that they need to
 26 go through to file a complaint?

27 MR. RADATZ: I'm aware partly because our office of
 28 CAM shares an office with the American Friends Service

1 for public statements just to counter the information and
 2 the atmosphere that's here. We tried staging several
 3 community events. Matter of fact, if the commission knows
 4 anyplace we can get funding for the one we just had to get
 5 cancelled because we could not find funding this year, last
 6 week when I looked. It's called The Liberty Celebration
 7 which was intended to be a celebration of our immigrant
 8 heritages.

9 Fortunately last year it happened two weeks
 10 after the Los Angeles riot and came at an incredibly timely
 11 opportunity to lift that up and celebrate the strength of
 12 this country of being -- its immigrant groups and that there
 13 is some sense in which we need to keep that compassion door
 14 open to immigrants instead of putting out what seems to be
 15 the military barrier.

16 MS. JULIEN: Thank you.

17 MR. PENA: Mr. Carney.

18 MR. CARNEY: Mr. Radatz, you've indicated that you
 19 take these peace walks, and my question to you on that area
 20 is that on these occasions have you had opportunity to
 21 observe any type of incident involving abuse by any type of
 22 governmental personnel?

23 MR. RADATZ: In the opportunities when I have walked,
 24 I have not. I like to think that's because we're there.
 25 Among the other -- those that have been walking we have
 26 recorded some incidences of that and reported some of those,
 27 yes.

28 MR. CARNEY: And you indicated that there was a --

1 there are incidents of individuals being reluctant to file
2 complaints because of retaliation fears. Are these
3 complaints that are not filed, are they of misconduct on the
4 part of any Border Patrol or any governmental agencies'
5 personnel?

6 MR. RADATZ: Again, when we see -- for instance, in
7 my work there was in fact one case of a woman who alleges
8 that she was raped by an agent in crossing. We only saw her
9 that one day because she was in need of just some immediate
10 medical care. You know, we recommended to her filing a
11 complaint. We have not followed her. I'm sure she left.
12 She at that point stated that she was in fear of
13 retaliation - either just being deported or of abuse.

14 MR. CARNEY: Have you had any complaints of abuse by
15 other individuals against these immigrants or -- that is,
16 the abuse being meted out by other than governmental
17 personnel?

18 MR. RADATZ: Yes. Several of the stories I was
19 telling, the young man who had his ear cut off, the young
20 man who had his jaw broken were gangs of Anglo young adults
21 in the community that intercepted them somewhere on this
22 side of the border and just beat them up.

23 MR. CARNEY: Would you say that those complaints of
24 nongovernmental personnel abusing these individuals
25 outnumber the complaints of abuse by governmental personnel?

26 MR. RADATZ: At least in circles that I presently
27 dwell in, that is, particularly with CAM most of what we
28 receive are of the particular cases where it is against

1 attention of the particular agency's head, be it the local
2 chief of police or the sheriff or the chief of the Border
3 Patrol or immigration or one of those agencies?

4 MR. RADATZ: Yes, we do. And, again, it would often
5 be in conjunction, for instance, with the American Friends
6 Service Committee where that's filed with the Border Patrol
7 or what other agency is involved.

8 MR. CARNEY: Thank you, sir.

9 MR. PENA: Mr. Zuzueta.

10 MR. ZUZUETA: Mr. Radatz, yesterday Chief De La Vina
11 testified that he was in favor of an advisory review board.

12 What would be the make-up of that board in your
13 opinion and who should appoint that board?

14 MR. RADATZ: The first one would be easier for me to
15 have some opinions on about the make-up of that. I would
16 say for certain representation from particularly Latino
17 communities here who are residents in San Diego, I would
18 hope also some representation from perhaps even an
19 undocumented person in that sense who may be aware of
20 conditions on both sides of the border.

21 My concern is for the Latino population
22 particularly because they are so easily mistaken for being
23 undocumented and, in fact, there have been cases in CAM's
24 history of citizens here being deported because at the
25 moment they didn't have their appropriate documents and
26 having dealt then with the legal process of getting back in.
27 So at least that as a constituency. I would hope then also
28 some cross-section of the City of San Diego in terms of both

1 governmental agencies.

2 I would have to say actually that my personal
3 experience of the statistics is the opposite, there are more
4 complaints against the federal and policing bodies and the
5 abuses by them than by hate groups in terms of what gets
6 reported to me.

7 MR. CARNEY: When you refer to policing bodies, are
8 you including the San Diego city police and the county
9 sheriff?

10 MR. RADATZ: Yeah. CAM has experienced complaints I
11 think on -- for both of those two.

12 MR. CARNEY: Do you -- what do you do when you get
13 complaints regarding abuse by or misconduct on the part of
14 the San Diego city police and county sheriff?

15 MR. RADATZ: On our staff at CAM we do have legal
16 counsel on our staff and we'll represent those and bring
17 them to the attention of those forces.

18 Again, the primary channel -- CAM's primary
19 function is in helping people in their legalization process,
20 achieve what's available to them in terms of appeals.

21 In terms of filing complaints we usually work
22 in conjunction then with a group like the American Friends
23 Service Committee, we report it to them.

24 MR. CARNEY: But at least you don't sit and listen to
25 it and don't do anything?

26 MR. RADATZ: No, no.

27 MR. CARNEY: And as a result of these complaints do
28 you or somebody from your organization bring it to the

1 ethnic and economic background because I see part of that
2 board's role being interpretation to the community.

3 The second question, who should appoint, I'm
4 not sure.

5 MR. ZUZUETA: Thank you.

6 MR. PENA: Mr. Sillas.

7 MR. SILLAS: You described with some detail the
8 activity that goes on at night, the helicopters, the lights,
9 the spotlights.

10 I gathered from your comment that the
11 helicopters are out every night?

12 MR. RADATZ: Every night.

13 MR. SILLAS: And in the course of the evening do you
14 hear gun shots?

15 MR. RADATZ: Not every evening. I certainly have --
16 I have heard some kind of shots, yes.

17 MR. SILLAS: On an average of the week how many gun
18 shots would you hear?

19 MR. RADATZ: Oh, it wouldn't be that frequently. It
20 might be once every three months.

21 MR. SILLAS: Once in every three months?

22 MR. RADATZ: Uh-huh.

23 MR. SILLAS: Is it one gun shot or is it several gun
24 shots that you might hear?

25 MR. RADATZ: Probably the most I can recall at any
26 one time might be two. And, again, it's usually when you're
27 sitting at home and all of a sudden you hear two bursts then
28 you begin to wonder what those were and assess that they are

1 gun shots.

2 MR. SILLAS: In your recollection, upon hearing that
3 is there any type of reporting? Do you read anything the
4 following day in terms of what might have caused those gun
5 shots?

6 MR. RADATZ: I eagerly read to find out what's going
7 on in my community. Thus far I've never connected a
8 particular time when I've heard gun shots with a story that
9 was in the paper the next day.

10 MR. SILLAS: You made mention of the tension level at
11 the border, both persons who are in law enforcement and
12 persons who are outside of law enforcement. I think your
13 comment was that that creates a tension level which can lead
14 then to some dangerous situations because of the tension.

15 MR. RADATZ: Uh-huh.

16 MR. SILLAS: Do you care to elaborate on that a
17 little bit more as pertains to law enforcement personnel?

18 MR. RADATZ: Sure. If I may, a comparison to me
19 might be the Rodney King case where I would expect in that
20 case good officers would step in to fellow officers at that
21 point and say, "This is inappropriate, we need to do our
22 professional jobs here." But I think in the day-to-day kind
23 of confrontation one experiences -- I know Border Patrol
24 experience abuse, rock throwing, language. That can begin
25 to wear on a person and you begin to lose that sensitivity
26 and I suspect sometimes just get angry and the opportunity
27 is there for that anger to be unleashed or the frustration
28 to be unleashed and I believe that's one of the biggest

1 MR. RADATZ: Not at all.

2 MR. SILLAS: And you think that that perhaps also
3 leads to the frustration from the standpoint of the police
4 officers?

5 MR. RADATZ: Very much so, yes. Again, because it's
6 apparent that it's not a winning task.

7 MR. SILLAS: How many -- what is the most number of
8 times that you personally know of a person being caught?

9 MR. RADATZ: Probably an individual case, two.

10 MR. SILLAS: Thank you.

11 MR. PENA: Thank you, Mr. Radatz. If you have any
12 written statement I would appreciate you leaving that with
13 us.

14 Paul Aceves.

15 MR. ACEVES: Thank you, Mr. Chairman, and you got my
16 name right.

17 Mr. Chairman, Members of the Civil Rights
18 Commission, the members of the Raza Rights Coalition would
19 like to thank you for this opportunity. We do have a
20 position paper which we will be making available to the
21 committee which I'll be referring to in my testimony.

22 The Caolicion Pro-Derechose de la Raza is a
23 mass based coalition of Chicano Mexicanos organizations,
24 we're independent of any government or other funding or
25 strings that exist throughout San Diego County. We're part
26 of the national Chicano Moritorium Committee, made up of
27 seven regions throughout -- nationally.

28 We are putting -- we put forth today this

1 issues there is being assigned a task that essentially is
2 impossible. You know, how do you ever measure any success
3 in that kind of position as an individual, you know, when
4 you have complied with orders?

5 I think it opens up the potential when you're
6 often in the bushes and there is no one else around and when
7 you're angry enough and when someone is abusing you one more
8 time to become abusive in return.

9 MR. SILLAS: We heard testimony yesterday of an
10 incident where a person -- the same person had been caught
11 seven times within a 30 day period, same person attempting
12 to cross the border.

13 What has been your experience in terms of a
14 person's success rate, if you will, of crossing the border
15 as opposed to getting caught?

16 MR. RADATZ: You mean in terms of percentage or --
17 I'm not sure what you're asking.

18 MR. SILLAS: Well, has your experience been that
19 persons will cross the border numerous times?

20 MR. RADATZ: Yes. On the whole I would say yes.
21 Most of the people I end up speaking with have crossed many
22 times before and are coming back to see family or to find
23 work and then going back again.

24 MR. SILLAS: I take it the same person has also been
25 caught on occasion?

26 MR. RADATZ: Some of them, yes.

27 MR. SILLAS: And that doesn't discourage them from
28 crossing again?

1 position at a time when we see what's going on at the border
2 as violent terror, militarization of the border and what was
3 referred to earlier as a state of seige against the Chicano
4 Mexicanos community being put forth by a special police
5 force which is called the Border Patrol, which we refer to
6 in our community as the migra.

7 We are putting this position forth and we have
8 been for four years holding pickets, marches, other
9 demonstrations because we see this as part of a systematic
10 pattern.

11 First of all, we don't even classify this as an
12 immigrant problem. Because, first of all, our community is
13 not an immigrant community. There's an old saying that goes
14 back years in the Chicano Mexicanos movement that, "We
15 didn't cross the border, the border crossed us." And we
16 think that that's very important that we be cognizant of it
17 when we discuss this.

18 We all know that in 1848 the United States
19 government invaded over half of Mexican territory, took it
20 from Mexico, and what now composes the -- what's called the
21 Southwestern United States which many of us still refer to
22 as Aztlan Mexico ocupado, occupied Mexico, is what exists
23 today.

24 And we have to also look at the origins of the
25 Border Patrol. The Border Patrol is not something that's
26 been around forever. Just like the border is not something
27 that's been around forever. The Border Patrol was formed in
28 1924, it was the logical extension of the Texas Rangers,

1 which were basically a legal lynch posse, who had a favorite
2 saying they used to snicker about that said, "I have Mexican
3 blood, ha, ha, in the tip of my boots." We have to see that
4 that's part of the history of where they have existed.

5 The militarization of the border is part of
6 this and we also have to be frank with ourselves. The
7 Border Patrol has never existed to close off the border,
8 that's something that they give to people so that they'll,
9 you know, get hooked up into this hysteria which they are in
10 which the U.S. government and the media is responsible for
11 when we talk about hate crimes.

12 We need to look at their role. It's been to
13 control a colonial because a lot of us feel we're a
14 colonized people, not an immigrant people, a colonial work
15 force, a cheap labor force that forms the pedestal that this
16 economy runs on.

17 We have to look at the fact that that kind of
18 terror, those kinds of attacks have been -- existed to
19 maintain us in a state of fear to stop Mexicano workers from
20 organizing in their own self-defense for their human rights
21 because we're talking about a human rights situation.

22 We feel that it's the same motivations, which
23 are ruthlessness, greed, and racism which stole -- that
24 imposed this rule. We also reject the idea of separating
25 our people in talking about U.S. citizens. We feel that
26 we're one people, the Chicano Mexicano people, united by
27 indigenous background, language, customs, culture and
28 traditions.

1 We also feel that what we're talking about here
2 is a law enforcement solution to what's a socioeconomic
3 problem. You know, they talk very often about how there's a
4 need to militarize the border, stop immigration. The United
5 States wants to put a scapegoat on its own foreign policy in
6 Latin America which is basically a despotic, ruthless,
7 run-away, shod foreign policy which has supported some of
8 the worst despots in history. We're talking about Pinochet
9 in Chile, who they actually put in through an armed coup;
10 we're talking about Somoza in Nicaragua for many years; now
11 we're talking about Chamorro in Nicaragua; we're talking
12 about Christiani in San Salvador, et cetera.

13 So there is a need to deflect attention from
14 this foreign policy. There's a need to scapegoat our people
15 as undocumented or, the word that I don't like to use,
16 illegal aliens which tries -- which attempts to dehumanize
17 an entire community, which attempts to separate us when it
18 was referred to earlier about how -- about how we are acting
19 against our own countrymen.

20 If that exists and to what extent that exists I
21 wonder if it's any wonder that that happens with the slick
22 media campaign to criminalize a sector of our community --
23 and actually to criminalize our entire community. Just like
24 it's no wonder that there is supposedly gang violence with
25 all the propaganda that has been forced onto us with racist
26 and inadequate school systems, et cetera. But that's
27 something else. But I wanted to bring that up.

28 We're looking at a force, the Border Patrol,

1 that is completely above or away from the law, that has
2 never had any checks or balances on it, that exists as a
3 special police force. We're talking about -- since 1974 we
4 have documented 46 shootings or runnings over of Mexicanos
5 along the California/Baja California border. We're talking
6 about 22 of these incidents that have resulted in fatalities
7 and many of the victims have been children.

8 And, also, never in the history of the Border
9 Patrol has any agent until now been indicted for these
10 crimes and we hear he was acquitted in Tucson, Arizona which
11 was in an execution style shooting.

12 We've seen that this is part of -- we don't
13 want to just section out the Border Patrol but this is a
14 government campaign that has existed through various forces
15 against our people and part of the militarization of the
16 border.

17 We put forth the following demands: Number
18 one, we call for the immediate dismantling of the Border
19 Patrol and the removal of all military forces from the
20 border. We will not tolerate a national police force that
21 has been specifically established to terrorize Chicano
22 Mexicanos by using gestapo tactics.

23 We call for the establishment of an open
24 border, such as the Canadian border, that will guarantee
25 human rights and free passage of Raza into the land that was
26 stolen from them during the war with Mexico in 1848.

27 And I want to make one point here while we're
28 doing this, a lot of people say that the Border Patrol is

1 necessary because of all the -- I use the words that are put
2 out there -- the polleros and the coyotes. Without a
3 militarized border, without that wall up there that people
4 have to cross, without the enforced poverty in Latin America
5 there would be no need to pay polleros, coyotes, et cetera,
6 to cross the boarder, to risk people's lives, to get by
7 exactly the Border Patrol that's supposed to be out there
8 helping the people.

9 Three, we're calling for the resignation and
10 criminal indictment of the three -- heads of the three arms
11 of the migra, the Border Patrol, INS, and U.S. Customs for
12 their accomplice role in the terrorist acts of their
13 employees. We feel that these are terrorist acts.

14 We're especially targeting Gustavo De La Vina,
15 the head of the San Diego Border Patrol sector. We feel
16 that his role is especially nefarious in a slick public
17 relations campaign and an attempt to deflect charges of
18 racism because, you know, supposedly he's a Latino who's the
19 head of the Border Patrol so obviously there can't be
20 racism. We feel that that's a complete lie and we wish to
21 expose that and we call for his resignation.

22 Four, we're calling that the individual migra
23 agents who run over, shoot, molest, beat, and harass Chicano
24 Mexicanos must be charged for these murders and criminal
25 acts. These terrorist actions have for too long resulted in
26 only the transferring of assignment to desk duty for the
27 perpetrators.

28 We demand also here in San Diego the immediate

1 resignation of District Attorney Miller for his continued
2 incompetence and tacit role of approval illustrated by his
3 continued refusal to indict for acts of migra terrorism.
4 And he's been very zealous in prosecuting Chicano Mexicanos
5 that are accused of one thing or another, we want you to
6 know, so that's a complete double standard.

7 We call for an immediate end to U.S.
8 intervention in the political and economic affairs of Latin
9 American countries that result in crushing poverty,
10 revolution and the forced northern migration of these
11 people. This includes a moratorium on the foreign debt owed
12 by these countries which is a prime contributory factor to
13 these negative conditions.

14 We also call for the repudiation of these
15 terrorist criminal acts and policies by the World Community
16 and the United Nations Commission on Human Rights.

17 We call for an end of using so-called
18 undocumented workers as scapegoats responsible for bringing
19 drugs and crime into the U.S. This racist hyping by the
20 government and media is a premeditated act to divert
21 attention from the socioeconomic ills that no law
22 enforcement solution, prisons, more police, et cetera, which
23 is always what they propose will cure.

24 We want to say that international studies have
25 found that crime, what crime there is, is caused by crushing
26 poverty, is caused by lack of opportunity. We have never
27 seen any attempt in any of these -- in any of these
28 discussions to talk about, you know, giving us any kind of

1 meaningful social programs, any kind of political or
2 economic power. All we've ever seen is we need more police,
3 we need more Border Patrol.

4 I also want to bring up living on the border.
5 I think Mr. Raditz was right when he said -- and I think
6 Ms. Morris was also right when she said there is a state of
7 seige in a combat zone. I think that you don't have to
8 really tell the Chicano Mexicanos community that because we
9 see it every day in a condition that looks a lot like what
10 happens to Palestinians on the West Bank and I think that
11 the land situation there is quite similar where people who
12 are legal residents, who are citizens, get stopped being
13 asked for their green card, you know, where you have raids
14 going on with the tacit approval, with the help of the
15 police which is illegal because what are they doing, they're
16 out, you know, checking green cards or whatever and tying in
17 crime to undocumented immigration thereby also, you know,
18 heightening this scapegoating attitude.

19 In San Diego this is a -- I want to say this,
20 this is one of the most racist cities in the United States.
21 This is a city where the police department every year leads
22 the nation in fatal shootings of Africans and Chicano
23 Mexicanos. That's just -- that's a fact. And it's done --
24 a lot of it's done as part of this brown scare hype, a lot
25 of it's done with undocumented scapegoating, the whole gang
26 scapegoating.

27 And so these are the demands we call for.
28 We -- also, I want to just say this finally about the

1 situation of civilian review of the Border Patrol, that it's
2 well-intentioned. But in light of what they are, in light
3 of who they are, in light of their history we can't support
4 that. We call for their dismantlement.

5 We think that calling for civilian review of
6 them, and I'm going to be very frank here, would be
7 tantamount to a Jewish group in the Warsaw ghetto in 1943
8 calling for review of the gestapo. Because that's what they
9 exist for. They're a special police force.

10 We're talking about 50 percent of the
11 undocumented population from statistics that I've heard
12 being Chicano Mexicanos, Mexicanos, and 90 percent of the
13 arrests, 90 percent of the force is down here.

14 I've heard that there are over 120,000
15 Canadians in this country who do not have documents. I know
16 that there's Border Patrol in Washington, we also know that
17 the Border Patrol in Washington concerns itself with driving
18 through apple orchards looking for Mexican workers.

19 We're looking at a Border Patrol that's not on
20 the border, it's in every community where there are
21 Mexicanos. It's a campaign and we feel that these demands,
22 the implementation of these and the kind of tactics we've
23 been using, which are pickets, marches -- last night we had
24 a candlelight vigil in remembrance of all the victims of
25 Border Patrol violence -- are the ones that are going to
26 bring about a solution.

27 We hope that these recommendations can be
28 carried back because we feel that they're the only sane and

1 they're the only just solution to these problems. Thank
2 you.

3 MR. PENA: Thank you, Mr. Aceves.

4 All members, we're falling a little behind on
5 schedule. If you have questions please keep them as brief
6 as you can. There are none.

7 Mr. Aceves, if you have a prepared statement
8 would you leave that? We thank all the panel for being with
9 us today.

10 If you have additional written statements that
11 you'd like to supply, please do.

12 Ms. Morris, the other member of the Human
13 Relations Commission can make a statement after we conclude
14 the hearing -- the panel.

15 MS. MORRIS: Fine. Thank you. I don't know that
16 I -- I volunteered her. I don't know that she's prepared.

17 MR. PENA: Thank you very much.

18 Would the Southern Arizona panel come up to the
19 table. Guadalupe Castillo, Le Mesilla Organizing Project,
20 Tucson. Jesus Romo Vejar, attorney from Tucson, Lynn
21 Marcus, Southwest Refuge Rights project, Tucson. Richard
22 Gonzales, attorney from Tucson.

23 Panelists, I can call upon you as you are
24 listed on our agenda or you may select whom you wish to
25 speak first, either way you'd like. I'm following the list
26 we have here, is that fine?

27 Ms. Castillo, would you proceed with your
28 statement.

1 MS. CASTILLO: Yes. My name is Guadalupe Castillo.
 2 I am a history teacher at Pima Community College, Tucson
 3 Arizona, with research and teaching interests in the border
 4 region, Chicano studies and Mexico.

5 I am a member and representing Le Mesilla
 6 Organizing Project, a human and civil rights organization in
 7 Southern Arizona.

8 This presentation is but a short summary of a
 9 larger work in which we are seeing the systematic policy,
 10 practice, and pattern of human and civil rights violations
 11 at the border region.

12 So as a historian I feel we must start with the
 13 history. We cannot know the complexities, realities and
 14 myths of the border region today until we come to terms with
 15 the process of the formation of the political line in the
 16 nineteenth century. We need to understand the dynamics the
 17 border line brought to the region. We cannot know the
 18 border region in a historical vacuum, as we are seeing in
 19 discussion in an anecdotal narrative, in romanticized myth,
 20 in impressionistic journalism, in sensationalistic images.
 21 There is a very lengthy, complex matrix of peoples,
 22 cultures, spaces and historical and even mythic times and
 23 certainly the political economy of the border since the
 24 nineteenth century and beyond.

25 Since the early 1970s ample historical analysis
 26 and documentation exist to show that U.S. invasions and
 27 conquests of Mexican territories, indigenous areas, left a
 28 legacy of violence and racism. If the life of the Mexican

1 sporadic or of a spontaneous, exceptional nature. Rather
 2 these cases show that there is a pattern and practice and
 3 policy of violence by immigration law enforcement authority,
 4 government officials, deeply rooted racism in the society
 5 and the public discourse on this issue and the court system
 6 and vigilante groups.

7 The Tucson sector covers all of Arizona except
 8 for Yuma and Mohave counties and is about 280 miles of
 9 border, with the Mexican State of Sonora and includes also
 10 the very vast Tohono O'Pham reservation which divides that
 11 nation in a very difficult situation of Mexican citizenship
 12 and U.S. citizenship, although it is a complete nation in
 13 itself.

14 Now, these are not the only cases that surfaced
 15 in Tucson during this period. I only use these as
 16 illustrative. There are many, many other cases that
 17 surfaced and, in fact, many cases that were provoked by the
 18 hysteria surrounding some of these cases.

19 The first one was the Manzo case of 1976 in
 20 which the United States Justice Department, the Immigration
 21 and Naturalization Service and various federal agencies under
 22 the direction of the U.S. Attorney entered the Manzo area
 23 Council, which was a Tucson social service agency, and
 24 removed over 600 client files which it then used to arrest
 25 and detain and remove 150 people to Mexico, undocumented
 26 workers.

27 Four women, also shoe workers, including a
 28 Catholic nun were indicted on 25 counts all involving

1 became cheap, civil and human rights became meaningless.
 2 Second class status and denigration of Mexicans was
 3 institutionalized by legislation, social practice, and
 4 violence. Government, law enforcement, the courts and
 5 society tolerated, collaborated and even encouraged
 6 vigilante terrorism as an extension of official power and
 7 control. With the idea of manifest destiny providing the
 8 rationale for its "just" mission, genocide, massacres,
 9 filibusters, lynchings and general mayhem reigned upon the
 10 so-called inferior conquered peoples in the region.

11 Mexicanos and Chicanos fought back and the
 12 history of the Chicano is a proud one of resistance to
 13 repression and racism and organizing of their own
 14 institutions, such as mutualistas, unions, civil rights and
 15 cultural rights organizations.

16 Out of the complex forces that Mexicanos and
 17 Chicanos have had to struggle against, racism has emerged an
 18 equally complex ideologic and strategic response which
 19 reflect the diversity of the Mexicanos and Chicanos.

20 So the issues at the border I would suggest are
 21 not simply about immigration, although immigration, drugs,
 22 national security are the pretext to maintain Mexicanos and
 23 Chicanos citizens, residents and migrants as second class
 24 citizens in order to have access to the cheap labor source -
 25 a key element to the economy of the area.

26 The following cases of abuse which I will
 27 present occurred in the Tucson sector from 1976 to the
 28 present and illustrate that human rights violations are not

1 alleged violations of federal law in providing counseling to
 2 undocumented workers through the -- in the process of
 3 legalizing their status. The penalties ranged all the way
 4 from 77 years in jail and \$98,000 in fines to 10 years and
 5 \$15,000 in fines. An example of a felony was that the women
 6 helped filled out forms and then should have turned around
 7 and turned in these undocumented clients to the Border
 8 Patrol. Since they did not then this would have been
 9 construed to be a felony.

10 Another example was in which a 16 year old girl
 11 was taken for business purposes to juvenile court center and
 12 there were charges of transporting involved in this.
 13 Eventually all the charges were dropped in this case but
 14 what we can see from it was the hysteria which the media
 15 produced -- in which the media produced in tact the
 16 INS/Border Patrol propaganda surrounding how jobs were being
 17 taken away from U.S. citizens in Tucson and they were
 18 declaring that there were 5,000 undocumented workers working
 19 in Tucson businesses and they conducted vast raids in which
 20 not even one hundred people were arrested or found to be
 21 without documents and, in fact, one person was arrested
 22 falsely.

23 The next case I wish to bring to your attention
 24 occurred on August 18, 1976 and this involved vigilante
 25 action, in which three Anglo ranchers, a father and his two
 26 sons, in the Douglas area captured three Mexican
 27 undocumented workers and tortured -- near the border,
 28 tortured and robbed them. The Mexican workers were burned

1 and shot with bird pellets and were run into Mexico by the
2 Hanigans who were respected, well-to-do residents of the
3 area.

4 In 1977 the two brothers were acquitted on the
5 state charges of assault, kidnapping and robbery in a Bisbee
6 court. The father had died before the trial. The jury was
7 all Anglo. Federal charges of civil rights violation were
8 filed, there was a mistrial in 1980. In 1981 one brother
9 was found guilty, the other acquitted.

10 We saw clearly in this instance that it was
11 with the pressure of the community that the federal
12 government acted, otherwise in this case like so many others
13 along the border frontier justice still prevails in Bisbee.

14 The final case that I would present to you
15 occurred in 1986 and -- over the Fourth of July weekend of
16 1986, the Civilian Materiel Association, a U.S. paramilitary
17 organization that had been providing assistance to the
18 contras in Nicaragua, organized a Tucson contingent to
19 patrol the border to stop drugs and communism.

20 They terrorized a family which included five
21 children from ages one to three, and they were wearing hoods
22 and carrying semi-automatic weapons and were heard to say
23 toward a group of young undocumented workers, "Should we
24 kill them?"

25 What was important about this case is that it
26 was acknowledged that the assistant officer in charge of the
27 Tucson sector had attended a CMA shoot or meeting, as had
28 officers from the sheriffs department and the Department of

1 Public Safety. And CMA witnesses said that grids and
2 sensors at the border were given to the CMA organization by
3 a Border Patrol agent.

4 Neither the U.S. attorney or the county
5 attorney filed charges immediately because they could see
6 that no criminal acts had been committed in this terrorism.
7 It was again only under pressure from the community that
8 charges were brought. However, the leader of the CMA J.R.
9 Hagan was found guilty but was left off on probation,
10 although he was a convicted felon on drugs.

11 Again, may I repeat, these cases serve only as
12 a certain illustration of how historical patterns and
13 practices of official and vigilante violations persist.

14 We can -- in 20 years of experience in
15 immigrant and refugee defense work, I have personally myself
16 witnessed and taken testimony from hundreds of individuals
17 about violations by the INS courts, detention centers,
18 Border Patrol, customs and so forth.

19 Most recently in Phoenix the Border Patrol has
20 chased students into the high school grounds and detained
21 them before the faculty and student body. In Tucson the
22 police chief was recently denounced by her own officers
23 because she had the courage to place and leave two officers
24 who assaulted a Mexican citizen visiting relatives and who
25 was suspected of being merely "an illegal."

26 We have finally the Elmer case, which others
27 here on this panel will discuss, and here we saw the defense
28 attorneys use the racist hysteria of the border to convince

1 an all Anglo jury with one Hispanic on it that this
2 person -- that the Border Patrol agent had a right to shoot
3 this individual in the back and he was acquitted.

4 It is therefore not the border that is out of
5 control or its peoples, it is the institutional racism of
6 government agencies and the court on society at large that
7 inflames the border and obscures the issues.

8 And we have a long way to go in this area and
9 it will not be easy. And really it is through only the
10 avenue of social movements that has forced public policy
11 discourse on the border region to enter
12 national/international consciousness.

13 In conclusion, I would like to say there is no
14 panacea. I think this is a basic premise. NAFTA is not the
15 ultimate solution, just as IRCA was not. We must understand
16 also that the issues of the border are not law enforcement
17 issues.

18 We must demand also that we have zero tolerance
19 for human and civil rights violations at the border, just as
20 we expect in any other place of the United States. The
21 border must therefore be demilitarized and
22 reconstituted, that is to make the U.S. constitution
23 operational at the border and to end the state of seige
24 because this border does not pose any national security
25 risk.

26 So in order to begin this long process I would
27 suggest that we need to establish a national civilian
28 review commission to monitor and investigate abuses by the

1 federal agents, and in Tucson the Tucson City Council has by
2 resolution supported the passing by congress of this bill
3 and in fact has had one of its members of the council
4 monitored to make sure that this bill will be supported by
5 the Tucson community.

6 We -- I would also suggest that we need to have
7 congressional hearings along the border. I think we also
8 need to freeze any building of border fences and barriers
9 anywhere along the border. We need to freeze any increase
10 of Border Patrol and end military deployments and equipment
11 to the border. And I think we also need to suggest that we
12 bring the discussion of migrant workers into the NAFTA
13 discussions.

14 And, finally, I would suggest that we need to
15 have an aggressive monetary and finding of civil rights
16 violations by the United States Justice Department where
17 local justice fails because of this institutional racism
18 that exists.

19 Thank you for permitting me to present some
20 thoughts and for your dedication and interest.

21 MR. PENA: Thank you, Ms. Castillo.

22 Any questions for Ms. Castillo? If not, thank
23 you very much and we would like to have a copy of your
24 prepared statement.

25 Our next panelist is Jesus Romo Vejar.

26 MR. VEJAR: Thank you, sir. Chairman Pena, Chairman
27 Carney and Honorable Commissioners, good morning. Thank you
28 for inviting us to be here with you today.

1 My testimony today comes from personal
2 experience as well as from the experience of those whom I
3 have represented as an labor organizer, as an attorney, and
4 as a community activist. Presently I represent the Mexican
5 consulate of Nogales, Arizona and Tucson, Arizona.

6 There are two areas which I would like to
7 specifically address. One of them is the issue of pattern
8 and practice with regard to Border Patrol abuses and the
9 other one is the issue of accountability.

10 The cases that we have encountered in the area
11 of Tucson are enormous; that is, we encounter a huge number
12 of cases that involve verbal abuse, a great number of cases
13 that involve beatings by Border Patrol.

14 I just recently had a case last week which was
15 turned over to the Border Patrol regarding the beating of a
16 gentleman that was coming in with approximately 15 women
17 mostly, they were going to Laughlin, Nevada, he's a
18 permanent resident alien and he was driving one of three
19 automobiles. The Border Patrol stopped him and one of the
20 agents jumped out of the automobile and he began beating the
21 automobile with his gun and then took the person out of the
22 automobile with a gun on his throat and put him in another
23 car for over ten minutes until another officer arrived and
24 told him that they had all been cleared to proceed to
25 Laughlin, Nevada. This is common along the border.

26 Shootings are very common. We have a number of
27 shootings that have resulted in death, including the Dario
28 Miranda case that you heard about in Corona and other cases.

1 issue of accountability -- and they say, "We'll neither deny
2 or admit there was a shooting." Then we ask several other
3 police agencies, including DEA who outright denied it
4 immediately, the sheriff's department for Santa Cruz County
5 outright denied it immediately, and it took a series of
6 phone calls to Washington, D.C. and a final admission by
7 Mr. Paige, whom you heard from yesterday here in San Diego,
8 that advised us approximately five days later that indeed it
9 was an incident -- there was a similar incident or the same
10 incident on the same night involving three Border Patrolmen
11 who discharged shotguns at the same hour. So it fits all
12 the profile.

13 Today we have been able to get the names of the
14 agents, we know them because we received a letter, an
15 anonymous letter from a Border Patrol agent, and we know who
16 the agents are -- the agents who are involved -- at least
17 accused of involvement with drugs with other agents.

18 We have conditions of complete lawlessness
19 along the border in Arizona, Southern Arizona.

20 You will hear about other cases of -- a case of
21 an agent called Mannypenny who shot an undocumented person
22 in 1976 who went to trial. He was the only other agent whom
23 I have ever heard of in Arizona what's been tried and who
24 was convicted and whom the judge set aside the conviction of
25 the jury and it went over to the 9th Circuit. In fact,
26 Isabel was asked to represent Mannypenny and she refused to
27 do it. Rick knows about it because at the time he was a
28 prosecutor, Rick Gonzales, and he will tell you about it.

1 We have shootings that are very troubling to us. For
2 instance, there was a case, which Rick Gonzales will also
3 speak about in a minute, both of us are representing the
4 young men, whose name is Jesus Luna.

5 He was walking into the U.S. in October of '91
6 and -- with 17 other youths and he was accosted by two
7 agents in a small wash, approximately 100 meters inside the
8 United States, and one of the agents shot at the air, which
9 is a common practice along the border. The other agent not
10 knowing what the shots were all about with a shotgun
11 discharged his weapon and hit Jesus Luna on the leg with a
12 shotgun. Luna dropped to the ground.

13 The other kids -- this was about 8 o'clock at
14 night -- the other kids ran into the U.S. and approximately
15 five minutes later the kids ran back into Mexico. Luna
16 heard them running back. The Border Patrol agents, the two
17 of them, grabbed Luna each by a shoulder -- this was in a
18 wash -- dragged him out of the wash, dragged him to the
19 border and threw him to the Mexican side of the border.

20 He was rescued by other kids that were along.
21 At the time Luna was 17 years old. And he was taken to
22 hospital. Because of the loss of time and blood he lost his
23 leg from the top of the thigh on.

24 When we -- I received this case approximately
25 six months afterwards through the Mexican consulate and
26 when I began inquiring as to who had shot Luna he claimed it
27 was police agency and they thought it was Border Patrol.

28 I first asked Border Patrol -- this is on the

1 The case was overturned by the 9th Circuit,
2 went back to Arizona, and Mannypenny was convicted to I
3 believe 52 weeks. He shot a man in the back, made him a
4 paraplegic, an undocument person, he was sentenced to 52
5 consecutive weekends in jail and that was reduced by the
6 federal judge to I believe three or four weekends, that's
7 the extent of the punishment.

8 Elmer was recently tried in Arizona by an inept
9 prosecutor, and I say inept because he had no experience
10 with civil rights cases, and that's common. We bring these
11 cases to court, they're prosecuted and then we have our day
12 of court when they are found not guilty.

13 We have cases of children who have been shot at
14 by Border Patrol using high powered rifles, M16s. Border
15 Patrol in the Elmer case what they testified is what they
16 used was M16s, which is an automatic machine gun, and
17 mini-14s which is another weapon of high caliber, and an
18 AK -- not AK47 but rather 15 caliber weapons.

19 We have cases of dog searches involving Border
20 Patrol. Border Patrol brings the dogs and they actually --
21 if the person is carrying money coming back from California,
22 where they've been working -- they all go through -- most of
23 them go through Nogales on their way back to Mexico -- they
24 use these dogs to search moneys that these people might have
25 and then they claim that the dogs has smelled the money and
26 it smells like it has been involved in drugs and they
27 forfeit the money, they forfeit the automobiles. They
28 terrorize children with the dogs, put them inside

1 automobiles and use them along the border and they do a
2 great deal of destruction of property.

3 We have a case of a -- epitomizes the violence
4 of the border -- of a seven year old boy who was coming to
5 the U.S. with his mother and was being brought in by two
6 automobiles, his mother and other family, in this place
7 called Cascavel in the middle of the night. The tire -- two
8 cars stopped and went to use the bathroom in the middle of
9 the desert. And the little boy got lost. That is, the
10 mother thought that he was in the second car and the second
11 car thought that he was with the first car. He -- the next
12 morning they reported this incident to the Cochise County
13 authorities and they began searching for the boy but it was
14 a very half-hearted effort because the mother was afraid to
15 come in and report the incident.

16 The boy two weeks later went to a family in
17 Cochise County, he was shoeless and he was hiding in the
18 middle of a -- of a patch where they had some vegetables.
19 Apparently he was very hungry. An Anglo woman saw the child
20 but was afraid of him because he was an undocumented person.
21 So she went and got a gun and shot in the air. The boy ran
22 away and he was found approximately four weeks later. It
23 was determined that he lasted approximately 30 days. He was
24 shoeless dressed only in a T-shirt, cuddled up. Obviously
25 he had died of exposure and hunger. And this epitomizes
26 what goes on at the border.

27 Parents who are afraid, families who are
28 afraid, mothers who forget their own nature because of

1 what -- this drug war and other things that have been
2 propagandized and a policy that calls for the militarization
3 of the border and for fear to be the norm.

4 These are not isolated cases. They fit an
5 overall pattern and practice of abuse along the border. We
6 have failed when it comes to the Border Patrol to properly
7 train Border Patrol, to supervise Border Patrol and to have
8 the Border Patrol have accountability.

9 For instance, there is no requirement to be a
10 patrolman other than the person have a high school degree -
11 we learned this through the trial. There is no screening of
12 dangerous persons. This guy Elmer who, finally, has had
13 many incidents of shooting who finally executed Valenzuela
14 had tried to become a policeman with all agencies in Pima
15 County and all agencies had rejected him. Border Patrol
16 accepted him. If everything else fails go to Border Patrol
17 if you want to be a cop and indeed if you belong to a hate
18 group there is no better place than Border Patrol.

19 With regard to -- and I'm not saying that all
20 Border Patrolmen are criminals, that's not my testimony.
21 I'm saying that there are some agents who come into Border
22 Patrolmen -- that become Border Patrolmen because there is
23 no proper training, supervision, and accountability, that is
24 what I'm saying. I know that there are very decent persons
25 in Border Patrol but the experience that we have are with
26 those people who do these things.

27 With regard to supervision, unlike what the
28 officer said yesterday, the Elmer case and the testimony

1 shows that there is no effective supervision. In essence
2 Elmer went out on a hunt and he got his -- it was testified
3 to by Agent Watson, his partner, that when he killed Miranda
4 he was joyful like when you get your first deer, and that's
5 essentially what happened here.

6 And definitely there is no accountability.
7 Administratively there is none. There is no effective
8 complaint procedure, there are no investigations, and
9 definitely there is no discipline of officers - none that we
10 have been able to detect.

11 With regard to the judicial accountability,
12 with judges and juries, they are essentially ineffective
13 when it comes to these kinds of cases.

14 There are some basic principles that govern our
15 society without which democracy as we know will cease to
16 function. Some of these principles were incorporated into
17 our political life almost to the very exception of our
18 nature, and they include the right of every citizen or
19 person to be secure from unreasonable searches and seizures
20 from governmental authorities and the right of every person
21 not to be deprived of life, liberty, or property without due
22 process of law.

23 The only basic principles that -- were
24 incorporated by bloodshed during the Civil War, and they
25 include the right of every person to the obligation of equal
26 protection of the laws and the right to be free from any
27 servitude.

28 These rights are fully secure only when the

1 government is properly tempered by the limitations of the
2 rights placed upon it. That is, when the government fully
3 recognizes that its police power is independently limited by
4 the constitutional provisions of the Civil War Amendments
5 and Bill of Rights. It is the function of the judiciary to
6 secure these rights when they are undermined by the states
7 or by the federal executive or legislative branches.

8 What happens, however, when the judiciary
9 remedies do not work? Well, the cases of Elmer, Mannypenny
10 and many of the Native American cases that we've been
11 advised of, indeed Rodney King, show that neither federal
12 juries or juries are suited to deal with police disregard of
13 these constitutional limitations. An entire body of law is
14 essentially worthless to us because of the enormous
15 political divide that we encounter as victims. When we
16 speak to the juries there is this divide, we cannot cross
17 that.

18 The courts have institutionalized police
19 misconduct by turning its face from an entire section of the
20 population along the border. Justice is a function of power
21 and at present we do not have sufficient power to convince a
22 judge or a jury that the Bill of Rights or the Civil War
23 Amendments are applicable to us. If the victim is a Mexican
24 and the perpetrator is a policeman the odds are
25 automatically stopped up against us.

26 This is especially ominous for those of us that
27 reside along the border because of the lawlessness and the
28 utter disregard for constitutional rights shown by the

1 Border Patrol. Every judicial law is involved in the -- by
 2 the clear message that when it comes to infringing on the
 3 constitutional rights of Mexicans then they act with the
 4 knowledge that even if their acts result in death there will
 5 be total impunity.

6 The remedy is leadership by the legislative in
 7 changing the nature of the judiciary to include that
 8 enlighten jurors enforce the constitutional police
 9 limitations and who will act to balance the reactionary
 10 skeletons left with us from the last two administrations.

11 The other more elementary change must be
 12 exerted on the policies and administration procedures of the
 13 Immigration and Naturalization Service. Border Patrol as we
 14 know it must be made to come to terms with the new American
 15 reality. The new immigrant comes from Latin America and it
 16 is okay. The enforcement of our laws regarding the illegal
 17 entry of these new immigrants must be based on respect for
 18 his right as objectively defined by our constitution and
 19 this must be expressed by consequent, adequate training,
 20 supervision, and accountability.

21 In the meantime, we shall continue to come to
 22 you and every other body that will listen to us here and
 23 everywhere else to tell you that the present system is
 24 inadequate and that presently we are without a proper legal
 25 avenue of redress.

26 Thank you so much.

27 MR. FENA: Thank you. Are there any questions?

28 Mr. Paz.

1 Do you have any documented cases from those
 2 types of persons?

3 MR. VEJAR: Yes. We even have a case in Las Vegas
 4 where this happened. Border Patrol and INS went into a home
 5 and because the people inside looked like Mexicans -- this
 6 is testimony that was given to us in fact a couple of weeks
 7 ago in a deposition -- they felt that there was sufficient
 8 probable cause to arrest the entire household. So they just
 9 walked in and beat up one of the persons who resisted arrest
 10 and took everybody in.

11 MR. PAZ: Do you have any knowledge of illegal aliens
 12 working for Border Patrolmen as stool pigeons and other
 13 people referring -- other illegals receiving compensation?

14 MR. VEJAR: Sure. We got knowledge from all sorts of
 15 cases including the Sanctuary case, which is a very famous
 16 case which I participated, where undocumented persons were
 17 given money and compensation even though they were involved
 18 in illegal activities, such as exporting weapons into
 19 Mexico, so that they would provide information regarding
 20 churches and priests with regard to the ingress of refugees
 21 from Central America and there have been many other cases
 22 like that.

23 MR. PAZ: Sir, I need some clarification on this
 24 because I do understand that in Arizona there is a bill that
 25 authorizes the Border Patrolmen to take some executive
 26 matters in entering homes without due process or a warrant.

27 Is there such a thing or is it just the
 28 creation of the public's fear?

1 MR. PAZ: I just have one.

2 Mr. Vejar, do you have any documentation or
 3 evidence of the relationship between Santa Cruz County
 4 Sheriff's Department and Nogales Police Department in terms
 5 of collaboration with the Border Patrol in taking part in
 6 the arrest of illegal aliens?

7 MR. VEJAR: Collaboration between the two forces, oh,
 8 yes, absolutely. We have many cases where the Santa Cruz
 9 County Sheriff's Department and the Department of Public
 10 Safety have placed themselves along the highways for the
 11 purpose of stopping all automobiles that come in with
 12 Mexicans with California plates and then Border Patrol is
 13 called to have dogs search the automobiles, and moneys in
 14 excess of \$500 are confiscated by the sheriff's department.

15 MR. PAZ: To your knowledge is this a legislative
 16 action that allows it to happen or is it just simply a
 17 collaboration between the agencies --

18 MR. VEJAR: Well, to --

19 MR. PAZ: -- to work together in --

20 MR. VEJAR: Well, in my opinion it's an illegal act
 21 because it definitely -- there is no probable cause to stop
 22 these people and it's collaboration to act illegally to
 23 deprive these people of civil rights and we have so stated
 24 in court.

25 MR. PAZ: If I could bring it to a very, very
 26 domestic level. How about incidents regarding domestic help
 27 in which patrolmen go into people's houses and -- of course
 28 without a warrant -- and take them and deport them.

1 MR. VEJAR: No. I think the constitution applies to
 2 everybody and it definitely applies to the Border Patrol.

3 What happens is that we have been deprived of
 4 civil rights for so long that we see those acts of
 5 infringement by Border Patrol as legal acts at this point,
 6 and part of our work is to educate people, to let them know
 7 that indeed that is not the case.

8 There is no law and there cannot be a state
 9 law, as a matter of fact, because these are federal agents
 10 that -- indeed because it would infringe on the
 11 constitution -- that would allow them to act -- to act like
 12 that.

13 MR. PAZ: As I read the newspapers in Arizona most of
 14 the reporting that is done by the Border Patrol allude to
 15 the tremendous amount of drugs that they have confiscated or
 16 seized and sometimes the role of becoming a drug agent
 17 becomes a lot more important than dealing with illegal
 18 aliens.

19 In your opinion what is the relationship to
 20 their role in terms of dealing with drug trafficking and the
 21 illegal migration of people?

22 MR. VEJAR: Well, the Border Patrol has been
 23 empowered by congress to enforce our narcotics laws along
 24 the border. Because of that it makes it much more
 25 imperative that they be provided with appropriate training,
 26 supervision, and accountability.

27 The vast majority of people who cross the
 28 border are undocumented peaceful persons who come to this

1 country because they are seeking jobs. With regard to drug
2 interdiction, it must be done and perhaps there should be
3 another agency to do it so that these incidents would not
4 occur. But if Border Patrol is empowered to do it they will
5 continue to do it and they must be properly trained and
6 supervised and there must be properly accounting for abuses.
7 The problem we have is that we have people who are crossing
8 the border peacefully but if the place where they're
9 crossing has been determined to be a drug corridor it is
10 very likely that they will be identified as drug runners
11 rather than what they are - men, women and children who are
12 just coming to work.

13 MR. PAZ: Thank you.

14 MR. PENA: Any others? Mr. Sillas.

15 MR. SILLAS: You talked about abuses. Physical
16 abuse, I take it, as a matter of law can be a violation of
17 civil rights to an individual and a violation of physical
18 abuse by police officers of law enforcement can protect them
19 from possible prosecution. You also, however, mentioned
20 verbal abuse.

21 MR. VEJAR: Yes.

22 MR. SILLAS: Is there any action that a federal
23 prosecutor could take against an agent who is merely engaged
24 in verbal abuse?

25 MR. VEJAR: In my opinion, yes. There are two kinds
26 of action that can be taken against any federal agent for
27 abuse of power. One is a federal claim which can be made
28 and I think that the kind of verbal abuse that we are

1 talking about is calling the person wetbacks, pigs and
2 things of that nature, would be under our laws an
3 intentional infliction of emotional distress. Probably some
4 other things.

5 MR. SILLAS: Those are civil remedies, however. What
6 about in terms of criminal remedy?

7 MR. VEJAR: Well, the civil rights provision of
8 the -- for prosecution of a violation of civil rights by the
9 federal government could also be invoked and they could be
10 prosecuted for that. Additionally --

11 MR. SILLAS: Let me make sure I understand what
12 you're saying to me.

13 Are you saying that in your opinion there is --
14 a federal prosecutor could bring a criminal action against
15 an agent for merely verbal abuse?

16 MR. VEJAR: Yes, sir.

17 I think that if the verbal abuse involves
18 language that -- like wetback, for instance, that would
19 constitute a deprivation of that person's civil rights then
20 indeed they could.

21 MR. SILLAS: Do you know of any instance where that
22 has occurred?

23 MR. VEJAR: No. We don't even have -- when they get
24 shot or break their arms much less when there is verbal
25 abuse. We don't have prosecutions, they're very rare.

26 MR. SILLAS: If you get a complaint from one of your
27 clients and the complaint is merely one of verbal abuse, and
28 I don't use the word "merely" lightly, what action can you

1 take as a private practitioner?

2 MR. VEJAR: Well, we could file a federal tort claim
3 seeking redress, monetary redress, we can also file a civil
4 rights violation complaint.

5 MR. SILLAS: Have you engaged in either one of those
6 two actions?

7 MR. VEJAR: Yes. We do -- what we do is when a
8 person comes to us we file a claim, mostly to keep track of
9 this incident. We don't think, you know, we're going to get
10 compensation. The problem that we have is that the judges
11 are not sympathetic to these cases, and these cases go to a
12 judge not a jury, so we have a very difficult time with them
13 and they're extremely expensive.

14 MR. SILLAS: Okay. Thank you.

15 MR. PENA: Thank you.

16 MR. PAZ: Yesterday we had heard extensive testimony
17 by Chief Dowdy from the Tucson area and presumably because
18 he is pretty much involved in these affairs.

19 What is your relationship, working relationship
20 with Chief Dowdy?

21 MR. VEJAR: Well, we report to the chief -- chief's
22 counsel, Mr. O'Leary, incidents we would consider to be
23 pertinent to the force. We don't -- and this is consistent
24 with the agency. We never receive any results, we cannot
25 get names, we cannot get information from the agency -- not
26 just from the chief but from anybody within INS. It's like
27 they're sealed with regard to any information that any other
28 police agency gladly would give us.

1 For instance, if an agent of the sheriff's
2 department is involved in a violation of its power, its
3 police power, we receive the name, the incident time, and
4 the report. From Border Patrol we can never receive this
5 information and I believe that it is a policy that comes
6 from the top, I don't think that it is exclusive to Tucson.

7 MR. PAZ: Just one final question.

8 How about your relationship with the Santa Cruz
9 attorney's office and judicial system in dealing with the
10 illegal situations?

11 MR. VEJAR: Well, we have -- because of my
12 involvement with the Mexican consulate where we have very
13 close relations or where we -- I mean, we meet with them
14 periodically to review cases where we feel there has been an
15 infringement of Mexican nationals rights.

16 MR. PAZ: Thank you.

17 MR. PENA: Are there any other questions? If not,
18 thank you very much. If you have a written statement --

19 MR. VEJAR: I would like to present my written
20 statement later, if I may.

21 MR. PENA: That's fine.

22 We will now hear from Lynn Marcus.

23 MS. MARCUS: My name is Lynn Marcus. I'm an
24 attorney. I'm the coordinator of the Tucson-based Southwest
25 Refugee Rights Project, a joint project of the Tucson
26 Ecumenical Council Legal Assistance and the Los Angeles
27 office of the Central American Refugee Center. The project
28 was founded in the fall of '89 as part of a broader,

1 nationwide effort to monitor the treatment of adults and
2 minors in the custody of the Immigration and Naturalization
3 Service. The project seeks to improve detainees' access to
4 counsel and legal rights information and to enforce court
5 orders and settlement agreements affecting detainees'
6 rights.

7 In the course of my work, I have visited
8 numerous facilities used by INS to detain people in the
9 Southwest and have spoken with many detainees. During these
10 interviews, as well as through referrals by other agencies,
11 I've heard accounts of detainees being physically and
12 verbally abused, either by Border Patrol agents who
13 apprehended or interrogated them or by INS detention
14 officers.

15 I'm not here to discuss these various
16 incidents, because the committee will hear other such
17 testimony. But what I'd like to do is focus on the system
18 which I feel allows the officers to engage in violence and
19 other forms of abuse with impunity.

20 In my experience and the experience of others
21 who have tried to help abused victims, the Department of
22 Justice's supposedly independent system of investigating
23 complaints does not work. In the first place, many people
24 don't know where or how to make a complaint; the department
25 doesn't disseminate this information.

26 When complaints are made, they bounce from
27 office to office without much being done. Prosecution is
28 declined and investigations are concluded without the victim

1 having been interviewed or even informed. In the end, no
2 officer is prosecuted, fired, or suspended. The system is
3 flawed and ineffectual, and it sends a message to officers
4 that they can continue to commit abuses without suffering
5 any consequences.

6 I'll give you a few examples. In the spring of
7 1990, I interviewed two detainees at the El Centro INS
8 detention center who told me that they had been taken to the
9 showering room -- the shower room in the processing building
10 and beaten by detention officers. They said they were
11 afraid to make complaints while they were detained.

12 In June of that same year a Guatemalan man who
13 had been transferred from -- to Florence Detention Center
14 from El Centro told an immigration judge that while in El
15 Centro, he, also, had been beaten by two detention officers
16 and he gave their names.

17 Numerous other accounts began to surface that
18 summer from detainees who made strikingly similar
19 complaints. My colleagues and I concluded that a culture of
20 violence was brewing among the detention officers at the
21 El Centro Detention Center. We debated what actions we
22 should take.

23 One source of action that we considered was
24 filing complaints with the Office of Inspector General but
25 this already led no where.

26 One Nicaraguan detainee claimed that on August
27 3, 1990, three detention officers entered a cell where he
28 had been put due to his participation in a hunger strike.

1 He said one of the officers got angry with him and started
2 to hit him and the officer pummeled him repeatedly on the
3 shoulder and finally dislocated his shoulder. The detainee
4 was brought to a clinic the next day, the shoulder was
5 relocated.

6 On that same day he sat down and wrote a five
7 or six page detailed complaint letter describing the
8 incident, which he gave to the INS. Three days later the
9 officer in charge referred the case to the OIG and according
10 to the complaint form, the officer said -- that officer in
11 charge said that when the detainee was -- that the detainee
12 was worked over by fellow detainees and his shoulder was not
13 dislocated. That was not true.

14 On August 9th the Civil Rights Division in
15 Washington declined prosecutive interest. That's two days
16 after they got the complaint. On August 10th the regional
17 office in San Diego, and this I got from Ralph Paige,
18 determined that further investigation was unwarranted and
19 closed the case. The OIG never interviewed the complainant
20 and apparently never interviewed the officer either. The
21 guy -- this man was eventually deported.

22 As for the man who reported the El Centro
23 incident to the judge in Florence, he was referred to the
24 acting officer in charge at Florence, who failed to notify
25 OIG. The officer later told me when I asked him about it he
26 didn't believe the guy because he was a felon. When I found
27 this out I reported the matter to the OIG, but the case was
28 closed because the detainee had been deported. No efforts

1 were made to locate him and although the detainee had given
2 the two names of the officers allegedly involved they
3 weren't interviewed.

4 And so it went with other so-called
5 investigations into abuses in El Centro. Complainants were
6 not interviewed or were only interviewed at the insistence
7 of lawyers or outside agencies. Minimal information was
8 gathered by OIG and sent to Washington. Prosecutive
9 interest was declined within one or two days. Subject
10 officers were not interviewed. It took the filing of a
11 lawsuit to finally stop these beatings.

12 The situation is no different at OIG offices
13 elsewhere. In October of '92, at the request of another
14 immigrants rights agency, I visited a Guatemalan minor who
15 was in INS custody. The kid told me that on September 30,
16 '92, he was traveling in a truck with undocumented -- a
17 bunch of undocumented Mexicans. The truck was pulled over
18 on I-19 between -- somewhere between Nogales and Tucson.

19 The agents had the others return to Mexico but
20 they kept this boy by their car. He was afraid of being
21 deported to Guatemala and he told the agency he was Mexican.
22 According to him, this made one of the officers angry, he
23 pushed him into the car, he slammed the door on the boy's
24 wrist breaking both bones in his wrist. The medical records
25 confirm that both of his bones were broken.

26 The boy said that the agent threatened to kill
27 him if he reported the incident when he got to the Border
28 Patrol in Tucson. When he got there he told the agents

1 there that he had fallen on his wrist. Oh, the only thing I
2 forgot to mention is that when they told him this one of the
3 officers drew his gun and hit the boy in the face with it
4 when he was making this threat. The boy was taken to
5 Florence and it took him a few days before he felt safe
6 enough to report this incident.

7 He was being held at the adult detention center
8 in Florence when I spoke with him. This had to do with
9 confusion about his age and this had to do with cultural
10 factors. Like many Guatemalans he wasn't sure of his exact
11 birth date. He also -- also because of cultural factors and
12 his manner of speaking and relating the incident, it took
13 several hours for me working with a native Spanish speaking
14 person to be able to understand exactly his version of what
15 had happened.

16 When I called the OIG to report the incident, I
17 was given a cold reception. The investigator told me,
18 "You've got a guy who lied about his age, lied about his
19 nationality, and lied about the source of his injury." The
20 investigator told me that he had worked himself as a Border
21 Patrol agent for 13 years. And he also told me that he had
22 only about a third grade level of Spanish but he wasn't
23 going to use an interpreter during the interview. I knew he
24 wasn't going to get anywhere. Also, his attitude was
25 scaring me. I was afraid he might be abusive towards the
26 boy. I agreed to go ahead with the interview because the
27 boy was going to be deported soon and we felt otherwise
28 nothing might be done. And luckily we were assigned to a

1 INS, and customs. We need a system that protects people and
2 insures that the officers are made accountable for their
3 action. Only then will these abuses stop.

4 Thank you.

5 MR. PENA: Mr. Paz.

6 MR. PAZ: As I understand, you definitely do see a
7 difference between the treatment of illegal Mexican
8 nationals and immigrants from other parts of South America?

9 MS. MARCUS: Well, I would say the victims are really
10 from all parts of the country. I don't know that people --
11 I mean, there's discrimination by certain officers but I
12 don't have any generalizations to make about them.

13 MR. PAZ: In terms of bringing to your attention the
14 complaints, do you see a difference by Mexican nationals
15 approaching you and talking to you about the problem or the
16 complaint? Is there a difference between them and South
17 American refugees?

18 MS. MARCUS: In terms of the willingness to approach?
19 Well, my feeling is that people that have legal status
20 they're much more willing -- the more solid the legal status
21 the more willing the person to come forward. And the U.S.
22 citizens are the ones who are the most willing to come
23 forward.

24 MR. PAZ: I'd like to know from you also what is your
25 working relationship with Chief Dowdy in Tucson?

26 MS. MARCUS: Not much. Actually, my area is not so
27 much specialized in redressing abuses but it's just that
28 they come up and then that's when I deal with them. But

1 different investigator.

2 That was in October. This complaint has
3 bounced around ever since and I've tried to follow its,
4 quote, progress. First, although the car door was never
5 examined and the officers were never interviewed, the Civil
6 Rights Division of the Justice Department declined
7 prosecutive interest. The local OIG office sent it to the
8 OIG in Washington, which sent it to the INS headquarters in
9 Washington, which sent it to the INS Regional Investigations
10 in Laguna Niguel, California. This took nine or ten weeks.

11 In January of this year, Regional
12 Investigations of the INS sent the case to the Border Patrol
13 in Tucson. I inquired about this again yesterday, I was
14 told the case is, quote, still under investigation.

15 Although the Border Patrol lawyer, Tom O'Leary, refused to
16 reveal what agency is actually handling the investigation.

17 You can see even when you have a pushy lawyer
18 who's applying pressure from the outside this can't make the
19 system work. It's no wonder that few people file complaints
20 on their own. The only way that you can accomplish anything
21 is by suing and this takes tremendous amounts of time and
22 money on both sides and puts the client through hell.

23 Things have to change. I participated in a
24 nationwide task force organized by the American Friends
25 Service Committee to recommend changes in the investigative
26 system. I urge the commission to examine these
27 recommendations, especially the recommendation that there be
28 a system of civilian oversight of the Border Patrol, the

1 I've written complaints, letters to Chief Dowdy and then
2 gotten a response down the road.

3 MR. PAZ: Can you tell me approximately how many you
4 have written?

5 MS. MARCUS: To Chief Dowdy? Maybe one or two.

6 MR. PAZ: Thank you.

7 MR. CARNEY: Ms. Marcus, you talked about these
8 incidents. How many incidents of abuse do you know of that
9 are documented? A complaint, complaints of abuse.

10 MS. MARCUS: We don't have good statistics on abuse
11 complaints. There was a report -- the American Friends
12 Service Committee comes out with an annual or bi-annual
13 report and in the last one there were hundreds of abuse
14 cases reported in the Tucson and Southern Arizona area.

15 But I think most of the complaints are not
16 reported. We don't -- we're establishing a hot line and
17 trying to get something going where we could be able to come
18 back to the commission and give a better answer. I don't
19 think we have -- we don't have a systematic way of getting
20 complaints.

21 In some cases we don't even bother filing them
22 with the OIG because it's just -- it's just a piece of
23 paper, it doesn't accomplish anything.

24 MR. CARNEY: Well, is it because -- you don't file
25 these complaints because they're kind of insignificant? For
26 example, we've heard testimony yesterday about people being
27 shouted at and they complain about that. Is that what
28 you're talking about why they aren't filed?

1 MS. MARCUS: No. It's because -- well, there are
 2 legal considerations, for example, because we don't have
 3 confidence in the OIG investigating system. If we file a
 4 complaint and the person is interviewed by an investigator
 5 we're afraid that that might affect the person's claim down
 6 the road. If they have a strong claim it seems better to
 7 consider filing a lawsuit. That's the only way of getting
 8 anything accomplished.

9 MR. CARNEY: How many lawsuits are you aware of that
 10 have been filed regarding these complaints?

11 MS. MARCUS: I don't know. I've been involved in
 12 three, and one of them was -- two of them had to do with the
 13 El Centro incidents and there were ten plaintiffs in one and
 14 two in the other. But there were more victims than
 15 incidents -- than those 17 people. We had like, that I
 16 counted, about two dozen victims -- adult victims and six or
 17 seven victims who were juveniles in the detention center in
 18 El Centro.

19 MR. CARNEY: Is that situation now with the El Centro
 20 detention -- does that include the dislocated shoulder
 21 victim that you talked about?

22 MS. MARCUS: Yeah.

23 MR. CARNEY: In that instance were there medical
 24 records that were provided indicating that he had suffered a
 25 dislocated shoulder?

26 MS. MARCUS: I obtained -- well, we got them from the
 27 service processing center. Public Health Services contracts
 28 with them and we made a medical record but they did

1 MS. MARCUS: There were various officers who were
 2 interviewed.

3 MR. CARNEY: In these cases that you have been
 4 involved in where you have maintained that the subject
 5 officer was not interviewed, the information you received
 6 from the OIG -- was that voluntarily given to you or was
 7 that the subject of discovery?

8 MS. MARCUS: It was through discovery. Actually,
 9 because the FBI got involved then the FBI obtained those
 10 records and then we obtained them through the FBI.

11 MR. CARNEY: And with regard to the item where you've
 12 indicated about the dislocated shoulder, you stated that
 13 the -- one of the officers at a supervisory level, anyway,
 14 indicated that the individual was worked over by other
 15 detainees and the dislocated shoulder accusation was not
 16 true. Is that what you had stated?

17 MS. MARCUS: Right. He said the shoulder was not
 18 dislocated.

19 MR. CARNEY: Was that in any report?

20 MS. MARCUS: That was in the complaint form that the
 21 Office of Inspector General -- the person in the Office of
 22 Inspector General's office recorded from that person's
 23 telephone conversation with the officer in charge.

24 MR. CARNEY: And that's a case that's pending now.
 25 Is that correct?

26 MS. MARCUS: A lawsuit?

27 MR. CARNEY: Yes.

28 MS. MARCUS: Yes.

1 collaborate that the shoulder was dislocated.

2 MR. CARNEY: And you've indicated that in some of
 3 these complaints the subject officers did not interview.
 4 How do you know that?

5 MS. MARCUS: Because we were able to see the -- well,
 6 through the litigation we got some of the paperwork that the
 7 OIG had completed which shows what they had forwarded to the
 8 Civil Rights Division which was in most cases not much more
 9 than the complaint form itself.

10 Also, I did speak with some of the
 11 investigators, some of the people at OIG in San Diego,
 12 and -- before they got too suspicious and basically said
 13 they weren't going to talk to us any more, they said -- you
 14 know, I said, "On what basis was the case closed?" "Well,
 15 we concluded that it wasn't worth investigating this case
 16 any further."

17 MR. CARNEY: Were there instances where you received
 18 paperwork from the OIG that showed that there was an
 19 interview of the subject officer?

20 MS. MARCUS: There was one case where -- I think it
 21 was INS investigation that sent out and interviewed all
 22 these officers and did exhaustive effort in which they
 23 showed that their person was -- or the officers or the
 24 people who were interviewed said the person was faking it
 25 and it was all a big sham. I don't know if it was or wasn't
 26 but that was the only incident I'm aware of.

27 MR. CARNEY: But that was a statement of the officer
 28 being interviewed. Is that correct?

1 MR. CARNEY: Now, are you undertaking any procedure
 2 to -- excuse me -- to keep track of how many cases of
 3 complaints are filed, and who they are, and where they are,
 4 et cetera?

5 MS. MARCUS: Well, we are -- I'm a member of a group
 6 called the Arizona Board of Rights Coalition, there are --
 7 many of the other people are involved in that same group.
 8 It's various -- a coalition of various groups and it's based
 9 in Tucson. We try to be broader than Tucson, from Nogales
 10 to Sonoita to --

11 What we found is we can't do that kind of work
 12 as extracurricular activity, which is what it's been.
 13 Everybody has other obligations. What we're trying to do is
 14 to hire somebody who's -- we finally raised the money to
 15 hire somebody to do this job. It will be to record
 16 complaints, to keep track of complaints. But there is --
 17 the system for doing that is nationwide and it's the
 18 American Friends Service Committee.

19 MR. CARNEY: Well, see, the thing that I'm concerned
 20 about is that if you have these numbers of complaints that
 21 are being filed, you know, that's what we're here for, to
 22 find out about these things and if you don't have any way of
 23 showing us --

24 MS. MARCUS: Have you received a copy of the American
 25 Friends Service Committee's annual report?

26 MR. CARNEY: I haven't seen it myself.

27 But what I'm trying to say is, we need to have
 28 some kind of documentation to verify, you know, what may be

1 just bear allegations, other than the items that you're
2 talking about that are subjects of lawsuits. It's one thing
3 for us to be sitting here and listening to somebody talking
4 about incidents without some type of verification. And if
5 there is numerous incidents, well, that's what we want to
6 know about because we've had testimony that there are few if
7 any complaints filed.

8 MS. MARCUS: Well, when you say complaints filed --
9 I'm not necessarily talking about complaints filed because
10 we don't necessarily think it does any good to file
11 complaints. In many cases we think it's not a good idea.

12 MR. CARNEY: Mr. Sillas.

13 MR. SILLAS: Let me just follow-up on that point.
14 Let's try to categorize, if we can, complaints. If a
15 complaint comes to you, at that point you make a
16 determination whether or not the person that's giving you --
17 making the complaint to you is one that has credibility from
18 the standpoint that you believe them. I take it there may
19 be some at that point that you believe the complaint is not
20 well-founded?

21 MS. MARCUS: I haven't had people come to me that I
22 didn't believe but I don't have a high volume.

23 MR. SILLAS: I understand.

24 But if a complaint came to you that you didn't
25 believe was well-founded you would not pursue it any
26 further?

27 MS. MARCUS: That's right.

28 MR. SILLAS: So there are those that would be sifted

1 out at your office or your contact because you don't believe
2 the party is telling you the truth?

3 MS. MARCUS: Right.

4 MR. SILLAS: Then there are those complaints that you
5 receive which you believe the person is telling you the
6 truth. Is that correct?

7 MS. MARCUS: Right.

8 MR. SILLAS: And I gather from your testimony that
9 among those are some that you believe -- you come to the
10 conclusion because of your contact with the system that
11 pursuing those complaints is not going to accomplish
12 anything. Is that correct?

13 MS. MARCUS: Complaints in the form of formal
14 complaints with the Office of Inspector General.

15 MR. SILLAS: And at that point you make a
16 determination that there is nothing that your office is
17 going to do further with this complaint?

18 MS. MARCUS: Right. Or we might think -- for
19 example, another consideration is whether the person is
20 being deported. In many cases if I feel I'm never going to
21 be able to really reach contact with this person again
22 sometimes we'll decide if the person wants to file a
23 complaint just so that it's been filed then we'll do that.

24 MR. SILLAS: But otherwise you take no steps?

25 MS. MARCUS: Right.

26 MR. SILLAS: So that that complaint will never become
27 a statistic in anybody's book?

28 MS. MARCUS: Right.

1 MR. SILLAS: Then there are the complaints that you
2 decide for a variety of reasons that you wish to now file it
3 with somebody?

4 MS. MARCUS: Right.

5 MR. SILLAS: Correct.

6 And then there are those complaints that you
7 feel are significant enough which you will file a lawsuit
8 on?

9 MS. MARCUS: Right.

10 MR. SILLAS: We received yesterday testimony and
11 statistics indicating the number of complaints filed
12 compared to the number of apprehensions, and there was a
13 ratio struck in terms of number of complaints, number of
14 apprehensions.

15 From what I understand you to say there would
16 be more complaint numbers than are actually reported but
17 because there is a sifting process that goes on outside of
18 the internal system, at least from your office -- and I take
19 it by the shake of the heads by these people that testified
20 earlier in their offices also --

21 MS. MARCUS: It's not only that. I think that is
22 perfectly meaningless when the Border Patrol always reports
23 in the paper for every 70,000 apprehensions we have one
24 complaint. People are perfectly justified in not making
25 complaints if the system is useless. I can't advise
26 somebody, "Make this complaint and it will get you
27 somewhere." I have to advise somebody, "Well, make this
28 complaint and it will get you no where but at least there

1 will be a piece of paper." That's the best I can tell
2 people.

3 And I think a lot of people don't even because
4 they have some concept that this isn't going to get anywhere
5 or they're afraid to come forward in the first place because
6 they're undocumented or they're afraid of retribution or
7 whatever, don't even make it as far as my office or another
8 attorney's office or another agency.

9 MR. SILLAS: I see. Thank you.

10 MR. CARNEY: Mr. Gonzales.

11 MR. GONZALES: Thank you, Chairman Carney. Chairman
12 Pena and Members of the Commission, my name is Richard
13 Gonzales. I'm an attorney in private practice in Tucson,
14 Arizona and I'm one of the attorneys that represents Dario
15 Miranda Valenzuela who was shot and killed by the Border
16 Patrol in Arizona last year.

17 My earliest awareness of how abusive the Border
18 Patrol could be in practice began with the Mannypenny case
19 in 1976. In that case, Border Patrol Agents William
20 Mannypenny and Gerald Hjelle were on patrol in the
21 Sweetwater Pass in Pima County, Arizona. This was a remote
22 area in Organ Pipe National Park which the agents knew was
23 frequently traveled by undocumented workers entering the
24 United States.

25 On the evening of the incident, three unarmed
26 Mexican males were walking north along the trail in
27 Sweetwater Pass when they tripped an electronic sensor
28 alerting the agents of their presence. Following standard

1 procedure, Agent Hjelle confronted the three men while Agent
2 Mannypenny approached them from behind. Before Agent Hjelle
3 could begin his questioning, one of the men turned and ran
4 south toward the border.

5 Agent Mannypenny began chasing the man,
6 shouting for him to stop. When the man didn't stop, Agent
7 Mannypenny fired three shotgun blasts hitting the man in the
8 back, severing his spinal cord and leaving him a
9 quadriplegic. Agent Mannypenny then suggested to Agent
10 Hjelle that they leave the wounded Mexican man and say
11 nothing about the shooting. Upon determining that the man
12 was still alive, Agent Hjelle refused to go along with Agent
13 Mannypenny's plan and they transported the wounded man to a
14 hospital in Tucson. At the hospital, the treating physician
15 notified the police because this was a gunshot related
16 injury. This was the first report of this shooting by
17 anyone.

18 Border Patrol Agent Mannypenny was subsequently
19 indicted in Pima County Superior Court for assault with a
20 deadly weapon. This incident occurred on March 15, 1976.

21 Now, on June 12, 1992, sixteen years later, we
22 have the Elmer case. In this case, five Border Patrol
23 agents decided to go to a remote location known as Mariposa
24 Canyon to set up a stakeout and hopefully intercept drug
25 traffic because electronic sensor activity had been detected
26 there. This location was characterized by the agents as a
27 drug corridor, but was also known to be used by undocumented
28 workers entering the country.

1 The two agents then returned to the site where
2 the first man had been shot in the back and Agent Watson
3 could not find a weapon on the man and he told Agent Elmer
4 they needed a weapon for this to be a good shooting. Agent
5 Elmer suggested that Agent Watson drop one of his guns to
6 make it appear that the man had been armed. Agent Watson
7 refused. Agent Elmer then decided to dispose of the body by
8 dragging it into a ravine and hiding it beneath a tree. He
9 then said he was going to return the following day to bury
10 the body in Mexico.

11 Agents Elmer and Watson then rejoined the other
12 three agents and returned to the Border Patrol station and
13 drank a few beers in the parking lot. Incredibly, none of
14 the five agents reported that numerous shots had been fired
15 that evening or that anyone had been shot. In fact, the
16 murder of the Mexican male went unreported until Agent
17 Watson came forward approximately fifteen hours later.

18 When we consider what has happened in the
19 intervening sixteen years between the Mannypenny case and
20 the Elmer case, it is absolutely tragic at how little has
21 changed in the Border Patrol. At least in my personal
22 experience, it seems that the Border Patrol has remained
23 constant in its inability to conform to accepted standards
24 of appropriate law enforcement conduct.

25 I would like to take a few moments of this
26 commission's time to discuss my personal experience because
27 most of my contact with the Border Patrol comes from the law
28 enforcement side of the ledger.

1 The agents arrived in Mariposa Canyon in the
2 late afternoon hours and soon spotted three Mexican males
3 walking through the area. The agents immediately, without
4 any corroborating evidence whatsoever, assumed the men were
5 drug scouts ahead of an unknown load of contraband, which
6 the agents thought was being smuggled into the country
7 somewhere in the general vicinity.

8 Border Patrol Agents Thomas Watson and Michael
9 Elmer were sent to sneak up on the three men and initiate a
10 confrontation, while the remaining agents held their
11 positions. Agent Watson testified that when he was
12 approximately one hundred yards behind one of the Mexican
13 males he decided to fire warning shots in the air, as was
14 the custom and practice, in order to scare and intimidate
15 the individual.

16 Upon hearing the gunshots, the three men began
17 running in different directions toward the international
18 border. Agent Elmer, who was in radio contact with Agent
19 Watson but had become physically separated, then saw one of
20 the males running over a ridge approximately forty yards
21 away. The man was unarmed and running away from Agent Elmer
22 when the agent fired twelve times with his semi-automatic
23 carbines, hitting the man twice in the back.

24 After shooting the unarmed Mexican male in the
25 back, Agent Elmer rejoined Agent Watson and they saw one of
26 the remaining two men running on a distant ridge. Agent
27 Elmer raised his rifle and fired one shot at the fleeing
28 man.

1 In that regard, you should know that I am a
2 former prosecutor, I have two brothers who are career police
3 officers, and until this past November I had spent the last
4 six years representing seven police unions in officer
5 related shootings in Pima County.

6 As a Deputy Pima County Attorney assigned to
7 the Narcotics Strike Force, I was prosecuting major
8 conspiracies in the late seventies. I quickly became aware
9 that the law enforcement officers with whom I worked would
10 not go out in the field with Border Patrol agents.
11 Generally, Border Patrol agents were considered ill-trained,
12 undisciplined and trigger happy. It was not at all unusual
13 to hear my police officers criticize a fellow police officer
14 by pointing out that his handling of a particular situation
15 was so inept that he could be a Border Patrol agent.

16 Though state prosecutions based on Border
17 Patrol investigations were rare, on those occasions when
18 they did bring a case, it was not unusual for us to have a
19 good laugh about the investigation.

20 Typically, stops were made without any
21 reasonable suspicion or probable cause whatsoever. The
22 stops were usually premised on the ethnic appearance of the
23 suspect. More often than not, the Border Patrol agent
24 violated every safeguard guaranteed by our constitution and
25 the end result was the issuing team would refuse the case
26 and thank their lucky stars that we did not have to work
27 with the Border Patrol.

28 After I left the prosecutor's office and went

1 into private practice in 1980, one of my first cases was
2 representing six Border Patrol agents who wanted to testify
3 before the Blue Ribbon Commission on Immigration Reform
4 chaired by Father Theodore Heshberger who was President of
5 Notre Dame University at the time. These six Border Patrol
6 agents testified about the abusive tactics that were
7 employed on a day-to-day basis in the Tucson and Nogales
8 sector.

9 Among other things, they told the commission
10 how the agents would sometimes play a game to see which
11 agent could stuff the most undocumented persons in their
12 Ram-Charger in one day. They would do this by driving
13 through the streets of Tucson and picking up anybody that
14 looked Mexican and failed to produce proper identification
15 upon request. They would then take the persons into custody
16 and place them in the vehicle. They would not transport any
17 one to the station for processing until they couldn't stuff
18 any more persons in the truck -- that was how you determined
19 the winner.

20 The six agents also told how undocumented
21 persons who were taken into custody were routinely beaten if
22 their attitude or demeanor was not appropriately submissive
23 to the arresting agent. They also detailed how some of
24 these beatings had gotten out of hand and the victim
25 sustained serious injuries. In these cases, the victim was
26 summarily deported before the injuries came to light or any
27 complaints could be filed. The agents further noted that
28 rendering medical assistance in these cases was not a

1 priority. Getting the victim out of here was the priority.

2 I recall that one of the areas of inquiry by
3 the commission focused on how this could go on without any
4 other agents stepping forward. My clients talked about the
5 "Code of Silence" that Border Patrol agents do not turn in
6 their fellow agents. These six agents reminded the
7 commission they were testifying in secret session precisely
8 because they were in fear for their safety and their jobs if
9 they came forward publicly. Yet, the Border Patrol has
10 consistently maintained there is no "Code of Silence" and
11 that the alleged abuses are unfounded.

12 Ladies and gentlemen, I submit to you that is
13 not accurate. Attached to my statement are two exhibits.
14 One is an anonymous letter, purportedly from a Border Patrol
15 agent in the Nogales office. The other is a news article
16 detailing the most recent development in the Elmer case.
17 Both of these exhibits illustrate precisely what I am
18 talking about and ostensibly why we're here today.

19 The anonymous letter refers to a prior shooting
20 incident in which it was reported that Michael Elmer had
21 also been involved. That incident concerned an unarmed,
22 eighteen year old Mexican male who was carrying marijuana
23 into this country and had his leg blown off by a shotgun
24 blast from a Border Patrol agent. Instead of rendering aid,
25 the agents carried the wounded youth to the international
26 fence and threw him back into Mexico. The wounded youth
27 lost his right leg at mid-thigh.

28 Naturally, the Border Patrol initially denied

1 this incident occurred. However, because of legal claims
2 that had been filed by my office, the case is now under
3 investigation by the Department of Justice. Yet, it is
4 common knowledge now, and it was common knowledge then, at
5 least among the field agents, that Border Patrol Agents
6 Allan White and Shawn Palmer were the perpetrators. This
7 has all remained under wraps because of the "Code of
8 Silence" which exists within that agency.

9 Moreover, the significance of Agent Watson's
10 revelation is not that it tells us something we didn't
11 already know. The significance is that it confirms
12 something which we have known all along. If this "Code of
13 Silence" did not exist, why would agents from William
14 Mannypenny to Michael Elmer think that they could get away
15 with hiding a dead body.

16 If the "Code of Silence" is not a systemically
17 entrenched philosophy, why can agents go out in the field
18 and routinely fire warning shots, in direct violation of
19 written departmental policy, without fear of being reported?
20 How is it that Border Patrol agents can discharge their
21 weapons on multiple occasions and not report the incidents,
22 always confident that it will remain unreported? No other
23 law enforcement agency that I have ever worked with can get
24 away with that.

25 Ladies and gentlemen, the violence and abuse
26 which I am referring to is not minor or isolated. It is
27 deadly and it is common. The Elmer case is a perfect
28 example of what I mean.

1 In the months leading to the shooting on June
2 12, 1992, Agent Elmer was involved in several other
3 incidents. Specifically, we know that on March 16, 1992,
4 Agents Elmer and Watson fired multiple shots at three or
5 four drug mules in a remote area near the border. Agent
6 Elmer was wearing night goggles and the shots which he fired
7 were not warning shots. At least two agents knew of this
8 shooting and it was never reported. The prosecutor learned
9 of this incident when he was investigating the June 12, 1992
10 murder case.

11 Two days later, on March 18, 1992, Agent Elmer
12 arrested Rene Romero on drug charges and pistol whipped him
13 around the head, after Mr. Romero was handcuffed. Agent
14 Elmer and the other agents who were present refused
15 Mr. Romero medical assistance and transported him to the
16 Federal Correctional Institution. It was only after Mr.
17 Romero was at the federal facility that he was given medical
18 treatment and his lacerations were sutured.

19 Later that same evening, on March 18, 1992,
20 Agent Elmer was part of a team of Border Patrol agents who
21 were staking out another location that was identified as a
22 drug corridor. The location was also used frequently by
23 undocumented workers entering this country. On this
24 occasion, the spotter, using a nightscope, saw a large group
25 of people traveling through the desert at night.

26 Agent Elmer opened fire on this group of people
27 and emptied two, twenty round clips from his M16. As it
28 turned out, these were unarmed men, women and children who

1 had entered the country illegally seeking employment. The
2 bundles they were carrying were their meager belongings and
3 not contraband. The prosecutor knows that at least two
4 people were injured as a direct result of the shooting, but
5 they were treated at the scene and then they signed
6 voluntary departure forms and were deported without further
7 comment.

8 Again, there were at least five Border Patrol
9 agents present at the shooting scene, and not one of them
10 reported the incident. This incident, the second incident
11 for which Agent Elmer now stands indicted, became known only
12 after the June 12, 1992 murder investigation began. Even
13 then, the investigator inadvertently came across the
14 incident when he was interviewing Agent Elmer's ex-wife.
15 They did not learn about this incident from the Border
16 Patrol agents themselves.

17 So, what does this tell us about the Border
18 Patrol? I respectfully submit that we have a systemic and
19 institutional problem that cannot simply be washed away by
20 attributing it to vociferous community activists. The
21 Immigration and Naturalization Service's own internal audit
22 report establishes that there is a problem.

23 There appears to be an anything goes attitude
24 that is fostered by a lack of training, accountability, and a
25 steadfast denial that there is anything wrong. In
26 paramilitary organizations, as personified by law
27 enforcement agencies, there must be strict accountability
28 and managed consequences when there is a breach of the

1 rules. If you look at the complaints which have been raised
2 in the past, and you compare that with the official agency
3 response, you will see that in the last sixteen years we
4 have not taken a single step forward.

5 Thank you.

6 MR. CARNEY: Mr. Zuzueta.

7 MR. ZUZUETA: I have a question for -- thank you,
8 Mr. Chairman -- for the entire panel or anyone in the panel.

9 Is your -- you're all from Arizona and you've
10 also spoken of many violations of cases of civil rights
11 abuses. Is there more in Arizona because of this political
12 climate -- conservative political climate in Arizona, do you
13 think?

14 MR. GONZALES: I don't think it's endemic to Arizona,
15 and I don't think it's endemic just to the Border Patrol. I
16 think that in the context of what you're talking about today
17 and in the context of what I heard yesterday -- and if you
18 would allow me to expand a little bit.

19 I think some of the testimony that you heard
20 yesterday from -- particularly from agents and from
21 supervisors of the Border Patrol is for the most part
22 accurate in terms of reflecting what they have to deal with
23 and the reality of their job. But the fact remains that law
24 enforcement is a job, it's a career, it's a profession, it's
25 one that people choose.

26 Inherent in that is that we as a society give
27 them legal authorization and a weapon to use in enforcing
28 certain laws, but we don't give up the accountability. The

1 law enforcement agency that I dealt with had a complaint
2 system, it is a valid complaint system.

3 One of the reasons that my law firm stopped
4 representing the unions was because that was all the work
5 that we were doing. Every complaint that came into -- comes
6 into the police departments that I was representing was
7 investigated thoroughly, ridiculous as it may be.

8 Mr. Carney, verbal warnings or verbal abuse, as
9 onerous as it may be, is not a basis for criminal
10 prosecution. Our courts are stuffed right now. We don't
11 have any room to stick any more cases in there. But the way
12 that something like that is handled is administratively.

13 In a paramilitary organization in the law
14 enforcement agencies that I was representing, the officers,
15 that authority came from the top down. The tenor, the tone
16 was set at the top. If the chief, if his command staff is
17 willing to allow certain things to exist, then the men at
18 the bottom, the men in the trenches are going to expand what
19 they want to do or what they think they can do to fit
20 those parameters that they're given. If you are not allowed
21 to do certain things from the top, that doesn't mean that
22 it's not going to happen, it just means that it's not going
23 to be tolerated and there would be managed consequences.

24 The situation with the departments that I was
25 dealing with was that, no matter how minor a report of some
26 type of abuse was there were -- there was an investigation,
27 there were taped statements and there were interviews.

28 I typically had to come in with my officer and

1 be confronted with the allegations and provide an official
2 response. If it was going -- if it was an allegation that
3 could result in a criminal prosecution, they were read their
4 rights and I was allowed to provide legal assistance. If it
5 was going to be handled solely as an administrative matter,
6 because it was not the type of incident or issue that would
7 arise to a criminal complaint, then depending on the
8 situation I could be excluded, but there were managed
9 consequences. It seems to me that part of the problem that
10 you have here is precisely that, how far are the managed
11 consequences going to go.

12 MR. VEJAR: I just want to expand on that to tell you
13 that the research that has been made available and that
14 people have testified to shows apparently that the most
15 instances occur in the State of Texas, and then California,
16 and then Arizona. So although there are many incidences in
17 Arizona, we don't have the highest number.

18 MR. CARNEY: Is that proportionately?

19 MR. VEJAR: That's right.

20 MS. CASTILLO: In addition, I would like to respond
21 to the collection itself. We think there have been a number
22 of people who we -- have already made reference to the
23 problems in trying to have people come forth to report
24 abuses when they do occur.

25 Often we just come into contact with people
26 reporting abuses to us through other accidentals, in
27 essence, where we are working on some other issue and people
28 come forth to testify. I think we in Arizona, currently

1 Southern Arizona, as in Texas, are trying to find other
2 means that community advocacy groups can determine in a more
3 quantifiable way the -- the massive abuse that we believe
4 and know is there.

5 And the other thing that we have in these
6 communities along the border, the 2,000 mile southern
7 border, is what we have come to call the community syndrome
8 that exists within the community where there is so much
9 injustice that has been tolerated by government that in fact
10 a slap, verbal abuse, some of these abuses are seen as just
11 part of the conditions of living along the border.

12 And this is why I had called for zero tolerance
13 of injustice because at the border it seems that it's okay
14 for people to get slapped around, it's okay to be pushed
15 around. I mean, that's not as high a level as being shot in
16 the back. Being shot in the back is something you report,
17 or being -- you know, where there is blood, but the other
18 kind of thing is an okay thing, and I think that government
19 tolerates that and obviously the Border Patrol is part of
20 that government.

21 MR. ZUZUETA: And usually in my experience it's been
22 the political climate that allows it, that encourages it.
23 Like the statement you made on -- or one of you made on
24 subordinates going against the supervisor that reprimanded
25 the person, usually the political climate encourages that.

26 MR. GONZALES: And I think that's exactly what we're
27 referring to. I believe Ms. Garcia referred to that when
28 the chief of police currently in Tucson immediately

1 conjunction with the NAFTA negotiations. And one of the
2 areas -- one of the major areas of concern is how we're
3 going to handle that.

4 One of the areas of concern is how are we going
5 to handle exchanges through the border; things coming from
6 Mexico into the United States. There is a great suspicion
7 in the business -- in the Mexican business community
8 concerning the Border Patrol, customs, the perception that
9 perhaps Mexico needs to relax its standard and find a more
10 efficient and effective way to be able to process commerce
11 going into Mexico, but that we on this side of the border
12 don't have to be concerned about how we're going to process
13 commerce or how we are perceived.

14 It's going to be a major issue and it's going
15 to require some delicate negotiations and it will probably
16 require some compromise because we are locked into a
17 mentality on the drug issue that it's a war, and
18 consequently though we may try and gerrymander around
19 certain areas we see everybody outside of our border as
20 being the enemy, and in a war we treat them like the enemy.
21 And that is the perception that I've heard most often voiced
22 by businessmen about how are we going to handle the border
23 issue in that regard, how is the Border Patrol going to
24 allow our commerce into your country and view it as ~~commerce~~
25 and not perceive that every truck that is coming through is
26 loaded with drugs.

27 MR. VEJAR: Well, in my capacity as an attorney for
28 the Mexican consulate in Nogales I've had quite a few

1 suspended two officers who were accused of abusing a Mexican
2 youth. And the department rank and file did walk out, they
3 did protest the method that she used in terms of suspending
4 the two officers immediately prior to starting the internal
5 investigation. But there was no question that there was
6 going to be an investigation.

7 The department, the rank and file was upset at
8 the method but the chief felt that that was appropriate for
9 the circumstance. In either case there was going to be an
10 investigation and there are going to be managed consequences
11 and I think that the -- in that particular case where we are
12 talking about the political -- the political ripple affect
13 that has come from that and what its -- how it's impacting
14 the office of chief of police of Tucson. But there was no
15 question in the chief's mind that there was going to be an
16 investigation and it was going to be thorough and it was
17 going to be swift.

18 MR. CARNEY: Thank you.

19 Mr. Paz.

20 MR. PAZ: I'd like for you to focus your respective
21 on the impact that the problem has on prominent citizens or
22 someone on the west coast of Mexico, very much involved in
23 business trading, not by themselves but in the industry,
24 what impact does it have on them? Do you have reports of
25 any abuse towards that faction of the Mexican community,
26 both Mr. Gonzales and Mr. Vejar? Both of you, if I could.

27 MR. GONZALES: The only information I have about that
28 comes by way of several committees that I'm working on in

1 reports and complaints from Mexican citizens coming in
2 exclusively to do business in the U.S. because of the new
3 policy essentially, since it is not a law yet, with regard
4 to trade. And a lot of complaints about capriciousness of
5 immigration officials and being taken away, crossing guards
6 using unauthorized information and data provided to them,
7 for instance, by hospitals and other people saying there is
8 a debt of Mr. Leone for \$5,000 to such and such, St. Mary's
9 Hospital in Tucson, and a gentleman named Leone will cross
10 the border and he will be confused with the person who had
11 the debt and will not be allowed to cross into the U.S.
12 These are actual instances of violations of due process.

13 We have other cases where people cross and
14 because of their appearance they are searched, body searches
15 or other intrusive searches which are very repugnant to
16 them. And in essence these reports are dealt with directly
17 through the consulate to the immigration officials in
18 Nogales in hopes of resolving some of these problems at the
19 border. But there are a lot of problems with regard to
20 people crossing the border for purposes of business.

21 MR. PAZ: We're talking about those people that come
22 periodically to do their shopping for the year during
23 Eastertime or Christmastime or --

24 MR. VEJAR: No, I'm talking about both. One is
25 people who are engaged in the twin city industry and then
26 tourists who come in. But I'm talking mostly right now
27 about people who are engaged in commerce for the purpose of
28 manufacturing items.

1 MR. PAZ: Thanks.

2 MS. CASTILLO: Even though I'm not aware of central

3 study, I also think we need to look at it not only in terms

4 of commerce but that we also know that -- just as many

5 groups will point out wrongly I believe in terms of the

6 statistics of the use of medical facilities -- we also have

7 enormous numbers of people from Mexico who pay in the

8 hospitals there and the medical facilities, rent apartments

9 while, you know, medical procedures are going on in the

10 hospital and are paying clients of these facilities and many

11 other facilities. And therefore, you know, as studies have

12 shown, bring, you know, economic base to places like Tucson.

13 That is where obviously the merchants in Tucson all fly the

14 Mexican flag because they are making money from citizens who

15 come in and yet because of the hysteria of the border we

16 have had incidents where paying clients of these hospitals

17 will be denounced by doctors to the immigration to determine

18 if in fact these people are there legally, in quotes.

19 MR. PAZ: Thank you.

20 MR. CARNEY: I want to thank all you ladies and

21 gentlemen for coming today and participating, and you've

22 captured our interest, and we are now more behind than we

23 were before. Because of that I'll turn the program back

24 over to Chairman Pena.

25 (Recess.)

26 MR. PENA: Our next panel is the Border Community

27 Panel. And they have agreed to be called upon as we have

28 listed them in our agenda. So Romona Corrales, Chicanos Por

1 On many occasions the Border Patrol will take

2 away any documents that the client has on them and will tear

3 the documents. They are told -- the Border Patrol

4 especially will tell the clients that their case will be

5 unfavorably decided or delayed if they insist on going to a

6 nonprofit agency. Officers will contradict information that

7 is told to the clients regarding their rights in the United

8 States and they tell the clients that all is lost unless

9 they immediately agree to return to Mexico.

10 Many clients because of the length of residence

11 in the United States or because of pending immigration

12 status can seek the right to remain in the United States.

13 Unfortunately, many times they give up this right because

14 they're afraid of the immigration.

15 Subject number two, the conduct of the

16 immigration officers. Unfortunately, the Border Patrol and

17 the INS personnel appear to have a special unwritten code,

18 "See no evil, hear no evil, and report no evil" on one

19 another.

20 Expecting a Border Patrolman or an immigration

21 officer to report the physical, verbal and psychological

22 abuse of another officer is like expecting an abusive

23 husband to call the police every time he beats the wife.

24 This just does not happen and it will not happen until that

25 day when not reporting the abuse by an officer has greater

26 consequences than remaining silent.

27 Two months ago a mother came to our office to

28 seek information on securing United States documents that

1 La Causa, Yuma, would you begin.

2 MS. CORRALES: Thank you.

3 I want to thank the panel for the opportunity

4 to present testimony to you on the civil rights issues as I

5 have encountered them along the Arizona and Mexican border.

6 For the past 13 years I have worked with

7 Chicanos Por La Causa, a nonprofit agency, in Somerton,

8 Arizona. Somerton is a small rural community about 13 miles

9 from the Sonora/Mexican border. For the past 20 years I

10 have worked as an immigration counselor with nonprofit

11 agencies. I am currently certified before the INS and

12 immigration courts.

13 This morning I will address the panel on the

14 four subjects as was requested in the invitation to

15 participate.

16 First, the relationship between INS, Border

17 Patrol, and community based organizations such as Chicanos

18 Por La Causa, minority groups, and the immigrant

19 communities.

20 Perhaps it is because we live so close to the

21 border, but relationships between the above mentioned

22 agencies and groups are strained. Chicanos Por La Causa and

23 staff are seen as a thorn in the side and not as a credible

24 agency that is assisting persons with immigration rights

25 that they are entitled to. I cannot count the times that

26 clients have told me that the Border Patrol or INS agents

27 have told them that Chicanos Por La Causa or other nonprofit

28 agencies have no business doing immigration casework.

1 had a picture on them for her two children who were born in

2 the United States. During the course of the interview we

3 learned that the reason that she wanted this document with a

4 picture -- the reason she wanted these documents was that

5 the last time she had crossed from San Luis Nora to Arizona

6 the oldest child, who was only five years old, was separated

7 from her, taken into a separate room and interviewed by an

8 immigration officer. During the course of the interview he

9 was asked, "Is that really your mom? What is your mother's

10 name? What is your name? Where were you born? This can be

11 very intimidating for a five year old to sit him in a

12 separate room and to question, "Is that your mother?" Now

13 the child dreads crossing the border and he is a United

14 States citizen.

15 On Thursday of this week one of our immigration

16 counselors was driving to Phoenix with a client in order to

17 represent the client at a deportation hearing. On the way

18 they passed an inspection station which is located just

19 outside of Yuma. The counselor was asked by the Border

20 Patrol if they were all citizens of the United States. She

21 answered that she was a citizen but the client was not a

22 citizen and that they were on their way to Phoenix for a

23 deportation hearing.

24 The counselor at that moment had the client's

25 file in her hands because she was attempting to pull out the

26 appointment letter and show it to the immigration officer --

27 to the Border Patrolman.

28 At this point the Border Patrolman reached in

1 through the open window -- he was standing on the
 2 passenger's side -- he reached in through the open window
 3 and grabbed the file. He proceeded to go to the back of the
 4 car and the counselor unbuckled her seatbelt as fast as she
 5 could, she got out of the car and ran to the back of the
 6 trunk where the officer was already going through the file.
 7 The counselor then proceeded to grab the file from the
 8 officer at which point three other officers came out of the
 9 little trailer that they use as an office to see what the
 10 commotion was about.

11 The Border Patrolman told the immigration
 12 counselor, who is also certified and can represent clients
 13 before immigration courts, she was told that, you know, they
 14 wanted to see something. So she proceeded to show them a
 15 form and they said, "What's that?" And she told them, "This
 16 is an OSC." "What does that mean?" She said, "An OSC is an
 17 order to show cause. It means that this client has this
 18 appointment."

19 It just happens that that form is computerized,
 20 it shoots out of the computer. So the Border Patrolman
 21 said, "Well, that document is -- doesn't mean anything.
 22 Anyone can run a document through a computer." So she had
 23 to continue and go through the file until she was able to
 24 find one document that the Border Patrol officers were
 25 familiar with.

26 There is many -- unfortunately many forms that
 27 are being issued to clients by -- and rightfully so by the
 28 immigration courts that Border Patrolmen they don't know.

1 Were these abuses, these complaints were they
 2 heard? Were they filed? Were they investigated? What
 3 resulted was that the officer was transferred from San Luis,
 4 Arizona -- if you know San Luis, Arizona I would think that
 5 it's maybe not the best place to be stationed -- but he was
 6 transferred from there to Hawaii and that was the end of the
 7 investigation. It almost appears that it's a game the
 8 officers play to see who can be the most abusive.

9 These hearings are great and I really
 10 appreciate the opportunity to be here, but to really learn
 11 about INS and Border Patrol abuse you really need to sit for
 12 a few hours incognito in a Border Patrol or INS office.

13 Why don't clients complain about the abuses?
 14 To whom? To whom are they going to complain? To the same
 15 agency that is threatening to deport them? To the fellow
 16 employees of the officer who abused them?

17 Subject number four, the border violence. As
 18 the demand for drugs by the United States increases violence
 19 will escalate. In the middle of this violence are caught
 20 those who are coming to join their family and to seek jobs.
 21 Can any border be built high enough, wide enough, strong
 22 enough that it will be effective in separating husbands and
 23 wives, children and parents? I think not.

24 Thank you.

25 MR. FENA: Thank you. Are there any questions for
 26 Ramona Corrales? If not, thank you very much. And if you
 27 could leave a copy of your written statement.

28 Alma Barajas.

1 "I've never seen this form, it doesn't mean anything. It's
 2 not legal." It was only after showing them a form that they
 3 were familiar with that they were allowed to proceed.

4 We ask ourselves how many other persons on the
 5 way to deportation hearings are denied the right to proceed
 6 because the officer at the checkpoint does not believe the
 7 form or is unfamiliar with it?

8 Those of you who are familiar with immigration
 9 court know that if you don't appear for that deportation
 10 hearing you're automatically deported. So it's very
 11 important that you appear.

12 Complaint procedures. Why do you suppose that
 13 mother came to our office to seek information on U.S.
 14 documents for her son? It had never occurred to her to file
 15 a complaint. They know that their complaints will end up in
 16 the trash can if they even receive them at all.

17 Border crossing cards are lifted routinely at
 18 the port of entry. Why? Just because. When a call is made
 19 to the port of entry to find out, "Why did you lift this
 20 local crossing card?" they'll say, "We don't know what
 21 you're talking about. We don't have the file. Oh, that was
 22 lifted Friday. Let's see, today is Saturday, it's already
 23 been destroyed. They'll have to refile."

24 A few years ago one of the officers at the port
 25 of entry there in San Luis, Arizona was so abusive that
 26 demonstrations were held on both sides of the border in
 27 San Luis Nora and San Luis, Arizona. He had lifted so many
 28 border crossing cards.

1 MS. BARAJAS: Mr. Chairman and Members of this
 2 Committee: Good morning. My name is Alma Barajas, and I'm
 3 a paralegal with the Southern Arizona Legal Aid in Nogales,
 4 Arizona. My presence here today is to educate you on the
 5 vast number of human rights violations and racism committed
 6 along the U.S./Mexico border at Nogales, Arizona. Of which
 7 at least one has been identifiable as a murder case. Much
 8 blood has been shed throughout this border, although the
 9 resolution of a well-publicized murder of a Mexican national
 10 who was killed by an active member of the Border Patrol is
 11 the main focus of this citizen.

12 I will not minimize the gravity of this by not
 13 addressing to this committee its details, as they have been
 14 discussed by legal counsel. Many indignant transgressions
 15 still prevail in our community, and these abuses go
 16 undetected.

17 I was recently told by a victim about her
 18 anguish. She was 35 years old at the time, who crossed
 19 undocumented to do her Christmas shopping when she was
 20 apprehended by a Border Patrol agent. This individual
 21 immediately took off his identifying badge and put it in his
 22 pocket. The male Border Patrol agent drove her to a nearby
 23 lake and intimidated her with his gun. He sexually abused
 24 her, physically intimidated her for a period of three hours.
 25 Saturated, he drove her to a shopping center nearby. When
 26 the victim was pushed out of the still moving Border Patrol
 27 car the woman then required medical attention for the
 28 prevention of the infection of her severely beaten breasts.

1 Most recently a woman who was four months
 2 pregnant was detained by border crossing for being
 3 undocumented. The young girl was taken to the Border Patrol
 4 processing center where she was verbally abused,
 5 intimidated, and threatened. The agent conducting the
 6 interrogation used profanity to direct her as well as using
 7 excessive force to sit her down by pushing her and shoving
 8 her. After the girl's deportation she also required medical
 9 attention because she was bleeding vaginally. And this was
 10 determined by a doctor who had determined that the vaginal
 11 bleeding was suffered because of the physical abuse. These
 12 cases are currently being investigated by the Nogales
 13 Mexican consulate.

14 The U.S. Border Patrol agents are conducting
 15 unlawful stops of vehicles based on prejudice and do not
 16 hesitate to use their constraint in authority to intimidate
 17 the citizens of our community.

18 Relating on a personal note my experience, I
 19 was followed by a sole agent -- Border Patrol agent for
 20 approximately ten miles while I was on the freeway. I was
 21 then -- he was then joined in by a second Border Patrol
 22 vehicle. At that point the stop signal flashed. I was
 23 approached by the first Border Patrol agent and while the
 24 two other officers were standing behind my vehicle a female
 25 officer was pointing her gun at the taillight of my vehicle.

26 When I questioned the officer of his legal
 27 basis for the stop again he very casually informed me,
 28 "Wasn't I ever expected to get stopped?" He questioned me

1 for immigration purposes when she crossed from Mexico to the
 2 U.S. as she declared the purchase of fish for her personal
 3 consumption. The fish the lady had purchased was permitted
 4 to cross to the United States but the immigration inspector
 5 insisted that it was of another kind. He intimidated her by
 6 saying she could be incarcerated for this act. She was
 7 detained together with her two year old granddaughter for a
 8 period of over two hours until the health official arrived
 9 who ordered the person to send her on her way. He did tell
 10 her that the results would be given in 48 hours. And to
 11 today it's been two or three weeks and nothing has been
 12 done.

13 Racisim abounds in our institution and in other
 14 institutions as well. Nogales housing -- public schools are
 15 denying children of their rights to federal subsidized free
 16 lunches while attending public schools. These children are
 17 harassed due to their amnesty status or if they are
 18 undocumented. A different entity in Nogales, city
 19 officials, are making every effort possible to keep amnesty
 20 recipients from obtaining public housing. To take it a step
 21 further, the officials are making inquiries at the
 22 Immigration and Naturalization Department for information to
 23 prosecute the people who are already housed. This
 24 information was provided by immigration supervisor.

25 For either of these benefits the law provides
 26 no restriction for eligibility due to the citizenship, it
 27 provides for permanent residency, but yet the discrimination
 28 is prevailing with individuals and their official

1 on my name, my address and my destination. No other action
 2 took place. And I was on my way. I wasn't even asked for
 3 citizenship. It was clearly a very capricious act or action
 4 on the part of the officer.

5 In another incident a family who was fully
 6 documented was also stopped. Again, the officers were
 7 displaying their firearms and caused material damage to the
 8 vehicle which was estimated to be over \$400. This case is
 9 also being investigated by the Nogales Mexican consulate.

10 The local hospital has related information that
 11 there has been an average of at least one referral a month
 12 for medical facilities of Mexican nationals for medical
 13 attention. The services range from x-rays of the skull to
 14 broken bones, et cetera. The medical expenses incurred were
 15 requested by Border Patrol administration to be charged to
 16 the U.S. Border Patrol. The Holy Cross Hospital is also
 17 pressured by U.S. -- INS to give them specific details on
 18 the bills incurred by undocumented aliens who have U.S.
 19 citizen children. Since this information is privileged the
 20 hospital simply states that there are no extending debts.
 21 Thereby, INS interprets this as a public health charge and
 22 prosecutes or persecutes these individuals.

23 In another example the INS has been requiring
 24 individuals born in the United States with Mexican heritage
 25 who cross on a daily basis to prove their residency in the
 26 United States, if not the officials claim they can revoke
 27 their citizenship.

28 A woman was detained and essentially booked in

1 capacities.

2 We come to this honorable committee to plead on
 3 behalf of the children, the defendants, the meak and all
 4 those who have already suffered at the cruel inhuman hand of
 5 these different organizations, that these individuals be
 6 accountable for their actions. They too should be
 7 susceptible to the same criminal codes as other individuals
 8 instead of a legal license to enter or kill.

9 I would like to thank this committee very much
 10 for its efforts and for the attention today to this matter.

11 Thank you.

12 MR. PENA: Thank you very much. Are there any
 13 questions for Alma? Mr. Paz.

14 MR. PAZ: Thank you.

15 Who becomes your primary source for referring
 16 any complaints that you receive?

17 MS. BARAJAS: We don't have somebody that I know of
 18 so I have not made any referrals. Someone who is reliable
 19 and that we can count on. We don't have anybody.

20 MR. PAZ: Obviously you do hear a tremendous amount
 21 of complaints from the community or from members of the
 22 Mexican community.

23 So after they tell you --

24 MS. BARAJAS: Well, I've actually been sending them
 25 or referring them to Mr. Dulles up here to see if something
 26 could be done, but other than that I haven't found anyone
 27 else that is reliable.

28 MR. PAZ: Has there been any response of a

1 follow-through in some of the complaints that you have
2 referred?

3 MS. BARAJAS: I have not seen the people back. I do
4 not know.

5 MR. PAZ: Any communication from the Border Patrol
6 office to you to let you know what's happening?

7 MS. BARAJAS: No.

8 MR. PAZ: That's all. Thank you.

9 MR. PENA: Are there any other questions from
10 members? If not, thank you very much. If you have a
11 written statement please leave that with us.

12 Maria Jimenez.

13 MS. JIMENEZ: I want to thank the commission for the
14 invitation to address some words to you regarding some of
15 the situation in the Rio Grande Valley in Texas as well as
16 South Texas.

17 I thought that since most of the commissioners
18 are from California or Arizona it would be important to give
19 a small description of what is considered the Rio Grande
20 Valley in South Texas, both in its general geographical
21 forum as well as some of its industry and the implications
22 then and context in which the Border Patrol works and in
23 which the communities interreact with this entity.

24 The Rio Grande Valley is considered to be a
25 triangle that in its rough geographical limitations begins
26 in Brownsville, triangles up to Harlingen, and goes back to
27 the McAllen area. Both Brownsville and McAllen being on the
28 border, Harlingen being inside of what would be the triangle

1 Immigration and Naturalization Service and the United States
2 Customs.

3 In terms of the informal economy, the Rio
4 Grande Valley is characterized as being one of the areas of
5 the greatest trafficking of drugs and probably this is the
6 most important international industry in terms of the
7 informal economy.

8 In this setting then, and I'd like to
9 concentrate more on -- rather than the Laredo sector the
10 McAllen sector of the United States border, which covers
11 that triangle in the Rio Grande Valley and further north,
12 primarily because I think it is here that we can contrast
13 with much of what was said in terms of San Diego. While in
14 San Diego the primary focus of the law enforcement
15 activities and operations of the Border Patrol tend to be
16 the large numbers of undocumented immigrants which cross.

17 In the McAllen sector it is considered to be
18 the most important sector for drug interdiction on the
19 border. It alone contributes to the seizing of 30 percent
20 of the drugs in this particular area. As such, I think that
21 the types of civil and human rights violations which we see
22 in these areas can be demonstrated through not so much the
23 dramatic, because the dramatic is difficult for the
24 perspective of communities, keep giving these contradictions
25 to assess, and I'm referring to the incidents of the use of
26 deadly force.

27 This is an area which according to the sector
28 chief in an interview to a radio station last year stated

1 composed of the Rio Grande Valley.

2 South Texas is a larger concept, it is --
3 includes Corpus Christi which is further north and anything
4 south of San Antonio and bordering into Laredo, Texas, which
5 is in Texas terms could -- means a good -- from one -- from
6 Corpus I guess to Laredo a good four to five hour drive.
7 And in Texas that's considered close.

8 These areas are primarily considered usually
9 the poorest areas in the country whenever economic census
10 and data is given by many sources. For instance, Hidalgo
11 and Starr County always rival each other in having the
12 lowest per capita income in the United States. And the
13 region as a whole always rivals with Appalachia in terms of
14 the level of poverty.

15 Industry can be captured as tourism,
16 agriculture - these are seasonal. Some of the tourists are
17 the South Padre Islands and others are what the people in
18 the valley call winter Texians who are retired people from
19 the north who come between November and April and much of
20 the observations of how they clog the health system, the
21 transportation that people refer to the undocumented in the
22 Rio Grande Valley. People refer to people from Vermont and
23 Connecticut, and Ohio and Wisconsin who are the winter
24 Texians.

25 But in the economic I think the largest
26 employer are governments, school districts, local
27 governments, county governments and, of course, the federal
28 government. Actually, one of the largest employers is the

1 that in two years there had been 142 incidents of deadly
2 force in that particular sector. In one meeting in 1990
3 that I had with the sector chief he indicated that in 1990,
4 two years back there had been 69 incidents of the use of
5 deadly force.

6 Given the large numbers of drug trafficking it
7 is difficult for civilians who have no authority to
8 investigate to assess the circumstances in which these
9 shootings take place. In general and occasionally there are
10 agents who are wounded and -- so that close determinations
11 and investigations have to be undertaken do not permit an
12 easy decision whether this was justified or nonjustified
13 shooting.

14 Although in our report we do document one, in
15 November of 1990, but that was clearly an immigration
16 related shooting in which the person basically was running
17 away from the agents at a checkpoint, at the Sahuarita
18 checkpoint, and fell -- picked up a mesquite tree and was
19 shot to death by the Border Patrol agent. Here was
20 definitely an unequal use of force.

21 Further, in this investigation this man was not
22 a resident of the valley but lived in Houston, a legal
23 permanent resident. This man was active in circles of --
24 the Hispanic ministers in Houston knew him well and his
25 family, and so we could conclude that he was not a dangerous
26 criminal but rather someone who had been caught up in
27 illegal activity but had -- was unarmed and therefore faced
28 a situation in which it seemed to us that an unarmed person

1 did not pose such a threat that the agents were not able to
2 act in arresting him in another form other than shooting him
3 to death.

4 Otherwise it's difficult to calculate the
5 situations of the shooting, and so rather than concentrate
6 on the dramatic, which would take us into actual
7 investigations of detail in terms of what happend in these
8 incidents, I would like to more talk about the effects of
9 the combination of immigration law enforcement and drug
10 interdiction which it has on the residents of these areas.

11 Often there is little considerations given to
12 the effect that patrol board operations have on communities
13 on the southern border. To those who live on the border it
14 comes to no surprise that in the process of the discovery of
15 the undocumented and drug smugglers the Border Patrol
16 polices large segments of U.S. population. In conducting
17 its operations Border Patrol officers come in contact with
18 millions of citizens and legal residents.

19 The manner in which the Border Patrol goes
20 about enforcing the law, the practices that officers
21 actually follow in day-to-day situations place a fundamental
22 role in determining the relationship with individual border
23 residents and the community at large. It is in this routine
24 Border Patrol operations that most often legal residents of
25 the southern border communities are subjected to personal
26 experiences with improper law enforcement actions that
27 escalate into points of friction and at times into violence.
28 The tensions produced by these incidents are -- often result

1 submitted as incidents occur and as situations between the
2 local community and the agents transpire.

3 Again, I'd like to refer to several areas. The
4 areas of brief non-detentive stops to question. Here
5 clearly Hispanic residents are routinely stopped by Border
6 Patrol agents and questioned about their immigration status.

7 There is in the Rio Grande Valley one study
8 being conducted and it was found out that in non-random
9 pretest sample of 250 interviews about one-fourth of the
10 respondents indicate irregular or negative encounters with
11 immigration authorities are -- well, it -- mainly the
12 victims of mistreatment are Hispanic, most are male, young
13 and alone when the encounter occurs, most is verbal in
14 nature, rude and disrespectful during questioning and
15 inquiries about legal status. Most encounters occur near
16 border crossings of the Rio Grande or INS checkpoints.
17 Things like individuals are stopped, questioned and searched
18 by roving Border Patrol vehicles.

19 In one incident a college student was driving
20 in his car with friends on Highway 281 and was stopped by
21 the Border Patrol at the side of the road, shotguns in their
22 hands, the officers searched the students' vehicles. After
23 several minutes the officers returned to their car and drove
24 off.

25 A similar incident was reported on Highway 44
26 where The Lawyers Committee for Civil Rights Under the Laws
27 of Texas have filed a claim on behalf of two Texas A&I
28 University students who were followed by a Border Patrol

1 in strained relationships between the Border Patrol and the
2 local community. The community perception is that the
3 United States Border Patrol is an entity in itself, divorced
4 from the local community.

5 Years of defensive answers to complaints of
6 abuses, such as the statistics used, there is one complaint
7 for every 17,000 arrests, is a statistic that has been used,
8 to my knowledge, in the last three years. I first heard the
9 statistic from Mr. Gustavo De La Vina in a forum held in San
10 Diego in February of 1990. I assume that the statistics was
11 derived from previous arrests in '89 and complaints in '89.

12 Since then there are newspaper articles and I
13 attended other forums with high level management of the INS
14 and spokespersons like Mr. Duke Austin and others in the
15 central office of the INS in which this same statistic is
16 used -- one out of every 17,000 arrests. I often wonder if
17 the number of complaints have varied and if the number of
18 arrests have varied in two years since this is used.

19 That is to me indicative that it's a pat answer
20 which is used in order to always avail people who want to
21 know how many complaints there are that in deed the Border
22 Patrol keeps track and so do INS officials in Washington of
23 complaints and, therefore, are able to provide you with the
24 idea that the problems are not the problems that everyone
25 says there is.

26 And so given these answers, which many border
27 communities have heard again and again and again, the
28 strings between the community and the Border Patrol are

1 vehicle as they traveled. The Border Patrol vehicle
2 proceeded to follow, drive beside, drive in front of, and
3 again following the student's vehicle.

4 After five miles, the students came to a stop
5 in front of a highway roadblock of various Border Patrol
6 cars which paralyzed all traffic on the highway. At that
7 time, the Border Patrol officers approached the vehicle
8 while pointing a gun at the heads of the young men and
9 shouted vulgarities such as, "Get your fucking hands up" and
10 "Get out of your fucking car." The agents then forced the
11 two students to kneel on the pavement of the highway with
12 their hands behind their back for approximately 20 minutes.
13 During this detention, they were slandered, humiliated and
14 assaulted.

15 As the driver of the car stated later, "We are
16 both clean cut guys who do not in the slightest resemble
17 criminals. I am sure no one appreciates having guns pointed
18 at them and treated like common criminals. I am very upset
19 with the lack of professionalism used by these Border Patrol
20 agents and hope it does not go unheard or unresolved" --

21 Interesting enough, several of the incidents
22 reported have been of young men who have been stopped in the
23 Rio Grande Valley or in South Texas in which -- on the side
24 of the road. It was not only the search of cars and guns
25 pointed but in this particular survey at least there were
26 two cases in which strip searches were conducted on the side
27 of the road. And I visited a family in early March who
28 reported that two of their relatives who travel from Mexico

1 to visit family and were on their way to Chicago, legal
2 residents that live there, were also stopped and strip
3 searched at one of these road checks in the Rio Grande
4 Valley.

5 Clearly there are certain problems even in the
6 interrelationship of legal residents. I'm going to site an
7 example. For instance, in Harlingen, Texas, Proyecto
8 Libertad documented, including pictures -- and we can
9 provide the pictures of the injuries to the commission --
10 the case of Hector Martinez, a legal resident, who on May
11 15th of last year was pulled by the hair out of his friend's
12 car by a Border Patrol agent and pushed against the side of
13 an INS vehicle and immediately handcuffed. "I was unable to
14 climb in their car due to being handcuffed. However, the
15 official continued to force me to enter the INS vehicle
16 until I finally did. I remained there for approximately 20
17 minutes. During this time the U.S. Border Patrol called the
18 Texas Department of Public Safety. After the DPS arrived,
19 one of the Border Patrol agents released me. The DPS found
20 no reason to charge the car I was with any citation," and so
21 they were let go.

22 These are examples of some of the interactions
23 that happen in the Rio Grande Valley and again it is -- in
24 my estimation, many of these activities is because there is
25 this emphasis on the drug interdiction and therefore to cite
26 the young men as the targets, the checks by roving Border
27 Patrol, the checks at roadsides.

28 It was interesting to me that in 1989 I was

1 and what processes exist for them to bring their case to the
2 knowledge of the proper authorities.

3 That doesn't mean that there haven't been in
4 that area other cases brought to the knowledge of the
5 Inspector General or the Department of Justice. In April of
6 1991 ten cases signed and -- before notary publics were sent
7 to the Civil Rights Division of the Department of Justice
8 only to be answered that these cases were not substantiated,
9 despite the fact that they were properly attested to by the
10 victims and signed.

11 In the case of the United States Customs in
12 November of '91 and the early part of '92 several
13 organizations held public hearings in the valley regarding
14 some of the problems at the ports of entry in that period
15 with high public exposure to the issue. The organizations
16 received at least a hundred complaints regarding either U.S.
17 Customs officials or INS officials at ports of entry. And
18 they ranged from destruction of vehicles upon inspection to
19 the -- basically alleging that a car had been improperly
20 used on some type of criminal activity.

21 In that particular case, we -- the
22 organizations did ask the U.S. Customs to meet, they also
23 asked INS and the Border Patrol. However, both INS and the
24 Border Patrol declined and the Assistant District Director
25 of the United States Customs with every head of the port of
26 entries from Van Cleo to Brownsville, met with community
27 groups to discuss what some of these issues were, and how
28 the community felt, and what process could be developed to

1 addressing a forum of students at Pan Am University and one
2 young woman, very blond, very blue-eyed was the first one to
3 raise the hand after I finished my presentation and she
4 asked me, "What rights did a roving Border Patrol vehicle
5 have in stopping her?" And I asked her why she was asking
6 the question. And it seemed that she worked late in the
7 afternoon and usually was out of her job at 9 o'clock at
8 night. She left her child in a day-care that was on a
9 lonely road in the Rio Grande Valley and at least in the
10 last month on three different occasions she had been stopped
11 by a Border Patrol agent who then made her get out of her
12 car and they searched the entire car. The only conclusion
13 that I could reach would be that the vehicle had a
14 percentage and profile considered to be a vehicle associated
15 with drug trafficking.

16 These particular examples raise questions as to
17 some of the field enforcement practices. It doesn't mean or
18 state how extensive it is. I don't think that anyone really
19 knows. It's simply indicative that they are there.

20 But one of the interesting things about the
21 survey, and in going to visit people who have indicated that
22 they have been abused in their homes in different colonies
23 where the survey is taking place, it is without doubt that
24 of all the victims that I have interviewed in the survey
25 none knew that they could complain and none knew where they
26 could complain, which is an interesting phenomenon to
27 observe. And it indicates to us that much work has to be
28 done in order to inform people of their right to complain

1 improve the process and the information to the agencies of
2 complaints that people had regarding their agents.

3 Did this work? All I'm saying is that on March
4 the 31st I was again in the Rio Grande Valley and simply
5 going to eat. The restaurant owner who knows that I do this
6 type of work came to let me know about a case where the
7 previous week he had been taken to a secondary inspection
8 and asked to wait in a room while the agents inspected his
9 car. He got into the car after they found nothing. He left
10 and when he got home and opened his trunk everything had
11 been torn from the inside. He had not been informed and he
12 didn't know what channels he was supposed to take. So
13 that's also an indication of where that situation is.

14 MR. PENA: Ms. Jimenez, we're a little pressed for
15 time. Could you sum it up and then give us a written
16 statement. We will enter it into the record.

17 MS. JIMENEZ: We will give you several written
18 statements. I want to give you -- basically I was reading
19 from testimony before a subcommittee in congress.

20 MR. PENA: Would you give that to us and we will
21 enter it into the record.

22 MS. JIMENEZ: And I'd also like to -- in the
23 recommendations -- those will be provided in writing --
24 those are recommendations that we have made throughout the
25 years to the Office of the Inspector General, to the
26 Department of Justice, and to the INS.

27 And simply to close is that whether these are
28 valid complaints or not cannot be determined until there is

1 a system that people know they can complain and thorough
 2 investigations can be done.
 3 Who is this fair to? I think it's fair to both
 4 people who suffer abuse but it's also fair to the agents who
 5 are accused of that abuse in the sense that as long as
 6 communities perceive that there is no resolution of
 7 complaints the agents themselves -- the agency itself
 8 suffers from credibility in communities and a deterioration
 9 of their relationship in those communities.
 10 And so in a democratic society it is proper to
 11 look for systems in which checks and balances can be
 12 implemented in terms of those who have power and those who
 13 don't have, and systems that will lead to objective
 14 conclusions and also the protection of human and civil
 15 rights in the operation of any government entity, but
 16 particularly in those entities where we have given the
 17 consent to use deadly force.
 18 MR. PENA: Thank you very much.
 19 Any questions from the members? If not, thank
 20 you panel members, and if you have any written additional
 21 statements that you wish to have entered into the record
 22 please hand them over to one of our staff or you can mail
 23 them to us. You have ten days after this hearing to do so.
 24 MR. PAZ: If I could ask Ms. Barajas just one small
 25 one?
 26 MR. PENA: Sure.
 27 MR. PAZ: When you were stopped by the Border Patrol
 28 and asked for your residency, where you live -- if he would

1 have asked you for citizenship, how would you prove that you
 2 were a U.S. citizen?
 3 MS. BARAJAS: Well, let me get into a few more
 4 details on that. I was going to training in Tucson and it
 5 was early in the morning when this happened. He -- I
 6 refused to answer him when he asked me what my name and
 7 address was. I told him he didn't have probable cause. So
 8 he was laughing. He says, "It doesn't matter if you don't
 9 give it to me, I know it." And he did. I don't know if he
 10 got it through the license or whatever.
 11 I had a card from the probation officer I was
 12 doing work for that was also right next to me, a form to
 13 immigration or someone, it was related to another case. He
 14 didn't question me on any of that.
 15 And to answer your question, I wouldn't have
 16 been able to give any documentation at that point. I would
 17 have had to ask someone to bring my birth certificate. Now
 18 I carry it. I didn't have it at that time.
 19 MR. PENA: Thank you very much for being with us
 20 today.
 21 I have a 44 page document entitled
 22 "Undocumented Migration." I don't have time to read it into
 23 the record, 44 pages. I will, however -- if there is no
 24 objection from committee members I will have the document
 25 introduced into the record as presented to us. Hearing no
 26 objections, so ordered.
 27 That concludes the open session of this hearing
 28 and we now have some -- we have some people who have signed

1 up that they wish to make some statement for the record.
 2 And as I call you up, I would like to ask you to keep your
 3 remarks down to about a three minute statement and if you
 4 have a written statement I would like to have it given to us
 5 so we can have it entered into the journal -- into the
 6 record.
 7 I think we have a doctor here. I can't read
 8 the -- is it John Quirindona? Come on up. And Manuel
 9 Parsons is next. If you could get in line. And Jesse
 10 Laquna.
 11 Mr. Quirindona, please proceed and try to keep
 12 your remarks down to within three minutes.
 13 MR. QUIRINDONA: I'll try the best I can. I have a
 14 lot of information here for you.
 15 MR. PENA: If you would give it to us in writing we
 16 can have it entered into the record.
 17 MR. QUIRINDONA: Okay.
 18 MR. PENA: All of us have to go sift through
 19 everything that is presented today.
 20 MR. QUIRINDONA: Okay. Basically what I have here is
 21 information relating to my tour of duty with the Border
 22 Patrol. I was a Border Patrol agent from 1977 to 1984. And
 23 I think it's extremely important information because it
 24 shows some of the disparate treatment that I experienced
 25 with regard to the Border Patrol agents against the Hispanic
 26 aliens and, you know, I'd like to read this if you could
 27 give me the time. I don't think it will take more than
 28 three minutes so --

1 MR. PENA: If it won't take more than three minutes,
 2 go ahead.
 3 MR. QUIRINDONA: All right.
 4 MR. PENA: I don't want to have to hail you down.
 5 All right.
 6 MR. QUIRINDONA: All right. Okay. I wrote a
 7 synopsis here basically.
 8 MR. PENA: That's fine. We can enter the rest of it
 9 into the record.
 10 MR. QUIRINDONA: Okay. In October of 1977 I entered
 11 the U.S. Border Patrol Academy in Georgia. I recall being
 12 singled out for my last name and my New York mannerisms by
 13 Border Patrol instructor Robert Shannon in a sarcastic way
 14 in front of class. I was the only New Yorker of Puerto
 15 Rican extraction out of a class of over --
 16 MR. CARNEY: Sir, just a moment. You're reading a
 17 statement. Is that correct?
 18 MR. QUIRINDONA: Okay. I'll give you copy of the
 19 statement.
 20 MR. CARNEY: That will make it easier for her. Try
 21 not to go too fast. We do want to hear you and we want to
 22 get the information, but she has to be able to take it down.
 23 But if it's a written statement we can make copies of it and
 24 submit it into the record.
 25 MR. QUIRINDONA: Okay. Basically I took a couple of
 26 notes here, some stuff that is not included in the statement
 27 that I want to highlight.
 28 All right. And that's disparate treatment

1 between the Canadians and the Mexicans. I had
2 experienced -- I had been stationed at three stations in my
3 career. I was in Chula Vista and then from Chula Vista I
4 was transferred to Tucson and then from Tucson I ended up in
5 El Centro, and I had the experience of catching Canadians
6 and found that the manner in which they were treated in
7 relation to the Hispanic aliens who were in similar
8 conditions -- they were treated better.

9 For example, there was one situation in Tucson
10 where one woman was robbing from a family that was of
11 Canadian extraction and had been caught and I was called in
12 and I brought her in. She got special treatment and was
13 awarded an I-210 letter which is release on your own
14 recognizance.

15 And I had been involved in other similar
16 situations where Mexicans or aliens of Hispanic origin had
17 been caught under similar circumstance and they were
18 immediately deported.

19 And there was another situation where I had
20 caught a Canadian who had entered without inspection at the
21 port of entry at Calexico and they didn't want to apprehend
22 him and I had to take him down to the port of entry and turn
23 him over to the inspectors, and the immigration inspectors
24 didn't want to deal with it and they threw him back at me.
25 So I had to search the guy and everything and I had to let
26 him go. That wasn't the proper procedure. The proper
27 procedure is you're supposed to do an I-213 and whatever
28 deportation forms, you put him in camp and then ship him

1 back to Canada. So, you know, those kinds of situations.

2 Then when I was in the academy they also used
3 to sing songs and everything about how they were going to
4 hunt down the wetbacks and tonks. All right? And these are
5 terms that they use to dehumanize the Hispanics and
6 Mexicans. They use the terms tonks and they use the terms
7 wetback. All right? I can remember going on 5-mile runs
8 and we would sing songs like, "Hunting down the wetbacks
9 till the dawn's first light, this PT is a man's delight."
10 Okay?

11 There was another thing, too, during a training
12 session in Tucson that was conducted by an instructor by the
13 name of Mike Catalunic (phonetic) there was reference made
14 to a "drop knife." All right? And basically what that was
15 was in the event you got involved in a shooting and -- you
16 know, the person wasn't armed or something like that, you
17 take a drop knife and throw it on them and so that way later
18 on in the investigation you could justify that the person
19 was armed and that the shooting was justified. Okay?

20 I also experienced high alcohol and marijuana
21 use by agents in Calexico. All right? And another thing,
22 too, the form that they use to apprehend aliens smuggling
23 vehicles was called the I-44 form. Stops are based on the
24 Hispanic appearance. In other words, it's documented; I
25 stopped the vehicle because the person appeared to be of
26 Hispanic origin. Okay?

27 MR. PENA: Thirty more seconds.

28 MR. QUIRINDONA: All right. And there's also a vast

1 amount of paperwork in processing other than Mexicans. So,
2 in other words, the easiest thing to do is to go out and
3 catch Mexicans and not to catch people of other origins. So
4 maybe that's one of the reasons why the system is the way it
5 is.

6 MR. PENA: Thank you very much. If you will make
7 sure you give us your written statement it will be entered
8 into the journal.

9 MR. QUIRINDONA: Do you have a copying machine or
10 what?

11 MR. PENA: Staff will find a copy machine.

12 Manuel Parsons. Manuel, again, we have a three
13 minute limitation.

14 MR. PARSONS: Okay.

15 I want to stand up for the simple reason that I
16 understand that the immigrants have problems, there is no
17 doubt about that. I understand that there is good and bad
18 people in everywhere and everything. But I want to stand up
19 because while you commissioners had all these people talking
20 about human rights, Chicanos were not mentioned.

21 I want to tell you people that several Chicanos
22 have been killed by Mexican government right across the
23 border, and that wasn't mentioned. I want to tell you more
24 mothers -- Chicano mothers are under extortion because their
25 children are taken into Mexico and their extortion -- and
26 nobody helps them, nobody says nothing. I want to tell you
27 that there is hundreds of Chicanos doing time in Mexican
28 jails, nobody said nothing about that.

1 I demand a written apology by the Mexican who
2 insulted me outside by calling me a thug. He said that I
3 looked like a thug.

4 I would like you to understand, Commissioners,
5 that Chicanos don't like the word civil rights. Because
6 Brother Malcolm has taught us that civil rights is
7 bureaucratic nonsense and human rights are given by God and
8 God alone.

9 Number four, 12 years ago the republicans took
10 office and in order to avoid people like me they invented a
11 word called Hispanic. The word did exist, we relate it to
12 our Puerto Rican brothers. We related to our Puerto Rican
13 brothers as Hispanic and nobody else. In other words, we
14 don't include the Cubans. So 12 years ago if you were a
15 democrat you were a Chicano, if you were republican you were
16 a Hispanic.

17 The same wonderful thinking tank that gave us
18 those two words -- I mean, the Hispanic word and the Latino
19 word -- also came out with a new word. They were hurting
20 because they wanted to commit genocide in Central America
21 but they didn't know what to call them, they couldn't call
22 them communists because they weren't communists. So they
23 invented -- the same people who invented this nonsense about
24 Hispanic are the same people who invented the word contra.
25 So I want you to understand that.

26 I will then request something from the
27 commissioners. I will now read my statement.

28 My name is Manuel Parsons, Senior Political --

1 MR. PENA: You can enter that into the record. You
 2 don't have to read it. You've got 30 seconds.
 3 MR. PARSONS: As you can see, no matter what Chicano
 4 brother was here he has hugged me. I get along with all my
 5 Chicano brothers. I get along with all the political
 6 ideologists. My brother Jesse Laquna here, we have
 7 differences but he's my brother.

8 I would like to -- I would like to ask
 9 Commissioner Garcia to please help us find Dr. Rona Fields,
 10 expert on terrorism. We have papers that prove that here in
 11 the border states sponsored narcotics terrorism exists.

12 Thank you.

13 MR. PENA: Thank you very much. If you'll give us a
 14 copy of your statement.

15 Mr. Laquna, Jesse Laquna.

16 MR. LAQUHA: Good afternoon. My name is Jesse
 17 Laquna. I've lived in San Diego City, San Diego for 43
 18 years and I've lived in San Ysidro for 23 years. I live
 19 about approximately a mile from the Mexican border.

20 Approximately in the middle of 1980 it was very
 21 common to see in headlines and television about the violence
 22 and crime along the Mexican border, and at night I would
 23 hear the rustling and the running of people, and the INS and
 24 the migras and the illegals, the undocumented, the drug
 25 runners and heaven knows who. But anyway, I would listen to
 26 that at night, I would hear that at night.

27 And now with the recent time -- I don't know if
 28 you know about it, they put in a big border. A lot of

1 there was more people trying to get in and if tomorrow they
 2 catch another five we can also assume that those that they
 3 didn't catch the day before got in.

4 MR. PENA: Thirty seconds, Mr. Laquna.

5 MR. LAQUANA: And so it's not only the federal
 6 government that should be here, the state, the city, and the
 7 county. The illegal immigration and any type of immigration
 8 is crowding our schools, it's crowding our system, our
 9 health care system, and right now it's the Mexican immigrant
 10 and tomorrow it will be the Chinese, Korean, Vietnamese and
 11 so forth. I would certainly like to put an end to this.

12 One last statement is that it's such a big
 13 problem that all organizations must come together. To that
 14 end there is an organization here that is called Federation
 15 of American Immigration Reform. They were -- I was
 16 interested in what they were doing --

17 MR. PENA: Mr. Laquna, you're running over the time.

18 MR. LAQUANA: -- so I joined.

19 MR. PENA: Present us with a written statement.
 20 Thank you very much.

21 Okay. Jorge Hinojosa, Steven Garcia, and
 22 Michael Hance.

23 I would remind you gentlemen again that we are
 24 on a tight schedule. If you will confine your remarks to
 25 three minutes. If you have a written statement please give
 26 us a synopsis of it and you can enter your statements into
 27 the record.

28 Jorge Hinojosa.

1 people at the beginning didn't like that because they felt
 2 that was an insult to the Mexican government and I probably
 3 thought along those lines also. And they also started
 4 erecting fences along the road, they started putting more
 5 lights and I hear that they have got more government
 6 officials, Border Patrols, INS, and so forth. And today
 7 very seldom do we read about all the crime and violence
 8 along the border, and that has helped.

9 It is very difficult to separate what is
 10 legally border violence and border crime. The reason being
 11 that the city fathers here in San Diego has used San Ysidro
 12 as a dumping ground; anything they don't want they dump in
 13 San Ysidro.

14 Why don't they go vote? Because they've got
 15 24,000 over there and you'd be hard-pressed to get 600 vote
 16 in an election. And I don't have to tell you that we live
 17 in a representative society and we must vote. So if we
 18 don't vote, that's what we get.

19 One of the bad things that we've got up there
 20 we -- not too long ago they brought in a lot of Afro
 21 Americans and there was a lot of fights between the Afro
 22 Americans and the Chicanos along the border. And that was
 23 also included in the border violence statistics.

24 I read statistics and I can tell you a lot
 25 about statistics but that's not what we're here for.

26 If one assumes that they catch ten people
 27 trying to get in here from Mexico today and tomorrow --
 28 weekend and we can assume that they just caught ten and

1 MR. HINOJOSA: Good afternoon. And thank you for
 2 giving us an opportunity to mention some things to you here.

3 I -- my name is Jorge Hinojosa and I was
 4 employed for three years with the American Friends Service
 5 Committee; two of which I was the field coordinator for the
 6 immigration law enforcement monitoring project. My
 7 responsibilities were principally to train people in
 8 documentation of allegations of immigration law enforcement
 9 abuse along the entire U.S./Mexico border and to create the
 10 data base which documents those cases and statistics as
 11 well. Also to investigate allegations of abuse here in the
 12 San Diego region.

13 What I would like to do is give a few quick
 14 points for you to possibly investigate in the future. One
 15 of those is the lack of integrity of the investigative
 16 process that is established by the OIG and the Border Patrol
 17 itself.

18 People do not have trust in this -- in these
 19 investigative processes. People who came to us we would
 20 always give them the option of filing a complaint directly
 21 with the OIG. The vast majority of the people would not
 22 want to file, they were afraid of retribution in the future,
 23 some type of deportation proceeding, something like that.
 24 That is why -- and also last night in a meeting with the
 25 reception -- going away reception for the Mexican consul,
 26 he stated also that people don't come to the Mexican
 27 consulate with complaints, they prefer to go to social
 28 service agencies such as the American Friends Service

1 Committee and others. They also fear -- they basically have
2 a fear of government processes and don't trust it. That's
3 why it's very important that an independent review process
4 be established.

5 That's also because of the lack of integrity in
6 the system. In other words, you have a federal law
7 enforcement agency committing the alleged abuse, then you
8 have a federal agency investigating the abuse, then you have
9 a federal court where you file a civil complaint if you want
10 to. Anyway, that's why precisely we filed complaints with
11 the Organization of American States.

12 Quickly though, regarding the allegations of
13 abuse compared to the number of arrests, the number of one
14 for every 17,000 --

15 MR. PENA: Thirty seconds.

16 MR. HINOJOSA: Yesterday was the first time that I
17 heard a different number. I would like to have them compare
18 apples and apples and not apples and oranges. In other
19 words, they say that other law enforcement agencies have a
20 much lower level of complaint. Well, they're talking about
21 administrative detention versus arrests. The Border Patrol
22 conducts the vast majority --

23 MR. PENA: Time, Mr. Hinojosa.

24 If you have a written statement --

25 MR. HINOJOSA: I would like to make just one more
26 comment which is, I think, very relevant.

27 Mr. De La Vina said that the number of times
28 that it has taken people to get through, arrests has gone

1 agents as far as making any overtures to stepping out of
2 bounds. They -- it's really something serious -- taken very
3 serious when an allegation is placed against an agent.
4 That's in this sector.

5 Now, to continue on with that, as far as some
6 of the allegations made about the way we treat people, we
7 are operating under a border where we encounter 600,000
8 illegal aliens a year, we're doing so at any given time with
9 90 men in the field. I have personally taken down groups of
10 30. I'm trying to search them for criminals, I have gang
11 members, wanted felons, I have smugglers, I have dope
12 smugglers, I'm trying to enforce immigration law, customs
13 law, agricultural law, which would include the smuggling of
14 parots, fruits, vegetables, things of that nature. I feel
15 like our agents in this sector are overworked,
16 underequipped, underpaid, underresourced, and it has lead to
17 us enforcing laws that we've had no training in over an
18 extensive period of time.

19 The bottom line, in summation, is federal
20 government, both U.S. and Mexico can stop this problem any
21 day they see fit and want to jointly agree on things. So in
22 my view I must assume that the Band-Aid approach to the
23 policies that go along with the border situation are
24 controlled at the highest levels of the U.S. and Mexican
25 government and they have chosen not to address the
26 situation.

27 Thank you very much.

28 MR. PENA: Thank you.

1 down. The Coleyio de la Frontera Norte conducted a study
2 that said that people are getting arrested on the average
3 two times to be able to get through.

4 I have been out on the border doing some
5 investigation and have found that the number of arrests has
6 now gone up to an average between four and six times.

7 MR. PENA: Thank you very much.

8 Now Steven Garcia.

9 MR. HANCE: Sir, I'm going to go first. My name is
10 Michael Hance, I'm a Border Patrol agent and union officer.

11 But what I want to bring forward to this
12 committee is the fact that in place in the San Diego sector
13 is an extremely strong internal discipline program. I'm
14 encountered with that as a union officer, I represent the
15 agents that are so charged.

16 We find that most agents that are charged will
17 wind up with discipline resulting in either admonishment to
18 termination. This sector has had terminations in the last
19 year for people that used excessive force.

20 Most recently we represented somebody that was
21 charged with slapping an alien that had spit on him. He
22 received 45 days off duty without pay.

23 Now, all I want to point out is we have an
24 extremely stringent investigation and grievance procedure in
25 this sector. OIG comes forward with an allegation placed
26 against an agent, he may well spend four to six months
27 working in the garage without his gun and badge waiting for
28 a decision to be made. That has a chilling affect on the

1 Mr. Garcia.

2 MR. GARCIA: Yes. I just want to elaborate a little
3 more.

4 I'm hoping that today you'll walk away with a
5 sense of, yes, there is a problem but you don't walk away
6 with a stereotype of all Border Patrol agents.

7 Mr. Hance, myself and many other agents perform
8 a very tough job daily, and besides the things we encounter
9 we also get assaulted, which is something that has not been
10 addressed here. An agent that was not enforcing the law
11 recently, just mending the fence, was rocked and had to be
12 hospitalized.

13 But the agents also perform a service. We seem
14 to be performing more of a service than we are enforcement.
15 We are legalizing a lot of people with these 210 letters you
16 heard about recently. A lot of immigrant or undocumented
17 migrants coming in are being given letters, being given
18 official forms and being allowed to leave our stations and
19 proceed to wherever they go and then make arrangements for
20 deportation hearings.

21 Also, agents save lives. They've gone into
22 burning buildings and they have pulled people out, they have
23 pulled people out of canals in Arizona and El Centro, they
24 have helped people who are victims on highways, putting
25 pieces back together, just taking them off. They've had to
26 run into traffic themselves and pull these people from the
27 highways.

28 And something else that has not been addressed

1 here and a lot of speakers who take facts have not
 2 addressed, the problem of the abuse by these undocumented
 3 migrants by other persons here in the United States. The
 4 ones that transport them in trunks, the ones that house them
 5 in places that would not be even acceptable as a minimum
 6 standard of living, with human feces all around them,
 7 clothes all over the place, the food that they eat is just
 8 tortillas and maybe bologna, if they're lucky and in a
 9 Hilton Hotel, and the continued abuse once they get to their
 10 final destination of being threatened of being turned in to
 11 immigration if they do not comply and continue to pay the
 12 smuggler.

13 These are additional abuses that the panel
 14 should be looking into. It is real and it continues whether
 15 the Border Patrol is here or not.

16 That's all.

17 MR. PENA: Thank you very much. And congratulations,
 18 both of you did it in two minutes each. If you have a
 19 written statement please hand it to one of our staff.

20 MR. GARCIA: Mr. Dulles gave us the address so we can
 21 type it up in better format and present it.

22 MR. PENA: Thank you very much.

23 Muriel Watson, Lee Laabs, and Edith Cole.

24 I would remind you panelists that you have a
 25 three minute limitation.

26 Muriel Watson.

27 MS. WATSON: Yes. Good afternoon, once again. Last
 28 night when I got home and there was news reports about this

1 hearing going on there were people in the Tijuana River
 2 Valley who have various civic organizations and they FAXed
 3 to me a couple of messages and asked me if I would read them
 4 into the record for them. So with that in mind -- and I
 5 will turn these over to you.

6 The first message is from Citizens Against
 7 Recreational Eviction. "Dear Chairpersons and
 8 Commissioners: My name is Ted Powers and I am the president
 9 of Citizens Against Recreational Eviction. Our main focus
 10 has been the protection of the recreational useage of the
 11 Tijuana River Valley." These are all people that actually
 12 live in the valley, farm and work there.

13 "Our civil rights are repeatedly infringed upon
 14 with the criminal acts of illegal aliens. The theft, rape,
 15 murders and drug smuggling into this country are only the
 16 tip of the iceberg. The schools, our medical services, our
 17 residential, automobile (collision and theft) insurance
 18 rates are victimizing American citizens. Please protect our
 19 civil rights. We sympathize with the south of the border
 20 brethren, but these are hard times and I don't feel that we
 21 need to sacrifice our families to protect the rights of
 22 people whose initial premise is to enter our country
 23 illegally. Thank you for your consideration. Ted Powers."
 24 Of Tijuana River Valley.

25 The next is from the Tijuana River Valley
 26 Equestrian Association and Mounted Assitance Unit. "As the
 27 president of the Tijuana River Valley Equestrian Association
 28 and its Mounted Unit, which donates most of its time and

1 attention to issues impacting the San Diego-Tijuana border
 2 region, I find it extremely upsetting that concerns for the
 3 rights of undocumented immigrants should be given
 4 consideration over the rights of legitimate American
 5 citizens. In my opinion, in order to have civil rights in
 6 the United States of America, you must be a legal,
 7 documented resident. While I applaud the efforts of groups
 8 like this, to deal with this issue, I feel that the only
 9 appropriate action is to support the rights of American
 10 citizens. Sincerely - Candace Ricks." Who lives and works
 11 and resides in the Tijuana River Valley.

12 Thank you.

13 MR. PENA: Thank you very much.

14 Mr. Laabs.

15 MR. LAABS: Good afternoon. My name is Lee Laabs and
 16 I'm the second vice-president of our local Border Patrol
 17 1613. I want to address the issue of OIG and the process
 18 of -- the way they investigate allegations agaist agents.

19 Just a little bit -- to go into a little bit
 20 about it, when there is an allegation made immediately the
 21 alien is separated from the agent who he claims he did wrong
 22 to. The -- he's then put in a room where a supervisory
 23 agent, usually trained in OIG, interviews him, takes a
 24 written statement and a recorded statement from the alien
 25 and then from there the agent who is being allegeded against
 26 also makes a recorded statement and written statement which
 27 is submitted to OIG.

28 This has been -- I guess it's been -- the way

1 these other people have explained it is there is no
 2 accountability. If there is any wrongdoing, such as an
 3 alien being brought to a hospital, he's injured, these
 4 doctors do make reports to the local police agencies, they
 5 investigate his injuries, the FBI also investigates the
 6 Border Patrol, the grand jury investigates the Border Patrol
 7 and the U.S. attorney also investigates the Border Patrol.
 8 And these -- this one lady talked about there is no checks
 9 and balances. There are a lot of checks and balances.

10 And I just want to let the people of the board
 11 know that 99 and 9 percent of the agents are hard working,
 12 honest individuals that treat all the aliens as fellow human
 13 beings because we see it every day on the border. And if
 14 you haven't been down there and you haven't worked with us
 15 or investigated us, I urge you to do so.

16 Thank you very much.

17 MR. PENA: Thank you.

18 Edith Cole.

19 MS. COLE: I'm Edith Cole, with the Border Peace
 20 Patrol, and I have come down to the border, like last night
 21 also, for the last two years on regular intervals and I
 22 thought some of the observations that we've made might help
 23 clarify some of your questions.

24 One of them is that the border we're talking
 25 about has changed very, very much over the last two years.
 26 When we started in January '91 there was a chain link fence
 27 with big holes and some places had no fence at all. Today
 28 there is eight and ten foot long fences. The holes stretch

1 from Otay Mesa to the Ocean. The vegetation that was in the
2 Tijuana basin -- river basin has been completely raised so
3 that hiding places have disappeared, roads have been run
4 right across the border.

5 And it's seems to us -- I mean -- well, the
6 first thing it did I think is it increased the number of
7 apprehensions, as was said before. When we talked, first,
8 to would be migrants and asked them how many tries does it
9 about take to get across, they say, "Well, two or three. If
10 you don't make it in three you just don't have it."

11 Today when we talk to them they say it is some
12 four, five, six, seven, eight times they get arrested. I
13 think eventually they get through but the number of arrests
14 that -- and, therefore, the estimated number of actual
15 crossings I think are vastly inflated by the fact that many,
16 many more people are now arrested many, many more times
17 before they make the cross.

18 And I'm concerned about the hysteria that comes
19 with the large -- the growing and growing and growing
20 numbers of migrants which are not balanced by a clear
21 investigation of how many times on the average people get
22 arrested and also how many actually go back again after
23 three months, four months, six months.

24 The wall -- the big wall alone I think
25 psychologically -- some other influences that are
26 detrimental. They had a good sign. I think the officers
27 feel safer. There used to be a lot of rock throwing and --

28 MR. PENA: Thirty seconds.

1 STATE OF CALIFORNIA
2 COUNTY OF SAN DIEGO

3
4 I, Renee K. Papierniak, Certified Shorthand
5 reporter, in and for the State of California, Certificate
6 No. 7056, do hereby certify:

7 That the above-mentioned proceedings was taken
8 by me on April 17, 1993, at 1355 North Harbor Drive, in the
9 City of San Diego, State of California; that said
10 proceedings was reported by me in shorthand and transcribed,
11 through computer-aided transcription, under my direction;
12 and that the above and foregoing pages, numbers 3 to 154,
13 inclusive, is a true record of said proceedings.

14 I do further certify that I am a disinterested
15 person and am in no way interested in the outcome of this
16 hearing or connected with or related to any of the parties.

17 In witness whereof, I have hereunto set my hand
18 this 28th day of April, 1993.

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Renee K. Papierniak, CSR No. 7056

1 MS. COLE: -- windshields broken. That's not any
2 more.

3 But on the other hand, the tension has risen,
4 we see much, much more taunting of officers I think because
5 of frustration on the other side is reason too. I think
6 that you set up a climate that is just inviting abuse.

7 I think we ought to help the agency. I also
8 think that most of them are doing their very best to do a
9 decent job. By having more -- not just a review board but
10 also better internal discipline.

11 MR. PENA: Thank you very much.

12 A reminder that panelists and individuals who
13 desire can submit a written statement to the Western
14 Regional Office of the United States Commission on Civil
15 Rights at 3660 Wilshire Boulevard, Suite 810, Los Angeles,
16 California, 90010. And you can do this between now and the
17 next ten days.

18 That concludes the hearing today. Thank you
19 very much.

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21 (Whereupon the hearing adjourned at 1:30 p.m.)
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