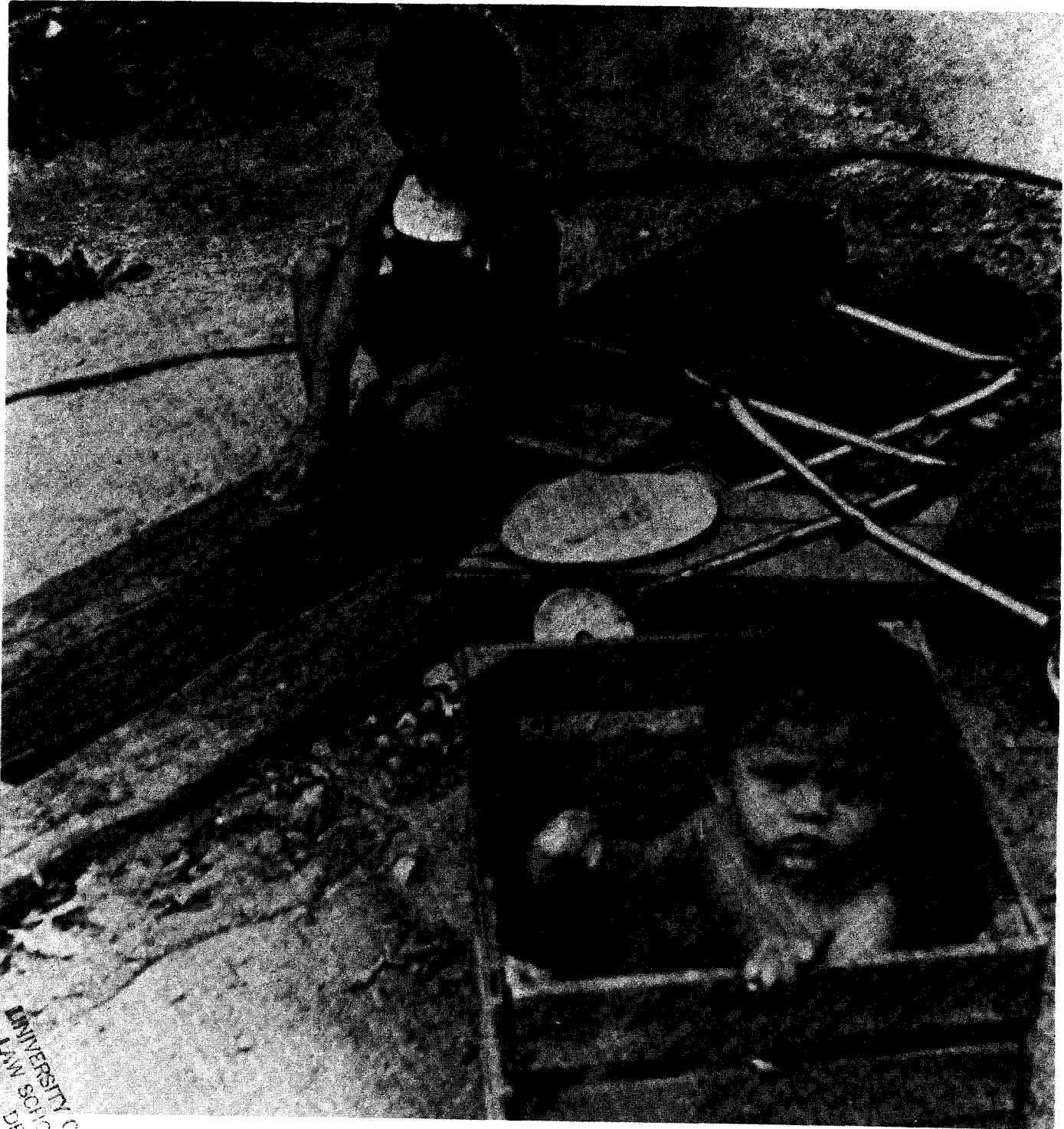


# INDIANA MIGRANTS: *C.R. 1.2: In 3/4* BLIGHTED HOPES, SLIGHTED RIGHTS



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March 1974

3035998

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# I N D I A N A   M I G R A N T S :

## BLIGHTED HOPES, SLIGHTED RIGHTS

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--A report prepared by the Indiana Advisory  
Committee to the United States Commission  
on Civil Rights

### ATTRIBUTION:

The findings and recommendations contained in this report are those of the Indiana Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission.

This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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LETTER OF TRANSMITTAL

INDIANA ADVISORY COMMITTEE TO THE  
U.S. COMMISSION ON CIVIL RIGHTS  
March 1975

MEMBERS OF THE COMMISSION  
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Murray Saltzman

John A. Buggs, Staff Director

Sirs and Madam:

The Indiana Advisory Committee submits this report of its study of migrant farmworkers in Indiana as part of its responsibility to advise the Commission about civil rights problems within this State.

The basic issue which this report addresses is that the migrant farmworker is subject to unequal protection under the laws of the United States and the laws of the State of Indiana. The migrant is among the lowest paid, least educated, worst housed, and most medically impoverished groups in the State. The migrant is denied even the last line of relief in this Nation: welfare.

The Advisory Committee has been involved with this problem since 1967, when it held open meetings regarding migrant housing conditions in the State. The Advisory Committee has since that time been made aware of the additional problem areas of employment, health, education, and welfare, and has heard from migrants, camp owners, growers, Federal agency representatives, State agency representatives, and local township representatives responsible for various migrant programs.

The specific issues examined by the Committee during its open meetings in August 1974 were the exclusion of migrants from protection of State and Federal laws, the failure of governmental agencies to protect the rights of migrants where laws do exist, and the exclusion of migrants from government-supported benefit programs.

The Advisory Committee is forwarding a series of recommendations to the appropriate local, State, and Federal officials. It is the Advisory Committee's hope that the Commission will support these recommendations and use its influence to help alleviate the poor working and living conditions among migrant farmworkers in Indiana.

Respectfully,

/s/

THOMAS W. BINFORD  
Chairperson

## ACKNOWLEDGMENTS

INDIANA MIGRANTS: BLIGHTED HOPES, SLIGHTED RIGHTS was written by Duane Lindstrom and was the principal staff assignment of Carmelo Melendez. Assistance in the research and preparation of the report was provided by Valeska Hinton, Margaret Johnson, Frank Steiner, Delores Miller and Ada Williams. The report was prepared under the supervision of Clark G. Roberts, regional director, Midwestern Office, U.S. Commission on Civil Rights.

Cover photo by Carmelo Melendez through the courtesy and permission of the Gilberto Berrones family.

Final edit and review was conducted in the Commission's Office of Field Operations in Washington, D.C., by Charles A. Ericksen, chief editor, with support from Bruce E. Newman and Mary Frances Newman. Preparation of all State Advisory Committee reports is supervised by Isaiah T. Creswell, Jr., Assistant Staff Director for Field Operations.

## THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the Act, as amended, the Commission is charged with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, religion, or national origin: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

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An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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## INTRODUCTION

Manuel and Maria Guerra are migrant farmworkers in Indiana.<sup>1</sup>

They are Mexican American. They live in Texas but come to the Midwest for 6 months out of every year in search of stoop labor in the fields. Both speak some English, have a grade school education, and last year had a total income of \$1,533.

During the peak of the tomato harvest in Indiana, the Guerras work from dawn until dark, 7 days a week. They receive no overtime pay, no health benefits, no workmen's compensation, and no unemployment insurance benefits.

Their three children also work in the fields to increase the family's income. The children are not covered by the State's compulsory education law or child labor law.

The Guerras live in a converted toolshed with partitions to separate family units. There is no indoor plumbing--no indoor toilets and no hot water.

Two of the Guerra's children have abscessed teeth and are in need of dental care. They receive none. Maria Guerra suffers from influenza and is in need of health care. She receives none.

During the first 3 weeks after arriving in Indiana, the Guerras cannot find work. A drought has set the crop season back almost a month. The Guerras are without money, but they cannot move on to other farms in other States because they are in debt to the Indiana farmer. In exchange for a \$50 loan to make the trip from Texas, the

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1. The Guerras are a composite Indiana migrant family. All conditions and experiences in this account have been verified in hearing records, staff interviews, or signed affidavits.

family must be ready at a moment's notice to go to work for the farmer and begin repaying the debt.

When Manuel Guerra inquires at the State employment office about other job possibilities in the local area, he is told that all the crops are suffering from the drought and there is no migrant work. He is not referred to any available nonagricultural jobs.

Without food or money, the family is eligible for emergency food relief from the local township welfare fund. The township trustee refuses to give them aid and instead refers the family to the county food stamp office.

The county officer takes the Guerra's application for food stamps and after a week of processing declares them ineligible based on an estimate of the family's projected income for the next month.

The Guerras return to the farmer and receive an additional loan of \$20 to buy food. They wait for the weather to break.

## MIGRANTS: A NATIONAL PROFILE

NO ONE BECOMES A MIGRANT FARMWORKER  
IF HE HAS ANY POSSIBLE ALTERNATIVE....

Vernon M. Briggs, Jr.  
Author, Chicanos in Rural Poverty

Throughout the Nation, 184,000 Americans work as migrant farm laborers in conditions similar to those of the Guerra family. Each earns approximately \$2,434 a year, working for 124 days in farm labor and 34 days in off-season odd jobs. (See Exhibit I.)

### EXHIBIT I

Migratory farm workers: Number and sex of workers, average days worked and wages earned, United States, selected years, 1959-72<sup>1</sup>

Year	All migratory farm workers			Migratory workers with 25 days or more of farm wage work				
	Total	Male	Female	Number of workers	Average days worked		Average wages earned during year	
					At farm and nonfarm wage work	At farm wage work	At farm and nonfarm wage work	At farm wage work
	Thousands	Thousands	Thousands	Thousands	Days	Days	Dollars	Dollars
1959.....	477	359	118	346	143	119	911	710
1960 <sup>2</sup> .....	409	315	94	317	157	123	1,016	819
1961.....	395	308	87	296	136	109	902	677
1962.....	380	286	94	288	141	116	1,123	874
1963.....	386	318	69	278	127	110	868	657
1964.....	386	280	107	272	155	120	1,581	1,083
1965.....	466	334	132	300	149	122	1,474	1,192
1966.....	351	249	104	275	160	121	1,779	1,307
1967.....	276	204	71	194	145	117	1,555	1,266
1968.....	279	205	74	176	148	120	1,711	1,385
1969.....	257	201	55	172	152	113	1,937	1,293
1970.....	196	161	35	135	148	123	2,007	1,697
1971.....	172	142	30	117	142	111	1,830	1,407
1972.....	184	133	51	138	158	124	2,434	1,814

<sup>1</sup> Data relate to persons 14 years of age and over in the civilian noninstitutional population at or near the end of the year. Migratory workers are those who leave their homes temporarily to do farm wage work in another county or counties. Does not include foreign nationals brought into the United States to do farm work who have left the country before the time of the survey.

<sup>2</sup> Beginning 1960, includes Alaska and Hawaii.

Rural Development Service. Based on data from enumerative sample surveys made by the U.S. Department of Commerce for the Economic Research Service. Data for 1949-58 in *Agricultural Statistics, 1972*, table 647.

In 1971 a study funded by the U.S. Office of Economic Opportunity (OEO) found that the average migrant family included six members and had a total income of \$2,021. At the time of the study, the poverty level income established by OEO for a family of six was \$4,800.<sup>2</sup>

Like the Guerras, most migrants earn so little in wages that it is normal to find all able members of a family working in the field. A 1972 report issued by the Senate Subcommittee on Migratory Labor concluded that one out of every four migrant field workers was 17 years old or under,<sup>3</sup> while the American Friends Service Committee maintained in a 1970 study that, "Whatever people say, children from the age of six work in the fields harvesting the food we all eat."<sup>4</sup>

The economic necessity of working the fields makes it nearly impossible for migrants to pursue either education or job training. The U.S. Department of Health, Education, and Welfare (DHEW) found in 1970 that the average migrant farmworker had completed 5 years of school, while the average American had completed more than 12 years of school. In addition, DHEW found that more than 90 percent of all migrant children never finish high school.<sup>5</sup> Without education or training, the migrant finds himself or herself unqualified for any position outside of the migrant stream.

Lack of education and lack of an adequate income leaves migrants vulnerable to sickness and disease. "The migrant has a life expectancy 20 years less than the average American," said Dr. Raymond Wheeler in testimony before the U.S. Senate Subcommittee on Migratory Labor in 1969. "The migrant's infant and maternal mortality rate is 125 percent higher than the national average. The death rate from influenza and pneumonia is 200 percent higher than the national rate, and from

2. U.S., Comptroller General, Impact of Federal Programs to Improve the Living Conditions of Migrant and Other Seasonal Farmworkers, 1973, p. 16 (hereafter cited as Impact of Federal Programs).

3. U.S., Congress, Senate, Subcommittee on Migratory Labor of the Committee on Labor and Public Welfare, Federal and State Statutes Relating to Farmworkers, 92 Cong., 2d sess., 1972, p. 193 (hereafter cited as Federal and State Statutes).

4. American Friends Service Committee, Child Labor in Agriculture-- Summer 1970 (Philadelphia, January 1971), pp. 2-3.

5. Impact of Federal Programs, p. 21.

tuberculosis, 250 percent higher than the national rate. The accident rate among migrant farmworkers is 300 percent higher than the national rate," he concluded.<sup>6</sup>

Migrant health is also jeopardized by the housing conditions found in labor camps. Studies of migrant camps done in the States of Washington and Michigan and reported to the Senate Subcommittee on Migratory Labor found that housing provided for migrants was generally "inadequate, structurally unsound, overcrowded, hazardous, deficient, and in violation of existing legislation covering such units." The Washington State Council of Churches concluded after a survey that the housing conditions in migrant camps contributed to the poor health of the inhabitants.<sup>7</sup>

Although migrants are apparently qualified to receive a number of welfare benefits, these benefits rarely reach them. The Office of Economic Opportunity indicated that because of "mobility, residency requirements, and problems of obtaining required income certification, migrants have only limited opportunities to participate in...Medicaid, food stamps, welfare, surplus food commodities, Federal job training, and child care."<sup>8</sup>

The U.S. Department of Labor in 1972 found that although poor farmworkers represent 2 percent of the Nation's population, they receive less than 0.009 percent of the Federal expenditures for domestic social programs and services.<sup>9</sup> Between 1966 and 1970, the Federal Government provided about \$400 million for programs to help alleviate the hardships confronting the estimated 1 million migrant and seasonal farmworkers of the Nation. In 1971 Federal obligations for programs for poor farmworkers totaled \$123.3 million. Of this amount, approximately \$58 million was spent on education, \$14 million on health services, \$2 million in the area of child development, \$13 million for employment services, \$1 million for housing and \$36 million for OEO migrant programs.<sup>10</sup>

6. Juarez-Lincoln Center, Migrant Health Legislation and Programs (Austin, Tex., undated), p. 6.

7. Impact of Federal Programs, p. 22.

8. Ibid., p. 23.

9. U.S., Department of Labor, Manpower Administration, Office of National Programs, Division Migrant Programs, Report on the Department of Labor Farmworker Task Force (September 1973), p. 55.

10. Impact of Federal Programs, pp. 7-11.

What services migrants do receive are often of poor quality or below par, according to Robert McElroy, program leader of the U.S. Department of Agriculture's manpower group.

"Unfortunately," said Mr. McElroy, "too many of the past efforts on behalf of migrants by both the legislative and executive branches of governments at all levels have been ineffective programs largely uncoordinated and of questionable value to migrants."<sup>11</sup>

Migrants are not, however, simply statistics, numbers, or recipients of governmental programs. The migrant life style and culture is unique and is a necessary consideration in any analysis of the migrant situation.

"In a very real sense the migrant farmers form a 'subculture' in this Nation," Dr. Robert Coles, a psychiatrist at Harvard University, reported to the Senate Subcommittee on Migratory Labor. "They live apart from the rest of us in a number of ways. By definition, they are on the move, regularly or irregularly living each year in several States, and in the process usually managing to lose the many advantages of a permanent residence in any one of them."

Dr. Coles went on to tell the Senate subcommittee, "The extreme poverty, the cultural deprivation, and social fragmentation, in sum, the uprootedness which characterizes their lives, falls not suddenly upon them (as it does upon the observer who tries to comprehend their manner of survival) but is a constant fact of life from birth to death, summoning, therefore, a whole style of life, a full range of adaptive maneuvers."

Because the migrants realize they are not a permanent part of any community, they "turn their isolated, mobile life inward, becoming guarded and suspicious toward outsiders but, in compensation for a rootless life, [they become] exceptionally close-knit with their young children...."

"Not only are they poor, and weak, and isolated, and ignored, and afflicted with all sorts of severe medical and psychiatric problems," Dr. Coles concludes, "but in addition, they are wanderers who are cut off even from what Oscar Lewis calls 'the culture of poverty.'"<sup>12</sup>

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11. Robert C. McElroy, "Migratory Farmworker Problems and Needs" (Remarks before the National Manpower Advisory Committee, Washington, D.C., June 18, 1971), p. 4.

12. Federal and State Statutes, pp. 205-210.

The economic, educational, medical, and psychological disadvantage experienced by migrant farmworkers is due, in part, to the passage of Federal legislation giving economic advantages to certain groups of workers but denying the same advantages to other workers. (See Appendix.)

In 1935 the U.S. Congress passed the National Labor Relations Act, giving Federal protection to the rights of workers to organize and collectively bargain with management for better pay, better working conditions, and better job benefits.<sup>13</sup> Congress decreed in the same law that agricultural workers are not entitled to such governmental protection.<sup>14</sup>

In 1938 Congress passed the Fair Labor Standards Act guaranteeing American workers a minimum wage for their labors. Farmworkers were excluded from equal protection of the law for decades, and it was not until 1973 that laws were enacted which will eventually make the minimum wage in agriculture equitable with the minimum wage of other workers.<sup>15</sup>

In 1938 child labor laws were enacted which prohibited oppressive child labor and protected adult workers from unfair competition in the job market through the use of child labor. Loopholes were written into the law making exemptions for farmwork.<sup>16</sup>

The passage of the Fair Labor Standards Act in 1938 protected employees from being forced to work overtime without being paid a just and fair wage. The government specified that "time and a half" must be paid for any work over 40 hours a week. Agricultural employees were excluded from the law.<sup>17</sup>

In the 1950's Congress aided the Nation's workers by passing the Federal Employment Tax Act, which requires that employers contribute to unemployment insurance benefits for individuals who are out of work. Congress again excluded agricultural workers from the program.<sup>18</sup>

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13. 29 U.S.C. §151 et seq.

14. 29 U.S.C. §152.

15. 29 U.S.C. §206(a)(5); 29 U.S.C. §213(a)(6).

16. 29 U.S.C. §213(c)(i) and 214.

17. 29 U.S.C. §213(a)(6).

18. 26 U.S.C. §3306(c)(1) and (k).



Federal laws and actions regarding immigration of workers from Mexico have also affected the American migrant worker through what Richard J. Bela, attorney and senior associate of Interstate Research Associates, calls the labor displacement factor. "In World War II, the Government entered into an agreement with Mexico for the importation of 'farm laborers,' and this 'bracero program' was reinstated during the 1950 Korean War and continued under Public Law 78 until 1964," Bela told the House Subcommittee on Agricultural Labor. "Cheap labor coming across the border into California and Texas...displaced local domestic labor which in turn displaced other domestic labor in the northern States." As the result of the immigration policy, according to Bela, wages were depressed and workers were forced to enter and remain in the migrant stream.

The federally sponsored bracero program officially ended in 1964 but the United States Government continues to allow Mexican workers to commute across the border and compete for jobs with American workers. Generally the commuter "is a Mexican National who has legal entry for permanent residence in this country but who chooses to work here and reside in Mexico," said Bela. "He is also known as a 'greencardier' because of the color of his official identification border pass."<sup>19</sup>

Additional competition for jobs comes from the Federal Government's inability to control the volume of illegal aliens who smuggle themselves across the Mexican border to seek employment. Since the termination of the bracero program in 1964, the number of illegals has steadily increased, according to the U.S. Immigration and Naturalization Service.<sup>20</sup>

Congressional action establishing the Land Grant College Complex also affected agriculture to a great degree and, in turn, the migrant. The Morrill Acts of 1862 and 1890, the Hatch Act of 1887, and the Smith-Lever Act of 1914,<sup>21</sup> combined to provide various colleges and universities with money, land, and research designed to benefit rural Americans and consumers.

19. U.S., House of Representatives, Committee on Education and Labor, Subcommittee on Agricultural Labor, Seminar on Farm Labor Problems, 92d Cong., 1st sess., June 1971, pp. 71, 94, 95 (hereafter referred to as Seminar on Farm Labor Problems).

20. Federal and State Statutes, p. 256.

21. Laws creating land grant complex now codified at 7 U.S.C. §§301-390.

This research fostered mechanization of the agricultural industry and resulted in a decline in the number of available farm jobs. Migrant farmworkers were particularly hard hit by the mechanization. Between 1959 and 1972 the number of agricultural jobs held by migrants dropped from 477,000 to 184,000, a decline of more than 60 percent. During the same time period, however, agricultural productivity rose 25 percent, while the net income from farming rose by more than 75 percent.<sup>22</sup> (See Exhibit I.)

For those agricultural workers who lost their jobs to technology and machines, the land grant complex did very little. In 1969 alone, it was estimated that of the quarter of a billion tax dollars spent by the land grant complex, 95 percent went to technological, mechanical, and chemical advancements in the agricultural industry, and only 5 percent was spent on projects aimed at assisting the needs of farmworkers displaced or affected by farm mechanization.<sup>23</sup>

Through these congressional actions, the Federal Government has: 1) excluded the farmworker from the rights and benefits granted to every other American worker, 2) supported immigration legislation creating an oversupply of agricultural workers, resulting in depressed wages and job opportunities, and 3) financially supported the development of mechanization for farmowners but neglected the needs of those workers losing their jobs to the machines.

"Regardless of his race or ethnic group, the legal status of anyone employed in the agricultural sector of the American economy is that of a second-class citizen," said Vernon M. Briggs, Jr., writing in Chicanos in Rural Poverty. "Although large farmowners are the most privileged group in American corporate society (with import quota protection, antitrust law, exemptions, price supports, soil bank purchases, subsidized research, irrigation, land reclamation and erosion projects, and special property tax rates), farmworkers survive only by the law of the jungle."<sup>24</sup>

22. U.S., Department of Agriculture, Agricultural Statistics 1973, pp. 421, 444.

23. Jim Hightower, Hard Tomatoes, Hard Times: Preliminary Report of the Task Force on the Land Grant College Complex (Agribusiness Accountability Project, Washington, D.C., 1972), p. 6.

24. Chicanos in Rural Poverty (John Hopkins University Press, 1973), p. 49.

## MIGRANTS: AN INDIANA PROFILE

THE REASON FOR FOLLOWING THE CROPS WAS  
REAL SIMPLE: WE HAD TO EARN A LIVING;  
WE HAD TO STRUGGLE TO SURVIVE ANOTHER  
YEAR.

Guadalupe Rocha, Jr.  
Indiana migrant, now  
settled out.<sup>25</sup>

Each summer approximately 18,000 migrant farmworkers and their families make their way to Indiana, where they plant, cultivate, and harvest \$26,000,000 worth of the State's crops of asparagus, cucumbers, mint, peas, potatoes, strawberries, tomatoes, orchard fruit, seed corn, and melons. They work in 43 Indiana counties, primarily in the central region of the State. (See Exhibit II on following page.) More than 80 percent of the workers are Mexican Americans from Texas, traveling from their homes in the lower Rio Grande Valley to seek stoop labor in the fields of Indiana. (See Exhibit III on page 12.)

These workers are joined by migrants from Florida, Missouri, and Arkansas as early as mid-May for work in preparing the fields for planting and for early cultivation of crops. The migrant population continues to grow over the summer months, hitting its peak in early September during the tomato harvest, when more than 10,000 migrants are in the fields. (See Exhibit IV on page 13.)

During this peak harvesting period, migrants often work from dawn until dark, 14 to 16 hours a day, 7 days a week. For this labor, they earn less than \$1,600 a year. A survey of farmworkers entering

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25. The term "settled out" refers to former migrant farmworkers who no longer work in the migrant stream.

EXHIBIT II

INDIANA MIGRANT (INTERSTATE) FARMWORKER  
POPULATION AND DISTRIBUTION - 1973



Total Population -  
18,409

Source: Associated Migrant Opportunity Services, migrant health project application to U.S. Department of Health, Education, and Welfare, 1974.

EXHIBIT III

OUT-OF-STATE WORKERS EMPLOYED IN SEASONAL AGRICULTURAL AND FOOD PROCESSING ACTIVITIES  
IN THE STATE OF INDIANA  
BY STATE OF ORIGIN

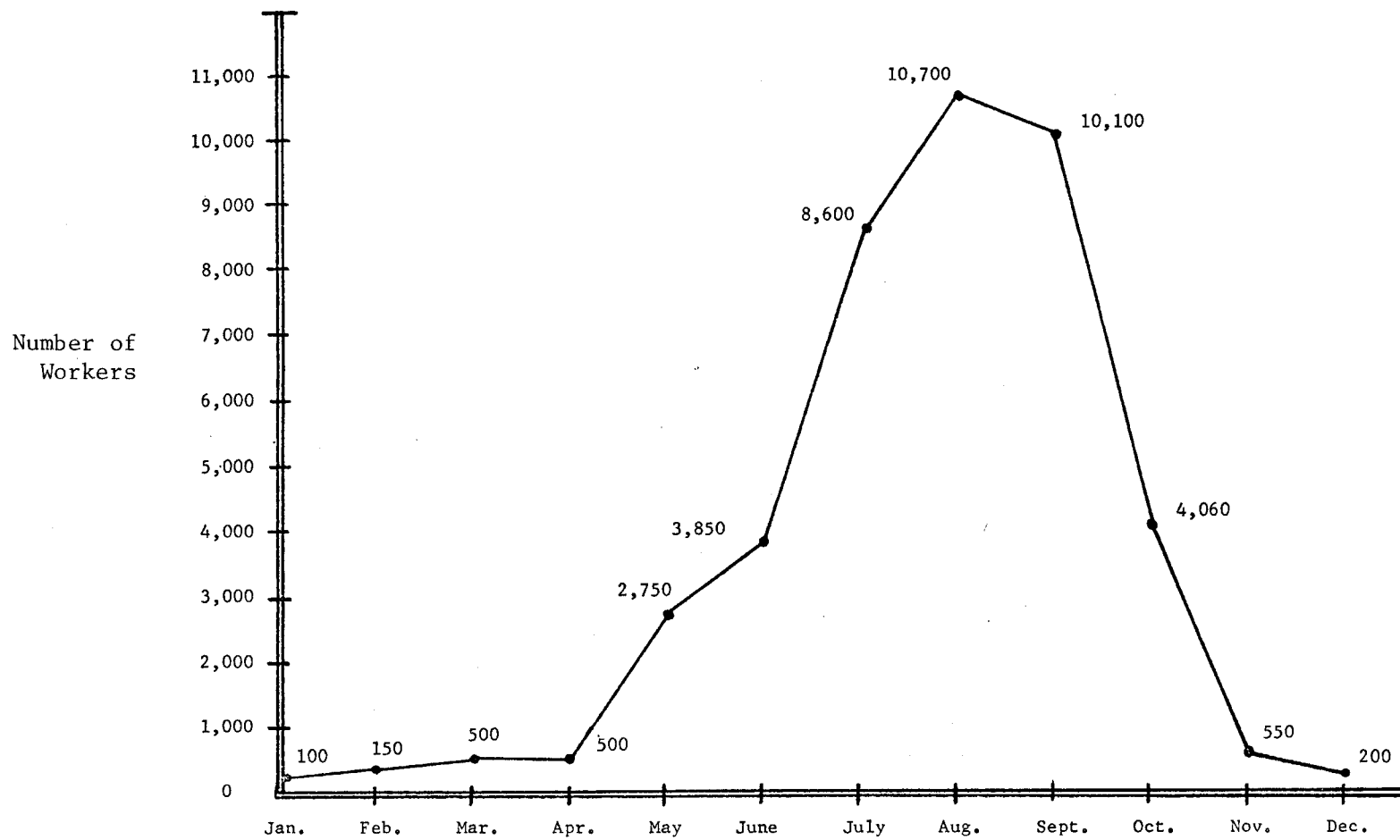
May 1972 through October 1972

Origin	May 15	May 31	June 15	June 30	July 15	July 31	Aug. 15	Aug. 31	Sept. 15	Sept. 30	Oct. 15	Oct. 31
Texas	440	1,076	1,252	1,350	1,470	2,272	3,733	5,681	6,396	5,739	2,164	0
Arkansas	0	54	0	0	0	0	0	52	117	119	0	0
Florida	12	46	14	14	14	20	135	238	353	312	45	0
Kentucky	0	0	0	0	0	0	0	24	71	67	0	0
Tennessee	0	5	0	0	0	0	0	0	0	0	0	0
Missouri	0	0	0	0	0	0	0	0	16	22	0	0
Other States	0	15	30	15	15	15	43	148	161	80	31	0
<b>TOTALS</b>	<b>452</b>	<b>1,196</b>	<b>1,296</b>	<b>1,379</b>	<b>1,499</b>	<b>2,307</b>	<b>3,911</b>	<b>6,143</b>	<b>7,114</b>	<b>6,339</b>	<b>2,240</b>	<b>0</b>

Source: Indiana Rural Manpower Report 1972

EXHIBIT IV

INDIANA MIGRANT FARMWORKER POPULATION TREND BY MONTH - 1973



Source: Associated Migrant Opportunity Services, migrant health project grant application to Department of Health Education and Welfare, 1974.

the U.S. Department of Labor's National Migrant Workers Program during March 1974 showed that the average income of Indiana migrants for the year 1973 was \$1,533. This figure included income for work outside of Indiana and for work obtained during the off-season. Of nearly 300 migrants entering the program between 1971 and 1974, the average annual income was \$1,376, according to statistics provided the Advisory Committee by David Martinez, director of the Indiana settling out program of the Midwest Council of La Raza. (vol. 4, p. 55)<sup>26</sup>

The migrant population flowing into Indiana has decreased steadily over the past years. In 1965 permits were issued by the State Department of Health for the operation of 802 migrant camps with a total capacity of 21,865 inhabitants.<sup>27</sup> Last year, 190 camps (see Exhibit V) with a total capacity of 10,819 inhabitants were in operation, a drop of more than 50 percent.<sup>28</sup>

Migration to Indiana and other Midwestern States began during the summer following entry of the United States into World War I. Enlistment and recruitment into the armed services had depleted the domestic labor force, and the U.S. Department of Agriculture imported 21,000 alien Mexican workers to the Midwest to aid in the harvest of the crops.

The Midwestern States continued to recruit Mexican and Mexican American workers after the war because the labor was cheap and returning veterans were taking more lucrative jobs in industry rather than returning to agricultural jobs. Agriculture, nevertheless, continued to be dependent upon the availability of workers willing to stoop, walk, kneel, crouch, and crawl through fields harvesting the Nation's food supply.

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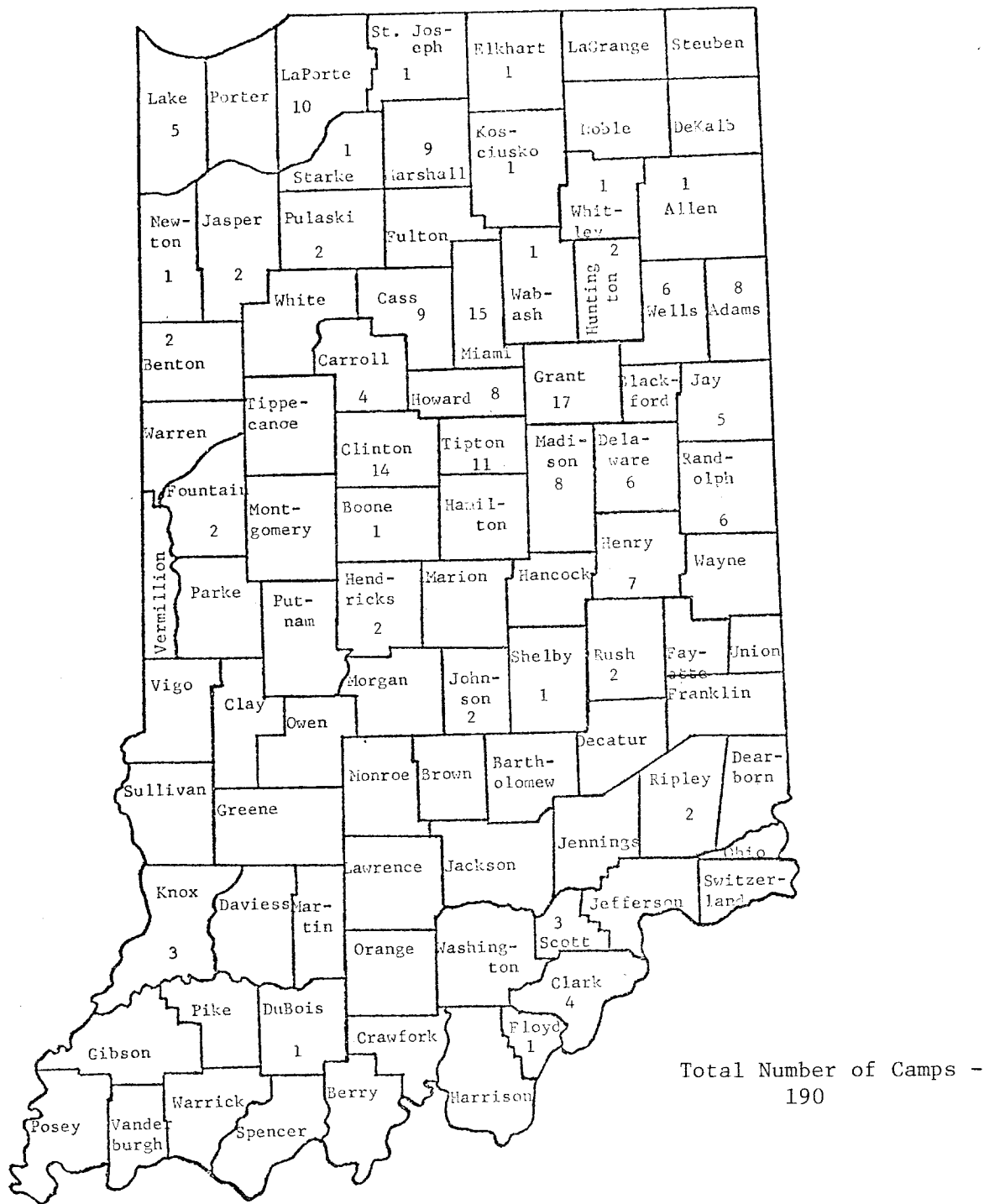
26. Volume and page number in parentheses cited here and hereafter in text refer to statements made to the Indiana Advisory Committee at its open meeting in South Bend, Aug. 16-17, 1974, as recorded in the transcript of that meeting. Transcript on file with the U.S. Commission on Civil Rights, Washington, D.C., and with the Commission's Midwestern Regional Office, Chicago, Ill.

27. State of Indiana, Department of Public Health, Migrant Labor Camps (1965).

28. Review of Indiana Board of Health migrant camp permits by staff of U.S. Commission on Civil Rights, July 1974.

EXHIBIT V

DISTRIBUTION OF INDIANA MIGRANT LABOR CAMPS BY COUNTY - 1974



Source: Indiana Board of Health, Migrant Labor Camp Roster 1974-1975.



During World War II the Federal Emergency Farm Labor Program provided workers to the Midwest either through direct importation from Mexico or by creating an oversupply of labor in Texas and driving that State's farmworkers into the Midwest migrant stream. The program continued to serve the same purpose until its termination in 1964. (vol. 1, p. 23)

Indiana is considered a "footpath" State in the Midwest migrant stream. While there are many more jobs available in Ohio and Michigan, the migrant often passes through Indiana on his way to those States, stopping and securing work if it is available. (See Exhibit VI.) The migrant will often move around within the State of Indiana or over into a bordering State in search of work as the crop seasons progress.

Quite often the migrant signs "advance loan" or "bonus pay" agreements which require the worker to remain at one farm throughout the entire season or be at a grower's disposal at any time. Such agreements limit the migrant's ability to obtain as much work as possible or obtain the highest paying jobs available.<sup>29</sup>

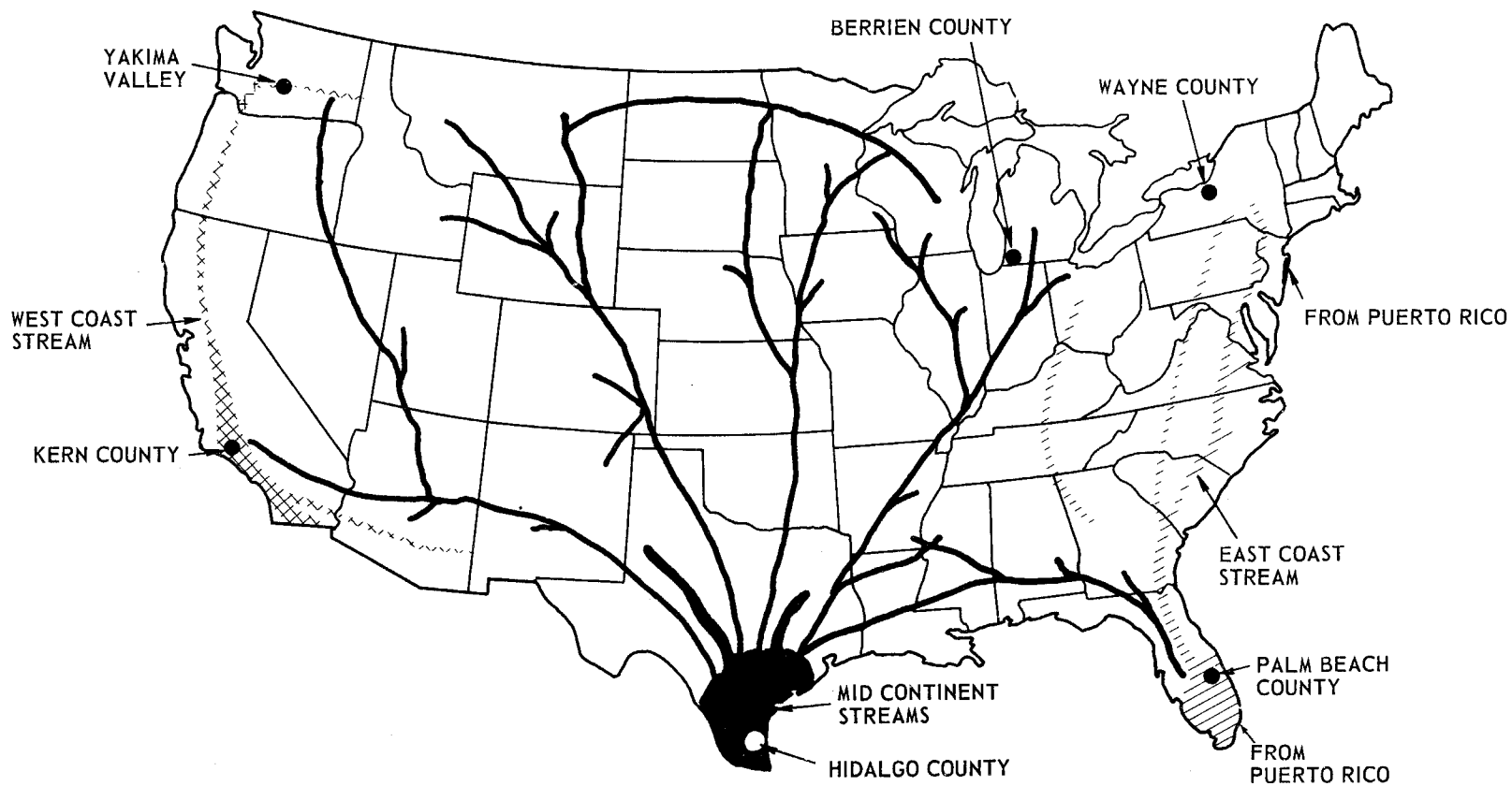
In his 4-year study of the Midwestern migrant stream, Gilbert Cardenas, of the University of Notre Dame's Center for Civil Rights, found that "since 1916, the agricultural labor market has been subject to the near total control and domination by farmers, growers, and more recently, agribusiness. By creating an abundant supply of workers from Mexico and by preventing or otherwise thwarting government or union efforts to protect hired agricultural workers, employers undermined any opportunity for workers to gain anything more than subsistence wages. Despite the steadily rising productivity of labor, improvements in agriculture, and subsidized research, the working and living conditions of seasonal agricultural workers have not appreciably changed." (vol. 1, p. 24)

The Indiana Advisory Committee to the U.S. Commission on Civil Rights, in response to complaints concerning migrant living and working conditions, held an informal hearing on August 16-17, 1974, in South Bend. It was the Committee's intent to: 1) study and collect information regarding the alleged denial of equal protection of the law to migrant farmworkers in Indiana, and 2) to appraise local, State, and Federal laws and policies with respect to equal protection of the laws. The Committee's findings, conclusions, and recommendations follow.

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29. Olga Villa, chairperson, Associated Migrant Opportunity Services (AMOS), Board of Directors, staff interview in South Bend, Ind., July 1, 1974.

# TRAVEL PATTERNS OF SEASONAL MIGRATORY AGRICULTURAL WORKERS



SOURCE: Senate Committee On Labor And Public Welfare,  
Subcommittee On Migratory Labor, Senate Report 91-83

## EMPLOYMENT

MUST BE ABLE TO STOOP OVER FOR LONG PERIODS OF TIME. MUST BE ABLE TO STAND FOR LONG PERIODS AND TOLERATE HEAT. REQUIRED TO WORK 10 HOURS PER DAY, 6 DAYS PER WEEK. UP TO 7 DAYS PER WEEK, WORKING 12-HOUR SHIFTS. \$1.65 PER HOUR. \$1.40 FOR ALL HOURLY WORK. \$1.30 AN HOUR.

Migrant job orders processed  
by the Indiana Rural Manpower  
Service, 1973.

Migrants working in Indiana are faced with low pay, long hours, little job security, and exclusion from the State's labor laws.

The Indiana Legislature, like the Federal Legislature, has passed laws granting economic advantages in employment to some workers while denying those same advantages to agricultural workers. Migrant farmworkers are excluded from coverage under the State's Workmen's Compensation Act (Ind. Ann. Stat. 40-1201 et seq.), Minimum Wage Law (Ind. Ann. Stat. 40-132 et seq.), portions of the Child Labor Law (Ind. Ann. Stat. Sec. 28-5340, and S.B. 103, L. 1971), Workman's Occupational Disease Act (Ind. Ann. Stat. 40-2206), Maximum Hours Law (Ind. Ann. Stat. 40-401), and the Unemployment Compensation Law (Ind. Ann. Stat. 52-1532). (See Appendix for more complete descriptions of these laws.)

A 1972 Department of Labor study of the employment situation among migrants reported that "the farmworker is at a distinct disadvantage relative to other workers because of his exclusion from or reduced coverage under social legislation, the inadequate enforcement

of those laws which do protect him, and his lack of organization in dealing with farm employers."<sup>30</sup>

In an attempt to compensate for these employment disadvantages, the Federal Government conceived the Farm Labor Service, now known as the Rural Manpower Service (RMS), which is responsible for providing job training, job development, counseling, and placement for farm laborers in each State of the Union.

The Indiana RMS, however, does not provide migrants with training, job development, or counseling services, and is "thinking of going out of business," its supervisor told the Commission staff. While RMS does supply job placement services to migrants, the placements are nearly always in migrant agricultural positions, and the State was unable to document a single case where a migrant farmworker was referred to any available job outside of farm labor.<sup>31</sup>

When the Department of Labor reviewed the operations of the Indiana RMS in 1972, it reported that Indiana failed to provide adequate services to migrants in the State. The Department of Labor also concluded that the Indiana RMS was guilty of age discrimination, sex discrimination, and racial discrimination.

Federal District Court Judge Charles R. Richey concurred with the Department of Labor's findings, declaring in a 1973 court order that the Rural Manpower Service "subjected minority farmworkers to racial, national origin, sex, and age discrimination and has denied minority farmworkers the employment services to which they are entitled."<sup>32</sup>

The Department of Labor further concluded that the Indiana RMS was not taking the legally required steps to insure that Social Security payments were being made on behalf of migrants and that proper records of payroll deductions were being maintained. The department also concluded that the Indiana RMS was not taking the required steps to insure compliance with minimum wage laws by employers.<sup>33</sup>

30. U.S., Department of Labor, Manpower Administration, Review of The Rural Manpower Service (1972), p. 10 (hereafter cited as Review).

31. John Dungan, supervisor, Indiana Rural Manpower Service, staff interview in Indianapolis, July 11, 1974, and Aug. 13, 1974 (hereafter cited as Dungan Interview).

32. NAACP, Western Region v. Peter J. Brennan, 360 F. Supp. 1006 (D.D.C. 1973).

33. Review, pp. 9-14, 18, 28, 30, 31.

As a result of the department's findings, the Secretary of Labor issued 13 directives to the Indiana RMS, including an order to offer "a broader spectrum of services to rural workers and employers" and "to insure that as many resources as possible are directed to provide services in rural areas."<sup>34</sup>

Instead of stepping up its efforts, however, Indiana has diminished its services to migrants. In 1971, prior to the Secretary's order, the State processed 80 job orders for migrants. In 1973, after the order to increase services, the number of job orders fell to 23, and in 1974 only seven orders were processed.<sup>35</sup>

John Dungan, supervisor of the Indiana RMS, conceded that the office provides "no special services" to migrants other than "writing clearance orders and making housing inspections." "We have pulled back our operations," said Mr. Dungan. "If it doesn't fit now, we don't do it."<sup>36</sup>

The Secretary of Labor also ordered that "immediate actions shall be taken to correct any civil rights violation found during the review."<sup>37</sup> Indiana has taken no action, however, to correct the racial imbalance of its staff. According to Mr. Dungan, to this date, the Indiana RMS continues to employ 11 staff people, all Anglos.<sup>38</sup>

The Indiana RMS is also required to insure that all of its job orders designate who is responsible for Social Security payments and records.<sup>39</sup> A survey of the 1973 job orders indicates that Indiana continues to be in violation of this requirement. Of the 23 job orders processed, six did not specify the party responsible for Social Security payments.<sup>40</sup>

While the Secretary of Labor ordered that "steps shall be taken to insure that all child labor laws are being followed" and that job orders should not be processed for those employers violating child

34. U.S., Department of Labor, Statement of Actions To Be Taken In Response To Review of The Rural Manpower Service (1972), p. 1 (hereafter cited as Statement of Actions).

35. Number of job orders processed as of July 11, 1974. Dungan Interview.

36. Ibid.

37. Statement of Actions, p. 1.

38. Dungan Interview.

39. Review, p. 42.

40. Analysis of job orders by staff of U.S. Commission on Civil Rights.

labor laws, the RMS has taken no such steps and has no program to monitor employers.<sup>41</sup> The RMS also has no programs to insure that individual migrants are receiving the minimum wage as required by law.<sup>42</sup>

Instead, RMS depends upon the Employment Standards Division of the Department of Labor to monitor compliance with these laws. The Employment Standards Division's area director told the Indiana Advisory Committee that it has responsibility for two laws directly affecting migrants: the Fair Labor Standards Act, including minimum wage and child labor laws, and the Farm Labor Contractor Registration Act, which requires that crew leaders register with the Federal Government, that they keep accurate records of workers' earnings and deductions and that they inform the worker through written "stubs" of his or her earnings and deductions.

During 1973 the Employment Standards Division made 80 random field investigations of migrant employment conditions in Indiana and documented 43 violations for "failure to register," 56 violations for failure to keep records of workers' wages and deductions, 54 violations for failure to post required information in the camps, and 31 violations for failure to provide workers with required wage earning records (stubs).

In another 49 investigations made by the division that year, 19 farmowners were found in violation of child labor laws. (vol. 4, pp. 101-104, 111, 112)

In 7 out of every 10 cases investigated, the Employment Standards Division found that either the farmer or the crew leader was in violation of a law protecting the migrant. Donald Laurent, area office director of the division, testified at the Indiana Advisory Committee open meeting that not one fine was imposed for the more than 200 violations uncovered, not one court action was initiated and not one farmer was curtailed from the continued use of migrants in the fields. (vol. 4, p. 12)

The safety and health aspects of migrant working conditions fall under the jurisdiction of the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA). This administration has broad powers to make inspections, levy fines, and eliminate unsafe and hazardous conditions in both migrant camps and the fields where

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41. Statement of Actions, p. 1.

42. Dungan Interview.

migrants work. Under its current guidelines, OSHA has placed random inspections of migrant camps and fields in its lowest priority (number five), and no such random inspection has ever been made in Indiana.<sup>43</sup>

Until recently, OSHA would respond and investigate complaints filed by representatives of migrants alleging hazardous camp conditions. Seven such complaints were processed during 1972 and 1973, according to OSHA, resulting in a number of citations against camp owners. OSHA has now changed its policy regarding such complaints, however, and will no longer accept a complaint unless it is signed by a migrant directly affected by the hazardous condition. This year no "valid complaints" have been processed.

OSHA also requires that employers keep a "log of injuries and illnesses," detailing accidents, sickness, or contact with dangerous materials. The logs are not required to be turned in, however, and the log is looked into only if there is an inspection made resulting from a complaint or a fatality.

While OSHA has the jurisdiction to protect workers from dangerous pesticides and chemicals which might be used in the fields, the agency does not make random inspections to ascertain the extent of such hazards. Indiana's OSHA director, Fred Keppler, indicated that he had "no idea" what pesticides were currently in use in the fields.

In summing up the effectiveness of OSHA in protecting migrants from occupational health and safety hazards, Mr. Keppler told Commission staff, "We're not doing very much."<sup>44</sup>

The Federal Government funds two additional programs in Indiana aimed at improving employment conditions of migrants through education and job training. The first of these programs is operated by the Midwest Council of La Raza in South Bend. The program is currently funded through the Federal Manpower Administration under a 15-month grant of \$337,000. (vol. 4, p. 56)

This program is a part of the National Farmworker Program of the U.S. Department of Labor and is structured to provide the individual who wishes to leave the migrant stream with the opportunity to obtain the skills necessary to do so. (vol. 4, p. 46)

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43. Fred Keppler, director, Occupational Health and Safety Administration in Indiana, staff interview in Indianapolis, July 11, 1974 (hereafter cited as Keppler Interview).

44. Ibid.

David M. Martinez, an ex-migrant who directs the La Raza program in South Bend, informed the Indiana Advisory Committee that the program "deals with the stumbling blocks that have traditionally prevented migrants from leaving the stream. Action is taken in the areas of employment, housing, medical needs, personal well-being, day care, education, and community acceptance." (vol. 4, p. 55)

Mr. Martinez added that since its inception in 1971, the program has served a total of 286 migrants, of whom 179 have thus far completed training and have been placed in positions. According to Mr. Martinez, the migrant entering the program had an average annual income of \$1,376. After graduation from the program and placement in a job, the average annual income was \$6,518, an increase of 374 percent.

He said that the employment of these "settled out" migrants in Indiana generated a total income of \$1,134,054, which made these workers an important part of the communities in which they lived.

A second program operated by Associated Migrant Opportunity Services, Inc., (AMOS) provides outreach and recruitment services, informing migrants of nonmigratory job opportunities and job training opportunities. The program coordinates the placement of migrants into manpower training slots throughout the State, refers migrants for direct placement in jobs, job development programs, and job training programs, and offers a variety of support services such as health care, legal assistance, transportation, emergency food relief, and assistance in finding housing.

According to AMOS records, during 1973 the program provided job placement to 431 individuals, outreach and recruitment services to another 1,244 farmworkers, and training opportunities to 1,379.<sup>45</sup>

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45. Associated Migrant Opportunity Services, "Plan for Employability Development of Farmworkers in Indiana" (1973), program synopsis FY 1973.



## EDUCATION

EDUCATION...IS ONE LUXURY THE MIGRANT  
HAS NOT BEEN ABLE TO AFFORD.

David M. Martinez, Indiana migrant  
farmworker, now settled out.

Migrant farmworkers seldom obtain a formal education because of their transient life style and the economic necessity of putting children to work in the fields at an early age.

"The very nature of migratory work is such that education takes a back seat to essential needs such as shelter, food, and transportation," David Martinez, director of the Midwest Council of La Raza's settling out program in Indiana, told the Advisory Committee. "All members of the family must pitch in and work in an effort to earn enough to provide for these basic needs. Therefore, school age children must, as their parents before them, sacrifice the education which could break the chains that bind them to the migratory cycle," Mr. Martinez concluded. (vol. 4, p. 46)

"Even when children are not working the fields, however, and they attend schools in session, the education they receive is less beneficial than it might be," said Gary S. Goodpaster, University of California law professor, in testimony before the House subcommittee on agricultural labor. "Many communities which experience a seasonal influx of migrant workers are simply not prepared for them. The schools lack the financial resources, the classrooms, the special teachers, transportation vehicles and the equipment, textbooks, and supplies needed to reach and educate migrant children properly. There are grade placement difficulties...and valuable time is lost testing migrant children in order to make placement evaluations. Additionally,

the children may have arrived late and are thus behind the class to which they may be assigned."<sup>46</sup>

In such States as Indiana, migrant children remain in school for only a few weeks, usually through the tomato harvest, which ends in mid-September. After the harvest, the family moves out of the State and the child is taken out of the school to be placed back in school in whatever area the family finds work.

Estimates of the average education attained by migrants vary, due primarily to the lack of adequate records upon which to base an estimate. Richard Martinez, research and systems analyst with the Indiana Department of Public Instruction's migrant education program, indicated that the median level education reached by migrants is the tenth grade.<sup>47</sup>

In a 1970 report, the U.S. Department of Health, Education, and Welfare estimated the median education to be approximately the fourth or fifth grade,<sup>48</sup> while ex-migrants living in Indiana estimate that the "average education level of most migrants does not exceed the fifth grade and most often less." (vol. 4, p. 49)

School attendance by migrants in Indiana drops off sharply for high school age students. Total enrollment in 43 selected Indiana schools indicated an average of 222 migrant children in each elementary (1-8) grade, but an average of only 48 migrant children in each high school (9-12) grade, a drop of nearly 80 percent.<sup>49</sup>

While most young people are moving into the period of physiological adolescence, or "youth," during the latter elementary school years, migrant young people, according to Dr. Robert Coles of Harvard University, are going directly into adulthood. "At 10 to 12, the children start becoming adults physiologically," Dr. Coles told the Senate's subcommittee on migratory labor. "Many of them have already been working for several seasons. It is not long before they are marrying and having children. Brides of 14 and 15 are common and their husbands are likely to be the same age or not very much older."<sup>50</sup>

46. Seminar on Farm Labor Problems, p. 31.

47. Richard Martinez, research and systems analyst, Division of Migrant, Bilingual and Cultural Education, Department of Public Instruction, State of Indiana, staff interview in Indianapolis, July 10, 1974 (hereafter cited as Martinez Interview).

48. Impact of Federal Programs, p. 21.

49. Review of Title I migrant program proposals by U.S. Commission on Civil Rights staff, July-August 1974. (Hereafter all references to individual school funding or programs are from this source unless otherwise noted.)

50. Federal and State Statutes, p. 207.

With the responsibilities of adulthood, marriage, and earning a living thrust upon them at a young age, migrants have very little time for education.

The problems of migrant education were recognized by the U.S. Congress in 1966 with the passage of the migrant education amendment to the Title I education program. The migrant education program was designed to make money available to local school districts through a State-coordinated plan to provide "supplementary" programs dealing with the special language and cultural needs of migrant children.

"Today, 8 years later, we find that to a large degree the same problems exist," Charles de la Garza, director of the Division of Migrant, Bilingual and Cultural Education in Indiana, told the Advisory Committee. He added, "I do not discredit the fact that much has been done. Nevertheless, the Mexican American still has the highest dropout--pushout--rate and is the greatest contributor to the migrant stream.

"These problems have serious implications and are an indictment against the public school system and the educational process of this country," de la Garza concluded. "These facts indicate the need for changes in educational methods, techniques, and approaches at the college, State, and local level." (vol. 1, p. 75)

During the summer and fall of 1973, there were 43 migrant education programs funded through the Title I legislation in 31 of Indiana's 305 school districts. The programs served 2,606 of the State's 16,000 eligible migrant children.<sup>51</sup> (See Exhibit VII.) A total of \$712,127 was budgeted for the program in FY 74.

The 43 programs varied in content and purpose. Some schools had special 4- to 8-week summer programs, but other programs operated either during the regular fall term or in a summer/fall combination.

The Frankfort schools in Clinton County, for instance, operated a \$15,000 regular term program geared to provide special language skills to migrant children. Bilingual teacher aides, a full-time teacher, and a counselor were combined to provide liaison with the migrant parents. A pre-entry testing program was in operation prior to the opening of school, and special language training was provided up to 6 hours a day.

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51. Indiana, State Plan for Migrant Education, application for program grant Title I. ESEA, FY 74 - 01, sec. 12. C., p. 4. This figure includes migrant children settled out for up to 5 years.

## EXHIBIT VII

## INDIANA TITLE I MIGRANT EDUCATION PROGRAMS - 1973

School Corporation	County	Type of Program	Enrollment
Northeastern	Shelby	Summer	28
Northeastern	Shelby	Regular Term	38
Sunman-Dearborn	Dearborn/Ripley	Summer	81
Sunman-Dearborn	Dearborn/Ripley	Regular Term	51
Highland	Lake	Summer	39
Scott Co.	Scott	NA*	NA*
East Allen	Allen	Summer	38
East Allen	Allen	Regular Term	58
Maconaquah	Miami	Regular Term	111
Goshen	Elkhart	Summer	63
Goshen	Elkhart	Regular Term	14
Eastbrook	Grant	Regular Term	11
Randolph Eastern	Randolph	Summer	37
Randolph Eastern	Randolph	Regular Term	37
Jay (Portland)	Jay	Summer	80
Jay (Portland)	Jay	Regular Term	78
Benton	Benton	Summer	18
Adams Central	Adams	Regular Term	34
Rensselaer	Jasper	Summer	59
Rensselaer	Jasper	Regular Term	25
Huntington City	Huntington	Regular Term	48
Carroll	Carroll	Regular Term	49
Northern Wells	Wells	Regular Term	54
Alexandria	Madison	Regular Term	49
Lakeland	Kosciusko	Summer	28
Lakeland	Kosciusko	Regular Term	76
Southeastern	Cass	Summer	130
Liberty Perry	Delaware	Regular Term	119
Southeastern	Cass	Regular Term	131
Liberty Perry	Delaware	Summer	35
South Bend	St. Joseph	Summer	139
Oak Hill	Miami/Grant	Regular Term	165
Culver	Marshall	Regular Term	24
New (Rolling) Prairie	LaPorte/St. Joseph	NA*	24
Elwood	Madison	Summer	197
Elwood	Madison	Regular Term	39
South Adams	Adams	Regular Term	26
Northern Tipton	Tipton	Regular Term	54
Eastern	Howard	Regular Term	22
Bluffton	Wells	Regular Term	23
Clinton Central	Clinton	Summer	19
Clinton Central	Clinton	Regular Term	30
Kokomo	Howard	Summer	225
<b>TOTAL:</b>	<b>43 Programs</b>		<b>2,606</b>

\* Not Available, school corporation did not file an evaluation report.

Source: Title I migrant education program evaluation forms for 1973, on file with the Indiana Board of Public Instruction, compilation by Commission staff, July 1974.

Scott County School District No. 1, on the other hand, used its entire \$900 appropriation to pay the rental fees on books used by migrant children.

In order to insure the proper usage of Title I migrant funds, Federal regulations require that all monies be used to "supplement" and not "supplant" State or local school funds. Federal money may not be used to pay for programs and services normally funded by the State or the local education agency.<sup>52</sup>

"This means that services that are already available or will be made available for children in the nonproject areas should be provided on an equal basis in the project areas with State and local funds rather than with Title I funds," according to the Title I program guide.<sup>53</sup>

"In my study of the relevant provisions of the statutes, regulations, and guidelines," R. Stephen Browning, attorney with the Lawyers' Committee for Civil Rights Under Law, told Commission staff, "I have concluded that if certain educational services which are provided on a regular basis in non-Title I schools and paid for by State and local funds are to be provided in a Title I school, they must be paid for by local and State funds and not Title I funds."<sup>54</sup>

A review of the Indiana Title I migrant programs by the Commission staff indicated, however, that a number of expenditures were being made for instructional and auxiliary services which are ordinarily paid for by State and local funds.

In the Tipton Community School District, for example, approximately one-half of the salaries of 12 elementary school teachers were paid out of Title I funds during the time migrants were in school.

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52. "In order to ensure that Title I funds are used for the special educational needs of educationally deprived children, the [local school] District is forbidden by the supplanting provision from using these Federal [Title I] funds to provide instructional or auxiliary services in project area [Title I] schools that are ordinarily provided with State and local funds to children in non-project area [non-Title I] schools." 45 CFR 116.17 (h).

53. ESEA Title I Program Guide #44, Mar. 18, 1968.

54. Letter to Commission staff, Sept. 23, 1974. The Lawyers' Committee for Civil Rights Under Law has published A Manual For Enforcing Title I Comparability and has been the legal representative of plaintiffs in a number of court actions involving Title I expenditures.

According to the Tipton funding application, these were "regular classroom" teachers, who provided general services to all of the children in the school but no special program to the migrant pupils.

In an audit of Florida schools, the Department of Health, Education, and Welfare ruled that such expenditures "supplanted" State and local funds and were not in compliance with Federal regulations.

"We found that teachers and teacher aides paid with migrant program funds...were being used as general classroom teachers and aides, providing services to all children in the school," the audit concluded. "We have questioned over \$143,000 [of funds so spent] as being supplantive."<sup>55</sup>

In addition to the Tipton School District, a number of other Indiana migrant programs included the salaries of regular classroom teachers and aides in their Title I migrant budgets. The Huntington School Corporation paid the salary of the industrial arts teacher during the period migrants were in school even though the migrant children attended his class for only a small portion of the school day. The Sunman-Dearborn School Corporation paid \$3,750 in salaries to one teacher and four teacher aides who served in regular classroom positions, according to the district's funding application. Maconaquah School Corporation in Miami County used Title I funds to pay the salaries of five teachers and five aides who served in regular classrooms providing instruction for nonmigrant as well as migrant students.

A number of Indiana school districts used Title I funds to pay overhead costs normally paid for by State and local educational agencies in non-Title I schools. According to DHEW, such overhead costs can be funded only when they can be "documented and substantiated as directly related to the project."<sup>56</sup>

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55. U.S., Department of Health, Education, and Welfare, Audit Agency, Florida State Department of Education, Tallahassee, Florida: Report on Audit of Migrant Education Program (April 1971), p. 13 (hereafter cited as Florida Audit).

56. U.S., Department of Health, Education, and Welfare, Audit Agency, North Carolina State Department of Public Instruction, Raleigh, North Carolina: Report on Audit of Migrant Education Program Under Title I of the Elementary and Secondary Education Act (May 1972), p. 20 (hereafter cited as North Carolina Audit).

While non-Title I schools throughout the State fund janitorial services as a part of "free education," the Oak Hill United and Blue River Valley School Corporations used migrant education money to pay their janitors' salaries.

While non-Title I schools throughout the State provide bus transportation to and from school as a part of "free education," Plymouth, Culver, Oak Hill, United, and Blue River Valley School Corporations used migrant education money to pay bus drivers' salaries.

Non-Title I schools throughout the State also provided funds for nurses as required by State regulations. The Eastbrook, Oak Hill, United, Madison-Grant, Rossville, and Sunman-Dearborn School Corporations paid all or part of their school nurses' salaries out of Title I migrant education money.

While each of these expenditures for overhead costs was allowed by the State Division of Migrant, Bilingual and Cultural Education, not one of the applications included any documentation or substantiation indicating that these overhead costs were directly related to the project or that such funding was not normally provided for all children in non-Title I schools either by the State or local educational agencies.

Even if such costs had been shown to be directly related to the migrant project, Federal guidelines require that "...there can be no Federal financial participation on overhead costs which are arrived at on a straight percentage basis." Instead, DHEW requires before-the-fact and after-the-fact documentation of the exact number of hours devoted to the migrant education program.<sup>57</sup>

Many Indiana schools spent migrant funds on overhead costs based on a straight percentage basis, however, without before- or after-the-fact substantiation of the expenditures.

The Benton Community School Corporation included the salary of its administrator and guidance counselor in its budget, both figured on a straight 33-percent-of-total-time basis. No verification of the time spent on the program was submitted.

The Plymouth School Corporation included 4 percent of the director's salary, 3 percent of his secretary's salary, 2 percent of the financial secretary's salary, 62 percent of a teacher aide's

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57. Ibid., pp. 20-21.

salary, and 29 percent of the salaries of two clerks. No verification or documentation of the actual time spent on the program by these salaried employees was provided.

The Culver School Corporation included its clerical aide's salary, calculated on a straight 25-percent basis. No verification or substantiation was provided.

In DHEW's audit of North Carolina migrant programs, such unsubstantiated, prorated expenditures of funds were declared "supplanting," and the audit team recommended that all funds so spent should be refunded. In response to the audit, the North Carolina State Educational Agency incorporated the necessary measures to ensure that no overhead costs would be claimed on a straight percentage basis and that proration of salaries would be documented on both a before- and after-the-fact basis.<sup>58</sup>

Federal guidelines governing the use of Title I funds require that all projects must be "designed specifically to meet special educational needs" of the children to be served.<sup>59</sup> The State's Guide for Objectives and Appraisal of the Indiana Educational Program buttresses the Federal law requiring that migrant programs shall "provide specially designed programs" and "specially designed activities" (emphasis added) to meet the unique educational needs of migrants.<sup>60</sup>

Many Indiana migrant projects met neither the requirements of the Federal law nor the State guidelines. The Madison Grant School system, for example, had no "program" at all. Instead, it used all of its \$1,500 migrant grant to pay for overhead costs, including school textbook fees, supplies, bus transportation, noon lunch, morning milk, and the school nurse. According to the corporation's project proposal, "Migrant children will be placed in their appropriate grade level and taught with our regular children."

The Scott County School Corporation used its entire \$900 appropriation to pay itself book-rental fees for regular classroom books used by migrant children. The Randolph Eastern School Corporation received a grant of \$3,095, even though no project description whatsoever was included in the corporation's application records maintained by the Division of Migrant, Bilingual and Cultural Education.

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58. Ibid., p. 22.

59. 45 CFR §116.17 (a).

60. State of Indiana, Department of Public Instruction, Guide for Objectives and Appraisal of the Indiana Migrant Educational Program (1971), p. 3 (hereafter cited as Guide for Objectives).



The Bluffton School Corporation in Wells County used its \$1,200 migrant education budget to send the project director to workshops and conferences, to pay an aide who enrolled migrant children in the school, and for book rental fees. The corporation included no program "designed specifically to meet special educational needs" of migrants in its funding application, and according to the application, the corporation had "no problems in our system on the instructional needs" of migrant children.

In its program description, the Eastern School Corporation in Howard County stated that, "We are requesting funds only for those items that are a direct expense to us," including bus transportation book rental fees, supplies, and a teacher's aide. No special program was designed, and according to the application, all migrant children were to be placed in the school's regular classrooms.

The Southern Wells Corporation in Wells County used its entire budget of \$2,600 to cover the overhead costs of transportation, food, book fees, and attendance records. The corporation had no program, and according to its funding application, the migrant children were "absorbed into the regular school program."

The Guide for Objectives and Appraisal of the Indiana Migrant Education Program also calls for "a comprehensive approach to the migrant education program," including "parental and community involvement." The guide concludes that parental participation is "considered necessary" to the success of the program.<sup>61</sup>

A Commission staff review of project proposals submitted by local school districts indicated that few of the programs involved migrants in either the planning or evaluation of the migrant education program. When asked to describe parent and community participation, one school district administrator answered, "Efforts and plans are always made to involve parents, growers, et al in the school program. As a matter of fact, and for the record, parents and other workers have open permission to use the high school baseball field. Playground equipment and play areas also may be used at the Bunker Hill Elementary School."

Another school district indicated that it received parental participation through an "advisory committee." Migrant parents were not included on the committee.

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61. Ibid., p. 1.

Another district indicated that it enlisted the participation of migrant parents through working with church councils, social services, action clubs, and "special persons." Migrant parents were not listed among the participants.

Another district responded that the migrant parent participation requirement was fulfilled by the fact that the "school is represented on the board of directors of the County Migrant Ministry Program." The district failed to explain how migrant parents directly participated in the school program in any way.

Some schools attempted to provide for meaningful input from migrant parents, however. The Rensselaer Central School Corporation held a planning session, including growers, migrants, school administrators, and volunteer workers. Triton North School District designated a committee of "local residents, school principals, and several members of the migrant camp," while the East Allen District provided for a "planning" session prior to the program, and an "evaluation" session at the end of the program in which migrant parents participated.

"What is needed is meaningful participation by migrant parents across the State," said Daniel Tirado, project development specialist with Associated Migrant Opportunity Services, "--participation in the planning, the development, and the implementation of the migrant child's education."<sup>62</sup>

Under DHEW guidelines, the State Educational Agency (SEA) has responsibility for the design, administration, and evaluation of a comprehensive statewide program for migrant children. This responsibility includes maintaining control over local educational agencies to ensure that funds are used to meet the special educational needs of migratory agricultural workers' children.<sup>63</sup>

In Indiana the responsible State agency is the Division of Migrant, Bilingual and Cultural Education. That division, as well as a selected local education agency, was reviewed by the DHEW's Office for Civil Rights to determine the policies, procedures, and managerial controls exercised by the SEA and to determine whether the State and local agency were meeting their obligations under the Civil Rights Act.

62. Staff interview in Indianapolis, July 9, 1974 (hereafter cited as Tirado Interview).

63. Florida Audit, p. 2.

In its review, DHEW found "several serious questions concerning the status of the State Education Department's compliance with Title VI of the Civil Rights Act of 1964" including: (1) failure to review and approve curricular materials linguistically and culturally appropriate to Spanish speaking migrant children, (2) failure to insure that faculty and staff were recruited and hired from minority groups able to best serve Spanish speaking children, and (3) that the local school district surveyed failed to adequately communicate school policies, activities, and related functions to parents of migrant children in a language the parents were able to understand.<sup>64</sup>

Mr. Tirado pointed out to the Advisory Committee what he considered shortcomings of migrant education in Indiana. "As the law is now written," he said, "the State cannot require a local school district to apply for funds to operate a special migrant program even if the district has a large migrant population. The result is that some children receive the special benefits of the program while others suffer without it.

"Federal funding is available to any school district that is eligible," Mr. Tirado continued. "And if they refuse to run a program, that is discrimination."<sup>65</sup>

State migrant education director Charles de la Garza agreed: "We cannot demand that a local educational agency implement a program. We try to inform and encourage them to adopt a program, but in the end it is up to the local school corporation to decide if it wants to run a migrant program."<sup>66</sup>

Margarita Renteria, an equal opportunity expert with the DHEW review team in Indiana, indicated that the refusal of a school corporation to apply for migrant education funds did not necessarily constitute discrimination so long as the school provided the child with an "equal" education.

"The Civil Rights Act and department policy require that services be delivered by agencies and institutions...in a manner which is equally effective--not necessarily identical--for all racial and ethnic groups," Ms. Renteria told the Advisory Committee. "One of the most vivid applications of this principle is with respect to children who speak and understand a language other than English," she continued. "It is

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64. Kenneth A. Mines, director, Office of Civil Rights, U.S. Department of Health, Education, and Welfare, letter to Harold H. Negley, Indiana Superintendent of Public Instruction, and letter to Dr. Gerry L. Hathaway, superintendent, Southeastern School Corporation, Oct. 21, 1974 (copy in Commission files).

65. Tirado Interview.

66. De la Garza Interview.

clearly discriminatory--and thus illegal--to provide instruction only in English to such children." (vol. 1, pp. 41-42)

Indiana school corporations which do not apply for Title I migrant funds would thus have to supply their own bilingual, bicultural programs to migrant children in order to provide an "equal" education free of discrimination. According to Richard Martinez, systems analyst for the Division of Migrant, Bilingual and Cultural Education, only one of the State's school corporations not receiving Title I migrant funds is known to provide its own special bilingual migrant program.<sup>67</sup>

While the State does not have authority under Title I legislation to require eligible Indiana schools to apply for migrant funds, it does have authority to see that all school districts meet the educational needs of minority students in a nondiscriminatory manner and to deny State support to any school in violation of the law. When asked by the Advisory Committee whether he felt it was the responsibility of the State Superintendent of Public Instruction to see that local educational agencies meet the needs of migrant children in a nondiscriminatory manner, Charles de la Garza responded, "Yes sir, I do." (vol. 1, p. 98)

In addition, a 1974 amendment to the Title I regulations now authorizes State educational agencies to provide migrant programs directly to migrant students without going through the local school corporation.<sup>68</sup> "A State educational agency...shall be entitled to receive a grant for any fiscal year...to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory workers...."

The State of Indiana has a "90-day loophole" clause which exempts migrants from the compulsory school attendance law. Under this provision, migrant children who reside in a school district for less than 90 days or intend to reside in the district for less than 90 days are not required to attend school.

"The 90-day loophole definitely works against us," said Charles de la Garza. "We are in the process of trying to get that changed during the current State legislative session."<sup>69</sup>

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67. Martinez Interview.

68. Pub. L. No. 93-380, §122(a)(i).

69. De la Garza Interview.

Many children are forced to remain out of school and babysit for younger brothers and sisters because the State does not provide funding or support for day care centers.

"There are no day care centers for migrant children," Alcosta Montano of the Texas Migrant Council, a DHEW-funded service agency, told the Advisory Committee. "The State of Indiana can't care for these migrant children. That's why we are here." (vol. 4, pp. 70-71)

"In 1972 the Title I migrant education component did a needs assessment, and among the things that were mentioned, day care was first," Jean Uher, Indiana liaison for the Texas Migrant Council, told the Advisory Committee. "Migrants said, 'We come here to work. If there were day care centers like other States have, the older children or the wife could work and earn more money.'" (vol. 4, p. 73)

As a result of the State's failure to provide day care facilities, the Texas Migrant Council, with the aid of DHEW funds, comes into Indiana each migrant season and organizes day care centers. Ms. Uher told the Advisory Committee that the council operated 14 centers throughout the State during 1974. However, nine additional centers are needed in order to adequately serve the entire migrant population, she said. (vol. 4, pp. 74-76)

The Indiana centers are staffed by 138 professionals and nonprofessionals, including 14 bilingual teachers who travel to Indiana with the migrant stream. Children in the program, according to Mr. Montano, are provided with transportation, breakfast, lunch, and snacks, as well as educational and recreational programs. The centers are open to children from the age of 6 weeks to 5 years old. (vol. 4, pp. 77, 84)

## HEALTH

AS DISEASE WORSENS, WORK LESSENS, FOOD LESSENS,  
AND THE CIRCLE IS COMPLETED WITH DEATH, AT AN  
AVERAGE OF 20 YEARS YOUNGER THAN OTHER U.S.  
CITIZENS.

Associated Migrant Opportunity  
Services Health Project Proposal,  
1974.

Migrant farmworkers are vulnerable to disease and poor health due to their below-poverty-level income and lack of formal education.

During 1973, Associated Migrant Opportunity Services (AMOS) estimated that less than 8 percent of the migrants in Indiana saw a physician,<sup>70</sup> while approximately 70 percent of all Americans see a physician at least once annually.<sup>71</sup> That same year it was estimated that the per capita expenditure for personal health services for Indiana migrants was \$6.00. Nationally the average per capita expenditure for health services was \$250.00.<sup>72</sup>

Officials operating federally funded migrant programs in Indiana estimate that 8 out of 10 migrants are in need of health care of some description (vol. 4, p. 52) and that nearly 4 out of 10 migrants display symptoms of severe chronic illness. (See Exhibit VIII.)

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70. AMOS, "Migrant Health Project Grant Application to DHEW" (1974), sec. 1, p. 2 (hereafter cited as AMOS Health Project).

71. U.S., Department of Health, Education, and Welfare, National Health Service survey HSM 72-1064, published 1972.

72. AMOS Health Project, sec. 1, p. 2.

## EXHIBIT VIII

INCIDENCE OF CHRONIC ILLNESS AMONG  
INDIANA MIGRANTS - 1973

Age	Number of Migrants Examined*	Cases of Chronic Illness	Percent
Under 1 year	3	0	-
1-4	4	0	-
5-14	17	3	18%
15-24	8	2	25%
25-44	7	6	86%
45-64	6	6	100%
65 & Over	0	0	-
Total	45	17	38%

\*Examination conducted at the Associated Migrant  
Opportunity Services Logansport clinic.

Source: Associated Migrant Opportunity Services migrant  
health project grant application to U.S. Department  
of Health, Education, and Welfare, 1974.

"The migrant farmworker suffers from the effects of poverty, poor sanitation, poor nutrition, and exclusion from medical systems," Goodrun Geibel, a registered nurse who directs the AMOS health project, told the Advisory Committee. (vol. 3, pp. 28-29) "Even when medical care and supportive services are available, the migrant cannot use them in an effective manner to provide himself with good preventive and primary health care.

"The need for prenatal, well-baby, and yearly physical exams is not understood," Ms. Geibel continued. "Physician's orders are frequently not followed due to language barriers, lack of understanding of the need for the expected behavior, and an inability to comply with the physician's advice; i.e., antibiotics are taken only until the symptoms disappear. A mother does not follow her physician's orders to call when her baby's temperature goes above 102° because she does not know how to take a temperature, she does not have a thermometer, and the nearest telephone is miles away."

Migrant health needs have been further compounded by the low doctor/patient ratio in the State. In 1971 the doctor/patient ratio in Indiana was 40 percent below the national average of 174 doctors per 100,000 residents. Only 10 States in the Union had fewer than Indiana's 107 doctors per 100,000 residents.

Dentists and registered nurses were also in short supply in the State. During 1971, Indiana had 17 percent fewer dentists than the national average of 47 per 100,000 residents.<sup>73</sup>

Generally, the migrant turns for help to the government agencies responsible for health care in the State. The record of these agencies in migrant health treatment, according to Goodrun Geibel, has been "less than impressive."<sup>74</sup>

While migrants are a regular, predictable part of the population of the State, the Indiana Comprehensive Health Planning Agency (CHP), which has responsibility for planning and insuring adequate health care in the State, has never included the farmworkers in its research, analysis, or planning activities. "In the case of migrant health matters," said Richard Thompson, director of the State CHP, "we have not been directly involved."

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73. U.S., Department of Commerce, Bureau of the Census, Statistical Abstract of the United States, 1973, p. 72.

74. Staff interview in Indianapolis, July 10, 1974.



"As far as this office is concerned, we have never delt specifically with migrants, although it would be an appropriate area to look into," Mr. Thompson continued. "There is only so much you can do."<sup>75</sup>

Alice Hunter, administrative officer for the Comprehensive Health Planning Agency, told the Advisory Committee that there currently are no migrants or Spanish speaking members on the 74-member advisory board to the CHP. "There are voices that are much louder and much more demanding [than the migrant]," concluded Ms. Hunter. "Oftentimes these voices and their concerns are addressed initially." (vol. 4, pp. 41-42)

Analysis and planning for the migrants' health needs have been overlooked by other State agencies as well. "To my knowledge, no statewide survey or evaluation of migrant health needs has been done by anyone," Dr. Vernon Harvey, director of the State Health Department's Division of Maternal and Child Care, told the Commission staff. "The State Board of Health has no comprehensive health care plan for migrants."

The State Board of Health has, however, attempted to provide health services to migrants. For a number of years, the State's mobile chest x-ray unit visited the camps to give free chest x-rays. "The program was discontinued 7 or 8 years ago," said Dr. Harvey. "It just wasn't productive."<sup>76</sup>

The State currently funds a summer dental program, which employed four dentists from May through October in 1973. The purpose of the program, according to Dr. Harvey, was to:

- 1) Introduce dentistry to migrant children and provide preventive dental care;
- 2) Inform schools and parents of children's needs; and
- 3) Produce a statistical picture for future planning.

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75. Staff interview in Indianapolis, July 18, 1974.

76. Staff interview in Indianapolis, July 12, 1974 (hereafter cited as Harvey Interview).