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CALIFORNIA ADVISORY COMMITTEE  
TO THE  
U.S. COMMISSION ON CIVIL RIGHTS

REPORTER'S TRANSCRIPT OF PROCEEDINGS

September 11, 1987  
Centro Maravilla  
Los Angeles, California

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Meet.  
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1 A P P E A R A N C E S

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3 COMMITTEE MEMBERS:

4 HELEN HERNANDEZ, Chairperson  
5 GRACE MONTANEZ DAVIS (Morning only)  
6 PHILIP MONTEZ, Staff  
7 JOHN FOSTER DULLES, Staff

8  
9 SPEAKERS:

10 BERNARD BROWN  
11 Koret of California, Los Angeles, California

12 MS. LINDA WONG  
13 Mexican American Legal Defense and Education  
14 Fund, Los Angeles, California

15 DR. ROBERT VALDEZ  
16 Rand Corporation, Santa Monica, California

17 WILLIAM CARROLL  
18 District Director, Immigration and Naturalization  
19 Service, Los Angeles, California.

20 MS. SUSAN DRAKE  
21 Attorney at Law, National Center for Immigrant  
22 Rights, Los Angeles, California.

23 MS. JUDITH KEELER  
24 District Director Equal Employment Opportunity  
25 Commission, Los Angeles, California

MR. PETER REICH  
Attorney at Law, Parker, Milliken, Clark and  
O'Hara, Los Angeles, California

MS. JOSIE GONZALES  
Attorney at Law, Los Angeles

HON. GEORGE INDELICATO  
Catholic Charities, Los Angeles, California

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Appearances/

MR. JOSE PACHECO  
Regional Vice President, League of United  
Latin American Citizens, Bellflower, California.

MR. JAY FONG  
Attorney at Law, Asian Pacific American Legal  
Center, Los Angeles, California

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1 LOS ANGELES, CALIFORNIA, SEPTEMBER 11, 1987; 9:30 A.M.

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4 CHAIRPERSON HERNANDEZ: This meeting of the California  
5 Advisory Committee to the United States Commission on Civil  
6 Rights will now come to order. We are convened here today  
7 to hear comments on the Immigration Reform and Control Act  
8 of 1986.

9 I am Helen Hernandez, acting chairperson of  
10 the California Advisory Committee. The Advisory Committee  
11 receives information and makes recommendations to the  
12 Commission in areas which the Committee or any of its  
13 Subcommittees is authorized to study.

14 This consultation is being held pursuant to  
15 Federal Rules applicable to State Advisory Committees and  
16 Regulations promulgated by the U.S. Commission on Civil  
17 Rights.

18 The Commission on Civil Rights is an  
19 independent agency of the United States Government  
20 established by Congress in 1957 and directed to investigate  
21 complaints alleging that citizens are being deprived of  
22 their right to vote by reason of their race, color,  
23 religion, sex, age, handicap, or National origin, or by  
24 reason of fraudulent practices;

25 Study and collect information concerning

1 legal developments constituting discrimination or a  
2 denial of equal protection of the laws under the  
3 Constitution because of race, color, religion, sex, age,  
4 handicap or National origin; or in the administration of  
5 justice;

6 Appraise Federal laws and policies with  
7 respect to discrimination or denial of equal protection of  
8 the laws;

9 Serve as a national clearing house for  
10 information about discrimination;

11 And submit reports, findings and recommendations  
12 to the President and Congress.

13 I would like to emphasize that this is a  
14 consultation and not an advisory proceeding. Individuals  
15 have been invited to come and share with the Committee  
16 information to the subject of today's inquiry. Each person  
17 who will participate has voluntarily agreed to meet with  
18 the Committee.

19 Since this is a public meeting, the press and  
20 radio and television stations, as well as individuals, are  
21 welcome.

22 Persons meeting with the Committee, however,  
23 may specifically request that they not be televised. In  
24 this case, we will comply with their wishes.

25 We are concerned that no defamatory material

1 be presented at this meeting. In the unlikely event that  
2 this situation develop, it will be necessary for me to  
3 call it to the attention of the persons making the  
4 statements and request that they desist in their action.  
5 Such information will be stricken from the record if  
6 necessary.

7 If the comments a person is offering, however,  
8 are of sufficient importance, the Committee will hear the  
9 information. In that event, the persons against whom  
10 allegations are made will have ample opportunity to respond  
11 by making statements before the Committee or Subcommittee,  
12 written statements if they desire.

13 Every effort has been made to invite persons  
14 who are knowledgeable in the area to be dealt with here  
15 today.

16 In addition, we have allocated time this  
17 afternoon after hearing from all scheduled witnesses to  
18 hear from anyone who wishes to share information with the  
19 Committee about the Immigration Reform and Control Act.

20 At that time each person or organization will  
21 have five minutes to speak to the Committee and may submit  
22 additional information in writing. Those wishing to  
23 participate in the open session must contact Commission  
24 staff before 2 o'clock p.m. this afternoon.

25 Our first guest this morning is Mr. Bernard

1 Brown, Vice President of Koret of California.

2 Mr. Brown, welcome.

3 MR. BROWN: Thank you. Thank you for inviting me.  
4 I am pleased to represent the apparel industry in  
5 California.

6 I am actually chairman of the political action  
7 for the Coalition of Apparel Industries in California,  
8 which is known as CAIC, and I am particularly pleased to  
9 have the opportunity to focus on the civil rights  
10 implications of the Immigration and Control Act of 1986.

11 Let me give you a little background on the  
12 organization first so you know where we come from.  
13 The CAIC, Coalition of Apparel Industries, is a statewide  
14 organization of 600 manufacturers, contractors and  
15 suppliers within our industry.

16 We do in the state of California 3.5-3.6  
17 billion dollars a year and we hire about in California  
18 alone 125,000 employees.

19 We are vital to the State's economy in that  
20 we are about seventh in the state as far as dollars  
21 produced here and we are, also, the second largest producing  
22 apparel area in the country so we are vital, also, to the  
23 United States itself.

24 The new immigration law has caused a great  
25 deal of upheaval in the apparel industry. As a direct



1 result of this law, some of our people are telling us they  
2 have lost as much as 40 percent of their work force and  
3 they haven't been able to replace them.

4 Really it is important that it has created  
5 confusion, fear and even panic among the workers in the  
6 industry. Most of them happen to be foreign born and many  
7 of them are unclear on whether they are legal or not because  
8 of the way the law is written.

9 We believe that the law is discriminatory to  
10 both the industry employees as well as the employers.  
11 In our opinion, the law has created more problems than it  
12 intended to solve.

13 I would like to cover just some of what we  
14 think are civil rights violations.

15 Number one, we think that there is being  
16 violations because of surnames, surname discrimination.  
17 Because the law is ambiguous and confusing to both  
18 employers and employees and punitive for employers, you  
19 know, there is a fine and can be a very large one, if the  
20 INS comes in and finds workers are not documented so  
21 employers may be firing or letting go employees with  
22 Spanish or Asian surnames who are legally entitled to  
23 continue their jobs because they are afraid of the  
24 ramifications of having someone within their employ that  
25 they can be fined for.

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That is a matter, by the way, of not really understanding because initially there are no fines. Initially there is only warnings.

I think that people of Spanish or Asian surnames may be discriminated against when they apply for jobs, and I am sure that is the case.

If two people come in, one's name is Smith and the other was Mr. and Mrs. Gonzales, whoever it might be, and they are equally qualified for the job, the best thing for an employer for themselves is to take Mr. and Mrs. Smith because they know that no one is going to go through their files and so they would not be fined for it.

I think that is certainly against their civil rights. I think, well, it goes on.

They just don't get their foot in the door. They just don't get a chance to get the job because of the perceived risk to the employer.

Number two, we are finding among our employees that separation may occur within families because certain family members can become documented or qualified for amnesty and others do not and this just disrupts total family life.

Because of this many people who do qualify bypass legalization in order to protect other members of their family.

1                   One of the reasons for that, I don't know if  
2 you are aware of this or not, but the INS forms require  
3 the applicants to list the names and addresses of all  
4 their family members, whether they are documented or not  
5 documented, and they don't want to do that and I can't  
6 blame them.

7                   The whole emotional process causes anxiety  
8 and confusion and further creates an underclass of  
9 undocumented workers and that is exactly what the law was  
10 trying to get away from.

11                   Number three, as I mentioned before, I talked  
12 to Senator Cranston a couple of weeks ago. I talked to him  
13 about this.

14                   All forms, all INS forms, everything is  
15 written in English and most of the people who are affected  
16 or apply for amnesty are literate in Spanish or various  
17 Asian languages -- Korean, Chinese, whatever.

18                   We feel very strongly that the forms should  
19 have been initially translated into languages in order to  
20 assist both the employers and employees who have to fill  
21 them out in order to apply.

22                   Number four, obtaining proof of residency.  
23 As you know, the law reads that those who have lived in the  
24 United States since 1982 are eligible for amnesty under the  
25 law, providing they can prove they have been here.

1 I could state case after case where people  
2 have called me and told me something happened to their  
3 employees like, for example, an employee goes to a place  
4 where they resided maybe in 1981 and they go to the  
5 landlord. Of course, they didn't have checking accounts  
6 so they gave cash. They didn't have rent receipts.

7 They say they would like a letter from the  
8 landlord verifying they were here and staying in these  
9 particular residences.

10 The landlords are coming back in some cases  
11 and saying, "Sure, I will write the letter for you, \$400."

12 If they don't have the \$400, they don't get the  
13 proof that they were there.

14 Another thing that is happening, and I am not  
15 saying all attorneys, but there are some attorneys who are  
16 charging outrageous fees, \$3,000, in order to fill out some  
17 papers for them which is ridiculous.

18 If they were in Spanish, they could fill them  
19 out themselves or in some of the Asian language, they  
20 could fill them out themselves.

21 Again concern of employers, workers'  
22 documentation that they do bring in can be forged so the  
23 law fails to do what it is enacted to accomplish.

24 Just to summarize, as enacted the law has  
25 failed to protect the already vulnerable population from

1 unscrupulous people. It has failed to eliminate an  
2 undocumented worker underclass.

3 It has caused chaos and it has caused  
4 confusion to both employers and employees and generally  
5 failed to do what it was intended to do.

6 Furthermore, the economic impact may be  
7 devastating for the United States apparel industry because  
8 jobs -- it was created to have jobs for United States  
9 citizens. It is having the other effect.

10 Because of the problems we are having, we are  
11 looking overseas to factories over there to manufacture  
12 our goods. Incidentally, that is not just our industry.

13 I have talked to other associations, too,  
14 furniture associations, so on and so forth. They are going  
15 overseas and producing a lot of their merchandise because  
16 of the problems here to keep their people.

17 I mentioned this before but I would like to  
18 have it on the record that CAIC backed immigration reform,  
19 not as it is because we think it is poorly written and we  
20 think that it is not being acted upon the way it was  
21 intended.

22 On behalf of the Coalition, I thank you for  
23 having me here.

24 Any questions?

25 CHAIRPERSON HERNANDEZ: Thank you, Mr. Brown.

1                   Yes, I have one. You indicated that 40 percent  
2 of the work force has been affected --

3                   MR. BROWN: I didn't say 40. I said in some plants  
4 they have reported.

5                   Our work force is not down by 40 percent.

6                   CHAIRPERSON HERNANDEZ: Okay. Let's say that the  
7 work force is down significantly.

8                   MR. BROWN: It is down.

9                   CHAIRPERSON HERNANDEZ: Okay. What attempts are made  
10 or how do you foresee replenishing this work force?

11                  MR. BROWN: Well, we are working on several different  
12 things. One is we have been in constant touch with  
13 EDD, but we have for a long time, listing all the jobs  
14 that are available, the Unemployment Department.

15                  We have just completed -- it is ready for  
16 viewing but it hasn't been edited yet, a video, so that we  
17 can play to show people that our industry is not a dead  
18 end.

19                  We are not a glamour industry. It's people  
20 sitting at a sewing machine.

21                  Only glamorous part of our industry is if they  
22 are a model or a designer or something like that. The  
23 rest is actual sitting down and working in an assembly  
24 line.

25                  We want to show them, number one, that we do

1 start our people at minimum wage but we do scale it up  
2 because as soon as we can, and in fact it is great for us  
3 to put them on piecework and they go to six, eight, ten,  
4 \$12 an hour which is more productive for us, too, from  
5 a selfish point of view.

6 We want to show them that most of our  
7 contractors who own their own plants now started as  
8 machine operators so we are having this video to show them  
9 that it is not a dead end. That is one way.

10 I have an appointment on the 30th of September  
11 with Mr. Nelson from the Labor Department who said there  
12 are ways for us to participate in H2 program to bring  
13 people in from Latin American countries legally if we,  
14 indeed, can show we have done everything possible,  
15 advertised, gone to EDD, that we will be able to bring  
16 workers into this country.

17 At the present time there is a group who is  
18 employing Filipino workers from the Phillipines. They can  
19 come in for a year at a time.

20 At that particular time they can, at least,  
21 get an extension up to three years. They cannot stay  
22 beyond the three years because it is called temporary and  
23 that is what it is.

24 There are different ways that we are trying  
25 to have enough help here to continue to operate and we are

1 having a very difficult time.

2 We are just starting to have a difficult time.  
3 It is going to escalate.

4 CHAIRPERSON HERNANDEZ: What affect has the September  
5 1st cut-off date work permits had on your industry?

6 MR. BROWN: I can't really tell you the effect of  
7 any one of them. I can just say that has been a total  
8 effect.

9 I can't pinpoint and say this is caused or  
10 this is caused. I think confusion has caused a lot of it.

11 I think people have been let go that shouldn't  
12 have been let go. I think people who were afraid to come  
13 in because of exposing their families or themselves just  
14 didn't show up for work any more. They have gone underground  
15 more because they know that our industry is an exposed  
16 industry.

17 We have plants where we have three, 400 people.  
18 Easy for INS to come in which they do.

19 They conduct a surveillence. We call them  
20 raids. They do pick up a lot of people that way.

21 I think that they have gone to jobs if they  
22 can find them where they are not exposed that way.

23 CHAIRPERSON HERNANDEZ: Have you had interaction with  
24 any individuals that might possibly be undocumented in your  
25 particular company to talk to them about their feelings?



1 MR. BROWN: I haven't for only one reason. We don't  
2 manufacture here.

3 My company, we manufacture in Northern  
4 California which really isn't having that acute of a  
5 problem up there right now. It will happen eventually but  
6 they are not having that problem now.

7 Then we actually -- our manufacturing is in  
8 many different states, in Utah. We manufacture all over  
9 the United States as well as overseas.

10 We have plants overseas, also.

11 CHAIRPERSON HERNANDEZ: I guess I was just trying to  
12 get a sense of what the feeling is of the people within the  
13 plants themselves.

14 MR. BROWN: Well, I can more or less tell you -- are  
15 you talking about the workers?

16 CHAIRPERSON HERNANDEZ: Yes, the workers, the people  
17 that are being affected by this amnesty.

18 MR. BROWN: The workers are very confused.

19 What we have done as an association, we have  
20 for the past hired people who are Hispanic, who certainly  
21 don't wear a suit when they go in. They try to go into the  
22 plants and talk to these people and tell them what their  
23 rights are and give them more information as to how to  
24 document themselves. They try to help them with the paper  
25 work and all and we pay these people, too.

1                   If someone walks in with a suit on, someone  
2 they don't know, they panic and run. This has been  
3 happening for a long time.

4                   This has nothing to do with this new law. This  
5 has been happening before but even more so now because of  
6 the confusion.

7                   CHAIRPERSON HERNANDEZ: Has there been any sort of  
8 orientation by the INS with employers as to what the  
9 regulations are going to be?

10                  MR. BROWN: Oh, yes. They have had several -- I know  
11 Hal Ezell very well. I know Commissioner Nelson quite  
12 well on a first-name basis.

13                  They have showed concern about it. The  
14 problem is that they are told now you start and I don't  
15 think in many cases they are ready for it.

16                  Yes, they have conducted many. They have.  
17 I give them credit for that.

18                  That does help the employer to a degree but  
19 it doesn't help the employees enough. They are the ones  
20 that are really -- it starts with them. It is their  
21 ,livelihood.

22                  It is our livelihood, too, but we can move  
23 away and go elsewhere. They can't.

24                  They don't have that. They don't have the  
25 money, the wherewithal to do it, so they are the ones that

1 really it should be concentrated for their benefit.

2 CHAIRPERSON HERNANDEZ: Could you please give us some  
3 insight into these employer's sanctions that are being  
4 imposed, the penalties.

5 MR. BROWN: Well, there aren't any yet because right  
6 now the way it is set up, and this I believe was an  
7 interpretation by Nelson, was the fact that in the first  
8 go around, if there are violations, there are no sanctions.

9 It is only a warning that is given at that  
10 particular time so there really aren't anything.

11 CHAIRPERSON HERNANDEZ: But down the line there will  
12 be penalties after July 1st?

13 MR. BROWN: Yes, there will be penalties and the  
14 penalties are very, very strict because penalties are  
15 per violation, per person.

16 If they go in there and an operator, a  
17 manufacturer or contractor, primarily contractors, not  
18 manufacturers, it would be a fact that they would go through  
19 and find ten different people who are not documented or  
20 whose papers weren't read correctly.

21 Then there would be a violation on each one  
22 of them and a fine on each one.

23 CHAIRPERSON HERNANDEZ: Please let the record show  
24 that Committee member Grace Montanez Davis has just  
25 arrived.

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Welcome.

We have our first speaker, Mr. Bernard Brown of Koret of California.

We have just been touching on some areas of concern on behalf of private industry and how it has been affected by the recent amnesty provisions.

Do you have any questions?

MR. BROWN: Good morning.

MS. DAVIS: I am sorry I missed your presentation. I really was trying to get over here.

Some of the people who have applied through, you know, the various agencies that are doing the preliminary, you know, gathering of documents and so on, have been given a letter that says that they are in the process.

Is this acceptable to the employer in terms of, you know --

MR. BROWN: See, the unfortunate part is that the employers don't know exactly what they can accept and what they can't accept.

It is truly mass confusion on both sides and, I think, more on the employee than the employer but as I mentioned just a couple minutes ago, employees are unfortunately not necessarily documented or not knowing what is to happen to them right now, but they are being

1 let go because employers are afraid to keep them on.

2 A lot of employers don't realize there is no  
3 fine the first time around if they made a mistake. They  
4 don't realize that if the documents are forged that they  
5 are not responsible if they are forged but they don't know  
6 that.

7 I get phone calls continuously saying, "Oh,  
8 my God, I just found out someone in my employ -- do you  
9 think I am going to have a thousand dollar fine for each  
10 one? There may be 20 more or 50 more or something like  
11 that."

12 It is really not the case and they are not  
13 trying to push it like that.

14 I think, as I told Senator Cranston, I think  
15 there is a terrible lack of education on both sides and  
16 the fact that everything is written in English, as I  
17 mentioned before, and these people can't read it  
18 for the employees.

19 It is just a total lack of education down the  
20 line.

21 I think it is poorly written. I think they  
22 pushed it through too fast just so that, you know, we did  
23 not oppose.

24 In fact, we actually lobbied to have some kind  
25 of immigration form for the simple reason we knew we were

1 just going to have that flow continually going across the  
2 border and those people taken advantage of the way they were  
3 in every industry.

4 In answer to your question, I think it is  
5 knowledge. I think it is education.

6 MS. DAVIS: Because I know that in the newspaper  
7 reports you see once in a while they will make reference  
8 to the fact that if a person is in the process, then they  
9 could be, you know, newly hired in terms of being in the  
10 process.

11 Of course, we don't know if they are going to  
12 qualify but at least during that time they could be hired.

13 I know most of the calls that I have gotten  
14 is from people who hire, you know, housekeepers and things  
15 and they don't know whether they should hire them but I  
16 don't know whether all agencies are giving them that kind  
17 of documents.

18 I have seen one from Catholic Charities that  
19 has, you know, a letterhead and has a seal on it but I  
20 don't know whether employers --

21 MR. BROWN: Employers really don't know that.

22 You say read in the paper. It is so  
23 conflicting in the paper what they say. It is very  
24 confusing.

25 I have been sort of living with it for many

1 years and I have to tell you what I read in the papers I  
2 am not sure exactly what they are saying because they say  
3 something one time and something different the next.

4           It is just the way they get the information,  
5 the same way that we do.

6           MS. DAVIS: How effective were the sessions that  
7 Immigration held for employers?

8           They had a number of those.

9           MR. BROWN: I attended two of them and I thought they  
10 were informative but again getting that information beyond  
11 the few people that attended is going to take more than just  
12 a couple of meetings or even ten of them.

13           It is not those people they had to really  
14 get to. They had to get really to contractors.

15           Whether it is our industry or not, we have to  
16 get to other industries exactly the same way.

17           I have met with some people from different  
18 restaurant associations and other furniture associations.  
19 Their people are very, very confused of how to handle it,  
20 how to handle their people, how to keep the records and what  
21 records they want and what records they could keep that  
22 would keep them out of trouble.

23           In talking to Hal Ezell, all we had to do  
24 before was photostat a driver's license, Social Security  
25 card and so on and so forth to have it in the files.

1                   That is fine and dandy, but if they come in,  
2 and this is what is happening, and those are not correct  
3 and in force, when they take away a work force from us in  
4 a type of business we are in, they put us out of business.

5                   That is the reason we are being overly cautious.  
6 We really are because if our goods are late being  
7 delivered, it is almost like the food business. We can't  
8 be late.

9                   We have to be on time and if the lady is a  
10 lady that is expert in putting in sleeves and lady that  
11 puts in the collars over here is not working either, we  
12 don't get our merchandise out on time.

13                   I think we are overreacting in a sense but  
14 we don't know.

15                   I keep going back to education. I think that  
16 is the number one priority is education.

17                   MS. DAVIS: Has the various industries themselves  
18 made any attempts to get education to either, you know,  
19 be more accessible in terms of educating the industry?  
20 In other words, have you made any kind of move --

21                   MR. BROWN: Oh, yes. Mr. Ezell has been in my  
22 office several times. We have talked. We have had many  
23 meetings together.

24                   We did an educational program for just our  
25 members. You have to realize, we have like 600 members just



1 in our organization which is the largest there is but  
2 there are probably 3,700 manufacturers out there so we  
3 are getting to a small percent of them.

4 I would say that our particular members are  
5 probably the best informed because we keep them informed.  
6 We bombard them with information and we have made, I  
7 wouldn't say a deal with Mr. Ezell, but we certainly have  
8 an agreement that we would keep this up and make sure that  
9 our members obey the law to the best of their ability but  
10 that still we have a whole industry out there.

11 We have people who are manufacturing over  
12 3 billion, 3.5 billion, 3.6 billion dollars out there just  
13 in the state of California.

14 Most of them, by the way, in Southern  
15 California. 80 percent of our manufacturers are down here.

16 CHAIRPERSON HERNANDEZ: Mr. Brown, you indicated that  
17 there is a significant impact currently in Southern  
18 California and you feel that eventually it is going to  
19 work its way up to Northern California.

20 MR. BROWN: It is already starting to but I tell you  
21 the reason is that as manufacturers, because of the problems  
22 the contractors are having getting the workers to do their  
23 work, we as manufacturers, and I am not talking about my  
24 company, are going up to San Francisco taking the contractors  
25 up there.

1                   The manufacturers up there are now panicking  
2 a little bit because we are taking some of their production.

3                   Again my company is up there, but, yes, it is  
4 escalating.

5                   What we have been doing for a long time,  
6 if I may talk about California, we have been moving out of  
7 the state of California for many years because we have had  
8 problems getting enough workers here.

9                   We opened a plant in Price, Utah, a few years  
10 ago. Wonderful people wanted to work.

11                   We have gone into Arizona. We have gone to  
12 different states because there is a labor pool there that  
13 want to work and I think it is terrible for our state. I  
14 really do.

15                   I was born here. I would like everything here  
16 to be great.

17                   MS. DAVIS: One other question. In your industry  
18 are they still predominantly people who come from, you know,  
19 Mexico and so on or do you have -- what percentage are  
20 actual native born here Californians in the United States?

21                   MR. BROWN: In machine operators very few. We are  
22 an industry of immigrants.

23                   When the industry first started in New York,  
24 it was the Russian Jewish immigrants that did the sewing  
25 for them.

1 I believe right now they have the Puerto  
2 Rican.

3 We are not a glamour industry. I explained  
4 this before.

5 We are sitting there with a pile of clothing,  
6 sewing. It is tedious. Some women absolutely love it but  
7 we do one thing.

8 We hire people that would not be working.  
9 These people, they don't speak English in many cases. They  
10 don't have to.

11 They couldn't work at a check-out counter,  
12 you know, operating even a cash register.

13 We provide jobs for them and we provide jobs  
14 for them not at minimum wage but certainly above minimum.  
15 We start them at minimum wage, there is no doubt about  
16 that, but to answer your question, it is changing a lot.

17 We are getting a lot of Asian workers now that  
18 we didn't have before.

19 MS. DAVIS: But again they are recent arrivals  
20 probably?

21 MR. BROWN: Yes, yes.

22 MS. DAVIS: So in other words, it is not an industry  
23 that has ever attracted, you know, the local labor pool --

24 MR. BROWN: We have. We registered with EDD. I  
25 talk to them all the time.

1                   In fact, I mentioned before, and you weren't  
2 here, that we just had a video made, which was not cheap,  
3 that we are going to run in EDD for the needle trade that  
4 we can show them that there are opportunities to grow  
5 within the industry, the amount of money that is paid.

6                   Let them see what the plant is really like.

7           MS. DAVIS: Okay. Very good.

8           MR. BROWN: It is not going to make it glamorous.  
9 That is what a plant is like.

10                   There are some a lot better than others. Some  
11 we are not very proud of, as a matter of fact, but most of  
12 ours we are very proud of.

13           CHAIRPERSON HERNANDEZ: Okay. Mr. Brown, thank you  
14 very much. We sincerely appreciate your taking time from  
15 your very busy schedule to meet with us.

16           MR. BROWN: You are welcome.

17           CHAIRPERSON HERNANDEZ: Next we have Ms. Linda Wong  
18 from the Mexican American Legal Defense and Education  
19 Fund.

20                   Ms. Wong, your statement?

21                   Thank you again for being with us.

22           MS. WONG: Thank you very much. Let me introduce  
23 myself.

24                   I am Linda Wong. I am Associate Counsel for  
25 the Los Angeles Regional Office of the Mexican American

1 Legal Defense and Education Fund.

2 I am also National Director for MALDEF's  
3 immigration civil rights program.

4 What I would like to do this morning is  
5 to focus my remarks on one segment of the new immigration  
6 law, specifically the employer sanctions and anti-  
7 discrimination provisions and give you an overview of the  
8 effects that this new law has had on job opportunities for  
9 minorities, particularly noncitizen workers.

10 I feel it is important to focus my remarks on  
11 that particular issue because most of the public attention  
12 for the last six months has been on amnesty and the numbers  
13 of people who are now coming forward to apply for  
14 legalization, whereas very little has been done with  
15 regard to employer sanctions and the consequences that  
16 have flowed from the implementation of the enforcement  
17 provisions of the new law.

18 For the last six and a half months, MALDEF  
19 here in California has operated a statewide, toll-free  
20 hot line. From January 20 through July 31 we have responded  
21 to well over 7,000 inquiries coming through that hot line  
22 on a wide range of issues.

23 They range from amnesty to employer sanctions  
24 to other issues that have arisen in the implementation of  
25 the Immigration Reform and Control Act.

1                   While the bulk of the questions that we  
2 received dealt with the amnesty program, a good percentage  
3 of other calls were questions, concerns surrounding employer  
4 sanctions and employer discrimination so I will target my  
5 remarks with regard to those particular issues.

6                   What we found in the last seven months of  
7 the hot line was a great deal of confusion over the  
8 provisions of the new law. The confusion extended from the  
9 immigrant community into the business community.

10                  Employers had no idea what sanctions entailed.  
11 They knew nothing more than what they read in the newspaper  
12 or heard on the news reports and on television-radio.

13                  As a consequence of that lack of information,  
14 there was a great deal of misunderstanding and  
15 misapplication of the law to the detriment of people who  
16 are working because a great many of them lost their jobs  
17 over the last six months and have been refused employment,  
18 even though they are qualified for the work that they  
19 applied for.

20                  Contrary to what the Immigration and  
21 Naturalization Service has indicated, there has been a  
22 great deal of employment discrimination.

23                  In the seven months of the operation of the  
24 hot line we received all together 286 inquiries dealing  
25 with some aspect of employer sanctions, whether they were

1 inquiries from employers who were confused about their  
2 obligations under the new law to complaints of job  
3 discrimination, from both citizen and noncitizen workers.

4 Now of those 286 incoming calls, roughly  
5 174 dealt with employment discrimination complaints.

6 Over 112 calls came from the employers  
7 themselves who frankly did not know what was going on with  
8 regard to employer sanctions.

9 What we discovered was that from March through  
10 May, and then in particular the one month preceding the  
11 start of the legalization program, we probably saw the  
12 greatest amount of confusion and chaos in the personnel  
13 offices of various businesses throughout the state of  
14 California because that is the period when we saw the  
15 greatest number of employment-related complaints coming  
16 in to our hot line.

17 The complaints ranged the gamut from citizens  
18 who had lost their documents and could not obtain  
19 replacements and, consequently, were denied employment.

20 For instance, we received a telephone call  
21 over the summer from a Hispanic, a naturalized citizen,  
22 who lost her citizenship papers and applied for replacements  
23 from the Immigration and Naturalization Service. Because  
24 she lost her documents, she had no evidence that she was  
25 an American citizen.

1                   It also happened that she had lost her Social  
2 Security card and in order to get a replacement of her  
3 Social Security card, she had to present evidence to the  
4 employees of the Social Security administration that she  
5 was here legally. Without a naturalization certificate,  
6 she could not do it so she had neither her naturalization  
7 papers nor her Social Security documents.

8                   In her efforts to find a job with a school  
9 district in California, she could not meet the citizenship  
10 requirements that were mandated under State law to obtain  
11 a teaching position with one of the public schools in  
12 Central California.

13                   Inadvertently she became a victim of  
14 bureaucracy. She became a victim of the employer's  
15 sanctions provisions and could not find a job, even though  
16 she was here legally as a naturalized citizen.

17                   We received other complaints along similar  
18 lines where permanent residents who presented documentation  
19 found that the green cards they had were suspect because  
20 employers assumed that they were fraudulent.

21                   We received complaints from people who were  
22 eligible for amnesty who were refused employment because  
23 employers were afraid of hiring them under the belief that  
24 they might not be granted amnesty.

25                   Obviously that was an issue that was outside



1 their control. Only the Immigration and Naturalization  
2 Service can determine whether or not these people are going  
3 to be granted temporary legal status but even though they  
4 made a good faith effort to apply for amnesty, employers  
5 were still reluctant to hire them.

6           The 174 complaints that MALDEF received over  
7 the seven months of the hot line's operation, I believe,  
8 reflect only the tip of the iceberg with regard to the  
9 scope of the employment discrimination problem that we have  
10 here in California.

11           One of the difficulties that we have encountered  
12 over the last several months is the lack of public  
13 information for employers and working people about their  
14 rights as working people under Federal and State civil  
15 rights laws.

16           Today the Immigration and Naturalization  
17 Service has focused their public information campaign on  
18 employer sanctions, directing employers not to hire people  
19 who cannot present proof of their right to work in the  
20 United States.

21           We have yet to hear or read of anything in  
22 terms of remedies that are available to people when they  
23 feel themselves to be victims of employment discrimination.

24           More importantly, there is a provision in the  
25 law that deals specifically with antidiscrimination

1 remedies and yet the Justice Department has not issued  
2 final regulations, interpreting those provisions.

3 As a consequence, people have absolutely no  
4 recourse if they want to file charges with the office of the  
5 Special Counsel, which is the agency given the authority  
6 to enforce the antidiscrimination provisions of the law.

7 In those states that do not have local offices  
8 of the Equal Employment Opportunity Commission, there really  
9 is no avenue available to people if they are denied  
10 employment or fired illegally because of employer  
11 misunderstanding, misapplication of the law or intentional  
12 efforts on the part of the employers to avoid hiring  
13 minorities because of the fear of liability under the  
14 employer sanctions provisions.

15 What I am hoping is that through your efforts  
16 today that the Advisory Committee will begin that effort  
17 of documenting the need to finalize regulations that will  
18 allow the Justice Department to implement the  
19 antidiscrimination provisions of the law.

20 We hope that your office will be in a position  
21 to expedite the confirmation process that is now going on  
22 in Congress to select a Special Counsel that will oversee  
23 activities of that office.

24 We hope that you will play some role in  
25 encouraging the State of California to ensure that its

1 facilities and resources will be made available to people  
2 during this interim period so that they will have a place  
3 to go to in order to remedy those civil rights violations  
4 that they have been subjected to over the last several  
5 years since the enactment of the Immigration Reform and  
6 Control Act.

7 We are making every effort possible to  
8 document those calls, to investigate them and to file  
9 charges where charges are merited but we are only one  
10 agency.

11 The scope of the problem, to be quite truthful  
12 with you, is far beyond our capability and so we do need  
13 your assistance in making sure that State and Federal  
14 agencies are doing everything they can to monitor, document  
15 and prosecute claims of job discrimination arising from the  
16 enforcement of sanctions.

17 What I am going to do today is leave with you  
18 a memorandum that was prepared in house that evaluates the  
19 employment problems that have come to our attention through  
20 the hot line's operation over the last several months.  
21 That report contains the aggregate data and breaks down  
22 the kinds of problems and issues that we encountered from  
23 January through July.

24 Hopefully that will be a basis for a series of  
25 ~~recommendations~~ that perhaps the California Advisory

1 Committee can make to the Civil Rights Commission for  
2 eventual implementation at the Federal level.

3 With that I thank you very much for your  
4 time and patience.

5 If you have any questions, I am more than  
6 happy to answer them.

7 CHAIRPERSON HERNANDEZ: Thank you, Ms. Wong, very much  
8 for your statement.

9 There has been indication that the number of  
10 undocumented individuals applying for legalization has  
11 fallen.

12 Can you give us an idea as to where we are  
13 today and where we will probably wind up by the end of the  
14 year?

15 MS. WONG: Initially the Immigration and Naturalization  
16 Service had estimated that anywhere from three to four  
17 million undocumented people across the country would be  
18 eligible for amnesty.

19 Since that original estimate was provided,  
20 the INS has scaled back the numbers from four million to  
21 roughly two million.

22 Now of those two million estimated  
23 undocumented individuals who are eligible for amnesty,  
24 roughly half reside in the state of California, and of that  
25 number the vast majority are going to be applying for

1 amnesty here in the County of Los Angeles alone.

2           The State of California estimates that at  
3 least 800,000 people living in L.A. County will be coming  
4 forward to apply for amnesty in the course of the year  
5 until May 4, 1988.

6           Now the statistics coming from the Immigration  
7 Service so far have indicated that approximately 550,000  
8 have applied across the country, about half of those in  
9 California, so the actual numbers are falling below the  
10 estimates that the INS had originally anticipated, even  
11 though that was scaled down.

12           At this point in time we are trying to find  
13 out why the people are not coming forward.

14           We think that one of the reasons for the  
15 low numbers is the ongoing lack of information that is not  
16 available to those people who are most in need of it;  
17 secondly, the fear that still exists because the Immigration  
18 and Naturalization Service has still not addressed some  
19 major problems in the administration of the amnesty program  
20 that is holding people back.

21           For instance, the issue of family separation.  
22 What happens to those people who are not eligible for  
23 amnesty?

24           Secondly, the issue of public assistance and  
25 its affects on eligibility; third, the consequences of

1 people having left the country after 1982 and returning  
2 to the United States with a Visa, which, under the terms of  
3 the law, breaks their continuous illegal residence in the  
4 United States.

5 Those three issues that I have just identified  
6 to you are the major barriers that are holding people back.  
7 What they want is information, clear-cut guidelines from  
8 the Immigration Service on where they stand, if they have  
9 those problems.

10 So far the INS has not come out with that  
11 kind of information and that has contributed to the low  
12 numbers.

13 The other problem is the fact that many of  
14 the voluntary agencies, the nonprofit organizations,  
15 providing public or -- excuse me -- providing free or  
16 low cost assistance to people coming forward for amnesty  
17 are overwhelmed. Here in Los Angeles all of the nonprofits,  
18 the legitimate nonprofit organizations, including the  
19 Catholic church, can represent only 40 percent of the  
20 eligible undocumented population that is expected to come  
21 forward to apply for amnesty.

22 That means that they can assist perhaps  
23 400,000 out of the estimated 800 to 1 million undocumented  
24 who may come forward over the coming year.

25 With that kind of bottleneck, people frankly

1 have no other option but to seek private assistance from  
2 attorneys, notaries and immigration consultants, those  
3 people who perhaps may not have the training or expertise  
4 to really represent these individuals.

5           Consequently, they are vulnerable to a great  
6 deal of exploitation right now.

7           I think all of those factors contribute to  
8 the low numbers.

9           CHAIRPERSON HERNANDEZ: Grace?

10          MS. DAVIS: Yes. In terms of the documentations,  
11 like the -- I have a couple of questions for you -- the  
12 loss of the naturalization papers, what kind of information  
13 would that individual have to supply to the INS in order to,  
14 you know, get the duplication?

15                 Does she actually have to have her former  
16 A number or some impossible thing like that?

17          MS. WONG: They would have to file with the  
18 Immigration and Naturalization Service a form requesting  
19 replacement of their naturalization certificate and they  
20 would have to supply at least their name and the number  
21 that was assigned to them when they became naturalized  
22 citizens.

23                 The Immigration Service estimates that it takes  
24 anywhere from three months to a year to actually replace  
25 the lost naturalization certificate.

1                   Now in the interim period, the INS issues a  
2 receipt to that individual and so the person uses that  
3 receipt as evidence of work authorization, as evidence that  
4 that person is a legally naturalized citizen but the  
5 problem is employers may not find that acceptable.

6                   That is where the hardship comes in with  
7 regard to employment and employability.

8                   MS. DAVIS: The other question is people who are going  
9 to Catholic Charities and so on, the Catholic Charities,  
10 I know, gives them a letter saying that they are in the  
11 process.

12                   Are employers, to your knowledge, accepting this  
13 kind of document as proof that they can hire these people  
14 for the interim?

15                   MS. WONG: Not all of them are. The position that  
16 some employers take is that the law was clear cut.

17                   The regulations specify what kinds of  
18 documents are acceptable to establish work authorization  
19 and a letter from a nonprofit organization indicating that  
20 the holder is in the process of applying for amnesty is  
21 not listed as an acceptable document.

22                   We have some employers who, on the advice of  
23 their legal counsel, are not accepting those letters.

24                   On the other hand, there are some employers  
25 who are, primarily because they know these people and,



1 consequently, do not want to lose them, so it is, you know,  
2 a situation that really is up to the discretion of the  
3 employer.

4 MS. DAVIS: Is this possibly something that people  
5 who are advocating for some remedies should include that  
6 maybe the INS -- maybe Catholic Charities to say that they  
7 are official agency working with INS and that this document  
8 is something like that?

9 MS. WONG: The Immigration and Naturalization  
10 Service should but it is not.

11 MS. DAVIS: It is not. So that is something we should  
12 be advocating for.

13 MS. WONG: Right.

14 MS. DAVIS: The other thing is in dealing with  
15 Federal legislation, my experience has been that we usually  
16 do not implement any program until the regulations are  
17 issued by the agency that has a responsibility for  
18 implementing whatever program is legislated.

19 Why in this case has that exception been made  
20 to go forward with the implementation of this program  
21 without having the regulations? Do you have any idea?

22 MS. WONG: I really don't know.

23 If you are referring to the absence of  
24 regulations with regard to the antidiscrimination provisions  
25 of the law, the Justice Department selected an interim

1 Special Counsel, the Assistant Attorney General, Mary Mann,  
2 who works under Brad Reynolds.

3 When Mary Mann testified before the House  
4 Subcommittee on Immigration referencing issues, she  
5 indicated that there was no need, no immediate need for  
6 final regulations because there is no evidence of  
7 discrimination occurring in the field.

8 You know, it is a problem of, you know, what  
9 comes first, the chicken or the egg?

10 If you have somebody who is the interim  
11 Special Counsel claiming that there is no discrimination,  
12 then there is no incentive to issue the final regulations  
13 so that we could have, you know, concrete guidelines for  
14 people to utilize in order to file discrimination charges.

15 What we are trying to do right now is we are  
16 trying to expedite that process but obviously, you know,  
17 MALDEF, by itself, can do very little to encourage the  
18 Justice Department or Congress to move a little bit more  
19 expeditiously.

20 MS. DAVIS: My final question is you referred to  
21 employees' rights.

22 What are employees' rights? Who is responsible  
23 for publishing, you know, that kind of information and  
24 disseminating that information?

25 MS. WONG: Well, theoretically the INS should because

1 it awarded a ten and a half million dollar contract to a  
2 public relations conglomerate to undertake the public  
3 information campaign.

4           However, because the contract was awarded late  
5 in the year, they have encountered a whole series of  
6 problems, one of which is the lack of adequate financing  
7 for a national public information campaign.

8           What that means is that other organizations  
9 have to fill that information gap.

10           Frankly, it is an ad hoc at this point in  
11 time. If MALDEF, you know, is able to obtain the funding,  
12 then we will produce the information.

13           The Equal Employment Opportunity Commission  
14 issued a press release earlier this year advising employers  
15 that they were going to aggressively enforce Title VII of  
16 the 1964 Civil Rights Act. Now that was very helpful but  
17 that was the only time in which EEOC came out with public  
18 information that was disseminated nationally.

19           In the interim period, no other national or  
20 even regional effort has been undertaken to disseminate  
21 information about remedies for job discrimination, and we  
22 really need that right now.

23           Neither the local EEOC office has done anything  
24 with regard to public information.

25           We hope that over the next several months that

1 we will be in a position to provide that information.  
2 We do intend to provide written materials, as well as  
3 public service announcements, dealing with employer  
4 sanctions and remedies for job discrimination but much of  
5 that is contingent upon financial support for MALDEF and  
6 so we are doing that right now.

7 MS. DAVIS: In your opinion, what do you think that  
8 Congress could do in terms of an overall, you know, remedy  
9 for the situation?

10 Could they counter it with some other  
11 legislation which would probably take forever to pass?

12 MS. WONG: Well, I think a number of alternatives are  
13 available to us right now. First is changing the regulations  
14 themselves so as to make it clear that employer sanctions  
15 and enforcement of sanctions will not impinge upon the  
16 employment rights of those people who are now applying for  
17 amnesty.

18 You see, one of the problems that we are  
19 encountering is that as the Immigration Services goes out  
20 to make those compliance visits to ensure their employers  
21 are implementing sanctions, they are telling the employers  
22 that they have to fire people, even though they are  
23 amnesty eligible.

24 In effect, what the INS is doing is it is  
25 shortcircuiting the application period from the full one

1 year down to a few months.

2 This should not happen but because of a gap  
3 in the regulations, the gap in the law, the INS is given  
4 that kind of discretion to provide that interpretation.

5 Secondly, I think amendments can be made to the  
6 law itself. Congress certainly can initiate public  
7 hearings on the implementation of the amnesty program as  
8 well as the enforcement of employer sanctions to develop a  
9 record, a legislative history to identify gaps in the law  
10 that can be filled, either with additional, technical  
11 amendments to the law itself or by way of amendments of the  
12 regulations, interpreting the law.

13 MS. DAVIS: You think that could happen before next  
14 May?

15 MS. WONG: I think it can.

16 Senator Kennedy, who heads the Senate  
17 Judiciary Committee, made a commitment here in California  
18 only two months ago that he would hold public hearings on  
19 the implementation of the Immigration Law.

20 What we need to do is make sure that  
21 commitment is implemented over the next several months.

22 CHAIRPERSON HERNANDEZ: Thank you, Grace.

23 Phil?

24 MR. MONTEZ: I just wanted to ask Ms. Wong on the  
25 General Accounting Offices, every year they are supposed to

1 issue a report on the antidiscrimination and the sanctions  
2 part of the Act and then after three years, if there is  
3 evidence of widespread pattern of discrimination, they are  
4 supposed to implement employer sanctions as part of the  
5 law, as well as the antidiscrimination, if there is.

6 Who is supposed to be watchdog in that? How  
7 is GAO getting their information that there is discrimination?

8 That is what I am asking. Do you have any  
9 idea?

10 MS. WONG: Well, the people working with the General  
11 Accounting Office have been in touch with a wide range of  
12 organizations around the country.

13 Here in Los Angeles, for example, the Los  
14 Angeles Regional Office of GAO has called MALDEF, has called  
15 a number of other organizations to try to obtain that  
16 information.

17 My understanding is that in their first report  
18 to Congress they will not focus so much on actual cases of  
19 discrimination as the methodology for eliciting that  
20 information.

21 They have developed a questionnaire that they  
22 are going to send out to employers and hopefully the  
23 employers will respond and provide the General Accounting  
24 Office with some of the information they need to document  
25 the full scope of the discrimination problem.

1                   One of the shortcomings of that process is the  
2 fact that, you know, a lot of employers just will not  
3 admit that they are violating the law, that they are  
4 discriminating against people, so we have to have some  
5 other kind of control mechanism.

6                   Frankly, I think that a control mechanism will  
7 have to come from outside, whether through academic  
8 studies of sanctions and a discrimination problem, or  
9 through independent monitoring done by other organizations.

10                  MR. MONTEZ: Might be just for the record, Madam  
11 Chairman, that the Advisory Committee contact GAO in the  
12 Los Angeles region to see what they are doing and maybe be  
13 critical of the processes because I think that is important,  
14 that they know that somebody is watchdogging.

15                  CHAIRPERSON HERNANDEZ: Thank you, Phil. That is a  
16 very good point.

17                         I have one last question, Ms. Wong, and that  
18 is there seems to be some discrepancy in how determinations  
19 are made to save or to hold families together and how  
20 perhaps the regional director for the Immigration and  
21 Naturalization Service in Chicago might handle it and how  
22 the Immigration and Naturalization Service, say for instance,  
23 here in Los Angeles might handle it.

24                                 How and why is that happening? Is there not  
25 any consistency with the INS?

1 MS. WONG: Well, the difference between the Chicago  
2 and Los Angeles regional offices of the Immigration  
3 Service, I think reflects the broad discretion that the  
4 agency has as a whole in interpreting the law and applying  
5 it.

6 The fact that Los Angeles has not gone so far  
7 as Chicago in giving assurances to the undocumented that  
8 their ineligible family members are not going to be hurt  
9 by coming forward in the legalization program shows us what  
10 INS is not doing but could and I frankly don't know what  
11 the reason is or what accounts for that discrepancy.

12 It is not unusual because one of the  
13 reasons why the numbers are so low, we are encountering not  
14 only differences between INS district offices and regions  
15 but even differences of implementation among the INS  
16 legalization offices in a given city.

17 You know, here in Los Angeles, for example,  
18 if you go to the East LA office to file your legalization  
19 application, you may be able to get your receipt right then  
20 and there if you file it in person but if you go to  
21 Pomona or another INS legalization office, their policy is  
22 to mail the receipts, in which case people may have to  
23 wait as long as four to six weeks before they get anything  
24 in the mail.

25 You know, you have that kind of variation



1 within the individual offices. You know, what it shows me  
2 is, number one, there is no internal concensus within the  
3 agency as to how to implement the amnesty program and,  
4 as a consequence, people are encountering arbitrary action,  
5 selective treatment, and in some cases discriminatory  
6 implementation of amnesty.

7 CHAIRPERSON HERNANDEZ: Thank you, Ms. Wong. Thank  
8 you very much for the valuable information.

9 We appreciate your being with us today.  
10 Thank you.

11 MS. WONG: And let me leave with you, as I said  
12 earlier, the memorandum that assesses the employment intake  
13 that we have gotten over the last several months of our  
14 hot line.

15 CHAIRPERSON HERNANDEZ: Thank you very much. Thank  
16 you again.

17 Our next speaker is Dr. Robert Valdez,  
18 research analyst with Rand Corporation. He has researched  
19 and offered several documents on the long-term effects of  
20 Mexican immigration in California.

21 He will discuss the findings of his research  
22 as well as contributions of the undocumented.

23 Dr. Valdez, welcome. Thank you for being  
24 with us this morning.

25 DR. VALDEZ: I have some comments that I have

1 prepared, nothing written, except I brought you a copy of  
2 one of the reports that we have prepared in the past.

3           What I would like to do this morning is to  
4 briefly summarize the results of this study that was  
5 conducted a couple years ago.

6           CHAIRPERSON HERNANDEZ: Dr. Valdez, before we begin,  
7 the accoustics are very, very bad in this room.

8           Could you please speak up for the sake of the  
9 reporter?

10          DR. VALDEZ: I can try. Right now I am having trouble  
11 with my throat.

12          CHAIRPERSON HERNANDEZ: All right. Thank you.

13          MS. DAVIS: Could you also tell us a little bit about  
14 yourself in terms of your educational background?

15          DR. VALDEZ: Sure, sure.

16                 I am Robert Valdez. I am Professor of Public  
17 Health at UCLA and I am a resident consultant for the  
18 Economic and Statistics Department of the Rand Corporation,  
19 private, nonprofit research organization in Santa Monica.

20                 I have a Ph.D. in policy analysis, a Masters  
21 Degree in Health administration and planning, and a  
22 Bachelors Degree from Harvard University.

23                 I have been involved in a variety of different  
24 issues, including demographic issues and economic  
25 development issues, as well as, of course, the health issues

1 which are some of the things that I want to raise today.

2           What I would like to do this morning is to  
3 briefly describe the results of the Rand study on the  
4 current and future effects of Mexican immigration on the  
5 State of California and then to raise some issues about  
6 the future.

7           Most of us have been very, very concerned about  
8 the Immigration Control Act and the problems of today, and  
9 what we shouldn't forget is that the Immigration Control Act  
10 was implemented or passed under the assumption that it would  
11 remedy some problems for the future.

12           What I would like to do is raise some issues  
13 that the Immigration Reform Act has raised itself for the  
14 future.

15           Let me first start by summarizing the  
16 research of the Rand report. This report came about as a  
17 result of an inquiry by the California Round Table which  
18 is a group of business executives around the state of  
19 California. They basically represent the Fortune 500  
20 companies of California and they are very top level, very  
21 influential businessmen.

22           At the time, in 1983, they began a discussion  
23 and continued following the debate on the Immigration  
24 Reform and Control Act.

25           There was a great deal of confusion among that

1 body about what the current situation in California was.  
2 They didn't know whether, in fact, to believe news reports  
3 on the national level that there was an immigration crisis.  
4 Many of them saw no crisis in California.

5 Many of them obviously saw large scale  
6 immigration in California but had a different perception  
7 than the national perception of it.

8 Others, on the other hand, believed the  
9 situation was terrible. It has gotten out of control.  
10 It was a detriment to society. It was a detriment to  
11 California's economic development.

12 They went about trying to get some answers to  
13 these problems.

14 My colleague and I, Kevin McCarthy, tried to  
15 give them some answers to some very fundamental questions.  
16 What I would like to do is to share those answers to those  
17 questions with you today.

18 First of all, there was a very strange  
19 perception about whom the Mexican immigrants were. Not  
20 surprisingly, east of the Mississippi in particular, the  
21 notion of Mexican immigrants is that they are young males  
22 who come across the border who work in the fields, who put  
23 a little bankroll together, and then run back across to  
24 Mexico or else they get caught by the INS at the border.

25 Well, we simply tried to show that Mexican

1 immigrants were not a homogeneous group. They were, in  
2 fact, at least three distinct groups of immigrants or  
3 migrants from Mexico coming to California.

4 They included the short termers, those young  
5 males who were coming across and who gave this perception  
6 because they are largely the people who are captured by the  
7 Border Patrol.

8 There was a second group, a more cyclical  
9 group, a group that tended to work more in the industrial  
10 base of California who tended to be here for longer periods  
11 of time, one to three years, maybe even longer, and who did  
12 eventually return or decided to make a very different kind  
13 of move and that is to become a third type of migrant and  
14 that is a more permanent resident migrant, that is, one who  
15 has the intention of staying permanently and either seeking  
16 to correct their immigration status or to continue living  
17 undocumented in the States.

18 The real question that was posed by these  
19 businessmen and by others in the community was whether or  
20 not immigration was an economic detriment.

21 Our study suggested that immigration,  
22 particularly Mexican immigration, and I can't really talk  
23 about other groups as well because I didn't study them so  
24 my comments are restricted at this point to Mexican  
25 immigration -- Mexican immigration has probably been an

1 asset, an economic asset to the State of California during  
2 the 1970's, particularly the 1970's.

3 It appears to have stimulated economic  
4 growth through stimulating employment growth and by keeping  
5 the industrial base of California competitive in a global  
6 environment, global economic environment.

7 There has, however, been some negative  
8 effects of Mexican immigration. They have been minor from  
9 our estimates.

10 The potential displacement effects, that is,  
11 the worry that Mexican immigrants were displacing American  
12 workers jobs in our estimate was mainly or during the  
13 1970's and early 80's, except for perhaps among the lowest  
14 skilled U.S. born Latinos, very often first or second  
15 generation Americans themselves.

16 The second major issue that these individuals  
17 were interested in, others of course were interested in,  
18 too, was whether or not immigrants were a real public charge.  
19 That is, were they draining the coffers of public resources  
20 beyond the level of which they should or that they were  
21 entitled to?

22 Our results showed that immigrants, in fact,  
23 were using an increasing number of services but their  
24 contributions to public revenues exceeded the cost of the  
25 services that they used, with one exception, perhaps, and

1 that exception was education.

2           On the other hand, a lot of the education  
3 costs were for their native-born children so there is some  
4 question as to whether to include that service or not  
5 include that service as something you want to either hold  
6 against them or for them.

7           Certainly from a societal point of view, it  
8 is something that all of us would want to encourage,  
9 everyone, to be.

10           The third major issue was the belief that  
11 immigrants, particularly Mexican immigrants, were resisting  
12 becoming Americans. They were, in a sense -- the notion  
13 was they were creating a separate society outside of the  
14 mainstream.

15           Our analysis and our report shows that Mexican  
16 immigrants have continued to follow the historical pattern  
17 of integration into the U.S. mainstream society. The same  
18 sort of pattern that European immigrants followed at the  
19 turn of the century and throughout this century that is  
20 largely tied to occupational mobility across generations.

21           This occupational mobility, of course, is  
22 also tied to educational advancement and achievement.  
23 It is in this area that there are discrepancies for the  
24 Mexican immigrant.

25           Although there has been considerable

1 educational advancement and occupational advancement today,  
2 much more so than 30 years ago, the amount of progress by  
3 native-born Mexican-Americans may not be enough, may not  
4 be fast enough.

5           Given changes in California's industrial  
6 structure, the kinds of jobs that have historically provided  
7 that mobility process to work appear to be growing in a  
8 much slower rate than one would expect or one would need  
9 for the process to continue in a very orderly fashion.

10           As a result, although the Latino community and  
11 others have recognized education as an important component  
12 for social and economic advancement, not only of the  
13 immigration stock population, that is, the immigrant and  
14 his native-born child, but also of the second and third  
15 generation Mexican-American, that educational advancement  
16 has been not as great as one would hope.

17           Certainly given the changes that are going on  
18 in California today, it causes some distress. It causes  
19 some distress because if the educational advancement is not  
20 achieved, then what we create or what we continue to create  
21 is competition among native-born low-skilled, low-educated  
22 workers and future immigrant workers.

23           This brings me to really some of the issues  
24 that the current Immigration Reform and Control Act has not  
25 really addressed and some of the issues that people have



1 forgotten about, which I think need to be remembered when  
2 we talk about the implementation of the Immigration Reform  
3 and Control Act.

4           The Act was touted as a remedy for the  
5 immigration ills or perceived immigration ills of the  
6 United States, that is, most represented by the phrase  
7 "We have lost control of our borders" that was used in the  
8 debates.

9           This Control Act really did not change the  
10 immigration laws of the United States, the fundamental  
11 laws of the United States. It merely added a couple of  
12 twists.

13           The two major twists are those that you have  
14 been discussing, amnesty for immigrants who have been here  
15 since before 1982 and employer sanctions, an attempt to  
16 control future employment of undocumented immigrants.

17           The law, however, does not deal with the fact  
18 that these issues continue to be issues in the future.  
19 We are going to continue to see undocumented immigration  
20 in the United States.

21           The Control Act does not address the  
22 fundamental problems that have been the source of large  
23 scale undocumented immigration to the United States. As a  
24 result, the chance in the future and the possibilities in  
25 the future for increased abuse or higher risk of abuse by

1 employers for undocumented workers and for native-born  
2 workers arises.

3 For the undocumented, it arises largely because  
4 of their undocumented status.

5 For the native-born workers, it arises largely  
6 because of the misunderstanding, and at this point it is  
7 difficult to predict whether or not the Immigration Reform  
8 and Control Act will be followed to the letter of the law,  
9 meaning that every new job applicant, whether native-born  
10 or not, must present documentation that they are, in fact,  
11 eligible to work in the United States.

12 This, I believe, is an intrusion into civil  
13 liberties that most Americans do not see in the  
14 Immigration Reform and Control Act and is a future issue,  
15 future civil liberties issue that remains to be resolved.

16 The third and fourth major issues that the  
17 Immigration Reform and Control Act raises for local  
18 communities is really, one, about the provision of medical  
19 care services and social services to local populations.  
20 The question is whether local communities will continue to  
21 provide medical and social services to those individuals who  
22 did not receive the amnesty or in the future who are not  
23 eligible for any kind of amnesty because it no longer  
24 exists.

25 The program will no longer exist. This is a

1 problem not only for the immigrant but also for the  
2 native born, particularly the first generation.

3           Since we are talking about a generational  
4 period, we are talking about for the next 20 to 30 years.  
5 Children of immigrants, whether they be eligible for  
6 amnesty or not, are certainly citizens.

7           Yet there are major issues for the future  
8 about whether or not these individuals will be able to  
9 receive needed public services for a variety of reasons.

10           It is unclear what kind of documentation will  
11 be needed or required and what kinds of changes local  
12 county governments will make as a result of the  
13 Immigration Reform and Control Act.

14           The last major issue I raise is really one that  
15 I raise only because the future is so unclear, and I am  
16 looking at the future not beyond 30 years from now, really  
17 near future, 10, 15 years from now.

18           The question is whether or not local  
19 communities will continue to provide educational services  
20 irregardless of documentation or nationality.

21           Education has now become one of the most  
22 costly public services provided in the community and it is  
23 also -- the provision of the services have largely left  
24 control of the local level.

25           Most educational services, education.

1 districts, now receive the vast majority of their funds  
2 from State organizations and that is particularly true in  
3 California.

4 The issue becomes one of local communities  
5 being able to control how much education will go throughout  
6 the community to all kinds of citizens, irregardless of  
7 what their immigration status is, irregardless of whether  
8 they are native born or not and what generation they are.

9 I simply raise these five issues as something  
10 that needs to be kept in the forefront of your deliberations.

11 In listening to others who have testified  
12 before you, the Immigration Reform and Control Act will have  
13 some problems in its implementation. Ms. Wong has given you  
14 a very detailed description of some of the problems, some  
15 of the facts that programs have gone ahead without  
16 regulations or with regulations that remain very unclear.

17 The lack of clarity today will be further  
18 reflected in confusion tomorrow and some of the problems  
19 that this confusion raises are those that I tried to bring  
20 to you this morning.

21 CHAIRPERSON HERNANDEZ: Thank you very much,  
22 Dr. Valdez.

23 It was considered to be discriminatory when  
24 you would enroll a child into an elementary school and the  
25 principal or the person enrolling the child would say,

1 "Do you have proof of residency?"

2 That was true some time back.

3 Is it still true today? If not, how will  
4 this bill affect the enrollment of children, of undocumented  
5 children in schools?

6 DR. VALDEZ: At this point it is still discriminatory  
7 to do that.

8 However, this particular legislation opens the  
9 public thinking and the public thought and debate about  
10 what services undocumented people should receive.

11 Again it reraises the issue, reopens the  
12 issue, something that particularly in this particular  
13 education issue most people have thought we have dealt  
14 with and we have to come to a concensus about that all  
15 children, irregardless of who they are, where they come  
16 from, if they are going to reside in the United States,  
17 need a formal education, particularly if they are going to  
18 end up staying here.

19 We want children to be productive members of  
20 society and one way to do that and to ensure that is to make  
21 sure they do have a decent education.

22 CHAIRPERSON HERNANDEZ: I know that in Texas, up  
23 until a couple of years ago, it was unlawful for a child  
24 that was undocumented to attend the public school system  
25 in the State of Texas but I do believe that that law has

1 changed.

2 MS. DAVIS: There was a MALDEF case.

3 DR. VALDEZ: That is right.

4 MS. DAVIS: Did that deal with undocumented?

5 DR. VALDEZ: Yes, it did.

6 MS. DAVIS: Or children born here?

7 DR. VALDEZ: No. Dealt directly with the undocumented.

8 MS. DAVIS: So that has become the law?

9 DR. VALDEZ: Right. That has been dealt with  
10 through actually a number of judicial rulings but the  
11 issue is still open.

12 MS. DAVIS: Yes. I see that.

13 CHAIRPERSON HERNANDEZ: Has there ever been a study  
14 on the effects of undocumented children that have come  
15 here at a very, very early age who in essence have been  
16 raised as Americans and how they are dealing with their  
17 status currently, not really fully realizing or  
18 understanding that they are undocumented?

19 DR. VALDEZ: No. There are no known studies to my  
20 knowledge.

21 One of the most difficult issues is everyone  
22 is interested in the topic but no one either wants to put  
23 resources in to finding answers to some of these questions  
24 that require some in-depth research.

25 There are a number of case studies of issues,

1 such as the thing that MALDEF does which is bring  
2 complaints forward and bring case documentation of a  
3 particular incident, and I think that you can look at a  
4 case as representative of not one individual or certainly  
5 numbers of individuals who are in similar circumstances  
6 but whether that is representative of everyone in that  
7 circumstance is anyone's guess.

8 CHAIRPERSON HERNANDEZ: Grace?

9 MS. DAVIS: Yes. I would say that the environment  
10 that we see against bilingualism and then I have just been  
11 at a couple of other states and the move to make English  
12 as an official language is really running rampant throughout  
13 most of the states, but that kind of environment would  
14 probably reinforce what you are saying in terms of this  
15 control immigration act, looking at those areas again.

16 DR. VALDEZ: That is right. Actually, in our  
17 study we looked at the language issue because it has been  
18 a very symbolic issue.

19 What we show is that Mexican immigrants in  
20 California have been learning English at a very rapid rate.  
21 The learning of English begins among the three various types  
22 of immigrants I described for you during the immigrant  
23 experience.

24 The children of immigrants, though, because  
25 the language issue really is one of generations, the

1 language issue in California shows that the first generation  
2 native born, although there are pockets, I am sure, in any  
3 community, as a whole in the state, the vast majority of  
4 first generation native born Mexican-Americans speak  
5 English, predominantly English, and by the second generation,  
6 that is, the third generation of individuals, the vast  
7 majority of those individuals speak only English.

8           It is very difficult to find those third  
9 generation Mexican-Americans in California who are  
10 bilingual.

11           MS. DAVIS: The other thing is in regards to health  
12 services, I believe that because of state law that  
13 counties-- for instance, the County Hospital, if you go  
14 there, they will ask about your status and that they do  
15 refer that information to the Immigration.

16           DR. VALDEZ: INS.

17           MS. DAVIS: Right.

18           Do you know if the private, nonprofit health  
19 providers in the community who receive Federal funds,  
20 are they also obliged to document people's status?

21           DR. VALDEZ: They are not.

22           MS. DAVIS: They are not. I didn't think so.

23           DR. VALDEZ: All health service providers, all  
24 hospitals in the state of California, are required to provide  
25 emergency services to any individual.



1           Each county, however, also provides different  
2 levels of service. Orange County, for instance, our  
3 neighbor, provides very few services to the undocumented  
4 or to anyone for that matter through the County system,  
5 whereas Los Angeles is the most generous in terms of  
6 providing the most expansive range of types of services.

7           As a result, the public costs to Los Angeles  
8 County have been considerable, whereas the cost to other  
9 surrounding counties has been much less.

10          The nonprofits do not have to report who they  
11 provide services to. They do not have to provide the  
12 INS information about whether somebody is documented or  
13 undocumented.

14          However, the current climate and the provisions  
15 of the Immigration Reform and Control Act provide for a set  
16 sum of money to go to various states to offset the cost  
17 of the amnesty program and providing services to those who  
18 are amnesty eligible.

19          It is through that mechanism that questions  
20 will be raised about whether or not services should be  
21 provided to others.

22           MS. DAVIS: Do you know if INS actually follows  
23 through on the documentation that is submitted to them  
24 by the County?

25           DR. VALDEZ: Yes, they do.

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MS. DAVIS: They do actually?

DR. VALDEZ: The County mechanism, County of Los Angeles mechanism, is one that is such that an individual can come to the County for services. They will be asked to fill out a form that is then routed to the INS.

While the individual is there, they are also asked to apply for Medi-Cal, whether or not undocumented or not.

Those two forms are sent to the State government. One is sent to the State government and one is sent to the INS.

While the individual is there, they are usually given services, even though they only need acute services, meaning they only need one visit or maybe two visits at the most, but they are very often covered by Medi-Cal until such time as the INS reports that they are not eligible for services because they are undocumented.

MS. DAVIS: I believe I once heard a report from Linda Gongform of MALDEF on health services, and I think she was stating that because of all those difficulties that most of our people go to private physicians.

Those that have the money who can afford it, try to avoid that.

DR. VALDEZ: One of the misconceptions is that people go to the County and don't pay for their care. The fact of

1 the matter is from most of the research that I have done  
2 of the recent County services, immigrants -- you can't tell  
3 Mexican, can't tell whether they are documented or not --  
4 generally tend to pay for their care.

5           You do have the extreme cases of  
6 hospitalizations that are extremely costly that no one,  
7 whether insured or not, whether native born or not, could  
8 afford to pay for and it is those kinds of extreme cases  
9 that push the County's budget into the red.

10           MS. DAVIS: One last thing. We have had an  
11 incredible influx of refugee immigrants to Los Angeles.

12           In any of your studies or research are you  
13 able to differentiate between the immigrant, you know,  
14 that normally was coming here from Mexico and the refugees  
15 because I know in the 1980 Census it was difficult to  
16 determine what the actual count had been in regards to the  
17 usual immigrant.

18           We finally settled at something like 400,000  
19 because the figure was between 3 and 7 or something like  
20 that.

21           Now I have figures of that many and more just  
22 refugees, and I am just wondering if we are differentiating  
23 because I feel very strongly that the Mexican immigrant  
24 has had at least exposure to the United States and all the  
25 things we do here, either by television or whatever, while

1 the people who come from farther away who really don't have  
2 any familiarity with us would probably have a more difficult  
3 time adjusting and knowing about our institutions of  
4 education and health services and things like that.

5 DR. VALDEZ: Spanish speaking, mental health center  
6 at UCLA, through them we have conducted a number of studies  
7 on Central American immigrants to the Los Angeles area.

8 In particular we have been concerned about the  
9 great deal of stress that many of them are under, not only  
10 stress from the migration process and trying to eek out a  
11 living in a strange land, but also the stresses that result  
12 from the problems in their own home countries, and their  
13 families that remain behind.

14 Although we don't have a very good count  
15 of what the figure is, the vast majority of Central  
16 American migrants to the Los Angeles area came after 1980.

17 As a result, the vast majority of them are not  
18 eligible for amnesty and there is very little talk of the  
19 amnesty issue or, at least, those who believe to be  
20 eligible for the amnesty in that community from my dealings  
21 with that community.

22 That is part of the reason I say undocumented  
23 immigration is going to continue to be a problem.

24 This Reform Act or this Immigration Act is not  
25 the remedy.

1 MS. DAVIS: Held out the sanctuary though in terms  
2 of refugees, are they really applying for that?

3 DR. VALDEZ: There is actually an interesting report  
4 by GAO on differences in sanctuary, between El Salvadorians  
5 and others, that showed that Central Americans, particularly  
6 El Salvadorians, were not being granted asylum at the same  
7 rate as other countries.

8 CHAIRPERSON HERNANDEZ: Dr. Valdez, I have one last  
9 question. It won't take up any more of your time.

10 You indicated that the tax revenue dollars  
11 going into the public coffers far exceeds the dollars spent  
12 on services, public services provided to undocumented  
13 people.

14 It seems if there continues to be a constant  
15 play on the fact that undocumented individuals are a drain  
16 on public social services, why is it that we are not hearing  
17 the other side of the story and the fact that there are  
18 perhaps a significant number of undocumented individuals  
19 because of the concern of maybe being found out about, that  
20 they are not even filing tax returns and just leaving  
21 that money there?

22 Why aren't we hearing the other side of that?

23 DR. VALDEZ: I wish I could give you an answer about  
24 why you are not hearing the other side of it.

25 There was, during the last debates or during

1 the debates of the Immigration Reform and Control Act, there  
2 were a number of studies that looked at this issue, a  
3 number of research groups that looked at the issue, and  
4 the number of commissions that were pooled together,  
5 economic blue-ribbon commissions for the President, that  
6 came to very similar conclusions to those that we reached  
7 in our study for California.

8 I guess the response that I have for you, it is  
9 easier to yell and scream about the bad rather than about  
10 the good.

11 CHAIRPERSON HERNANDEZ: Dr. Valdez, thank you very  
12 much.

13 DR. VALDEZ: You are welcome.

14 CHAIRPERSON HERNANDEZ: We are going to take a five-  
15 minute break.

16 (Whereupon, a recess was taken.)

17 CHAIRPERSON HERNANDEZ: We will now be resuming the  
18 hearing.

19 Our next scheduled speaker was to be  
20 Mr. William Gustafson, District Director for the  
21 Immigration and Naturalization Service in Los Angeles.

22 He wasn't able to be with us this morning so  
23 in his place will be speaking to us Mr. William J. Carroll,  
24 Assistant District Director of Investigations for the  
25 Immigration and Naturalization Service.

1                   Mr. Carroll, welcome.

2                   MR. CARROLL: Thank you.

3                   CHAIRPERSON HERNANDEZ: We appreciate you taking the  
4 time to be with us.

5                   MR. CARROLL: Thank you very much. Mr. Gustafson's  
6 name is Ernie Gustafson. He is the District Director, not  
7 William.

8                   CHAIRPERSON HERNANDEZ: Thank you. Thank you for that  
9 clarification.

10                  MR. CARROLL: And some additional clarification.

11                   I am the Acting Deputy District Director at  
12 this time for the Los Angeles District.

13                  Mr. Weyland is the Acting Assistant District  
14 Director for Investigations.

15                  CHAIRPERSON HERNANDEZ: Will you please identify  
16 Mr. Weyland? Mr. Weyland is seated with you at the table?

17                  MR. CARROLL: Yes, seated to my left, and he is the  
18 Acting Assistant District Director for Investigations.

19                  CHAIRPERSON HERNANDEZ: Thank you. Do you have an  
20 opening statement for us?

21                  MR. CARROLL: No. I believe Mr. Montez told me that  
22 really what we wanted to do was review the Immigration  
23 Reform and Control Act, IRCA.

24                   Would you like me to just explain the Act?

25                  CHAIRPERSON HERNANDEZ. Yes, please.

1 MR. CARROLL: What are the major bases of the Act?

2 Well, there is two parts to the Act and each  
3 part, of course, is subdivided into various sections.

4 The first part, of course, is the legalization  
5 part of the Act and I have been very general in this because  
6 the law does get very specific.

7 The first major part, of course, is the  
8 legalization part. Within legalization, we have those who  
9 are eligible for legalization or amnesty, as they call it,  
10 who have been here prior to 1982 in an illegal status.

11 Second group are those agricultural workers.  
12 Agricultural workers are divided, also, into two groups,  
13 the first group working 90 days before May 1st, 1986, and  
14 the second group of agricultural workers which are eligible  
15 for amnesty are those that have worked 90 days within a  
16 three-year period, that is, 90 days in each three-year  
17 period.

18 The difference is that those who have worked  
19 in the 90-day period for three years will be eligible to  
20 have their permanent residency expedited or a year earlier  
21 than those who are in the second group, that those who have  
22 only worked 90 days before May 1st, 1986.

23 The second portion of the Immigration Reform  
24 and Control Act, the major portion, of course, is the  
25 employer sanctions portions of the Immigration Reform and



1 Control Act which makes it now illegal to hire, knowingly  
2 hire unauthorized workers in the United States.

3 There are various criminal -- civil penalties  
4 which are fines and criminal penalties for blatant  
5 violaters.

6 That in a nutshell is the Immigration Reform  
7 and Control Act of 1986.

8 CHAIRPERSON HERNANDEZ: Is there a consistent policy  
9 in terms of how the legalization process is to be  
10 implemented, consistent being across the United States from  
11 region to region?

12 MR. CARROLL: What do we mean by consistent?

13 The administration of the law or the procedure  
14 of coming in to the office?

15 CHAIRPERSON HERNANDEZ: The procedures.

16 MS. DAVIS: Interpretation of the law.

17 MR. CARROLL: No, interpretation of the law is very  
18 strict. It is going to be -- as far as legalization now,  
19 it is going to be uniform and there is going to be  
20 continuity in the administration of the law.

21 Various offices, because of the size of the  
22 group that we are trying to accomodate, there will be  
23 different means of getting these people into the office.

24 Like here in the Los Angeles district, we  
25 have what we call a direct mail system. We feed the

1 application that go to various -- we have 15 offices here  
2 in the L.A. District where we feed the applications into a  
3 major location and those applications go to the various  
4 legalization offices.

5 The reason we have this in the L.A. District  
6 is to prevent lines and long waiting periods for people out-  
7 side of those offices.

8 In the other regions, say the Eastern region,  
9 New York, they have people that will wait on line in order  
10 to apply for legalization.

11 CHAIRPERSON HERNANDEZ: Can you explain the difference  
12 between the regions and the district offices, please, so  
13 we have a point of clarification?

14 MR. CARROLL: Okay. There are four major regions.  
15 There is a central office in Washington D.C.

16 There are four major regions -- the eastern,  
17 northern, southern and western. Within each region are  
18 district offices.

19 Los Angeles is one of the district offices in  
20 the Western Region.

21 What we have done with legalization is taken  
22 the district office and opened up suboffices for  
23 legalization within the district. We have 15 here in the  
24 Los Angeles District Office.

25 CHAIRPERSON HERNANDEZ: How many district offices are

1 there in the state of California?

2 MR. CARROLL: Oh, in the state of California?

3 CHAIRPERSON HERNANDEZ: Yes.

4 MR. CARROLL: Three district offices in the state of  
5 California.

6 CHAIRPERSON HERNANDEZ: And they are where?

7 MR. CARROLL: San Francisco, Los Angeles, and  
8 San Diego.

9 CHAIRPERSON HERNANDEZ: Grace?

10 MS. DAVIS: In Los Angeles there are a number of  
11 private, nonprofit organizations that have been contracted  
12 by the INS --

13 MR. CARROLL: Which we call Qualified Designated  
14 Entities, QED's.

15 MS. DAVIS: Do all of the people applying for amnesty  
16 have to go through these agencies or can they go directly  
17 to INS?

18 MR. CARROLL: Well, a funny phenomena has occurred.  
19 We have from the onset stated that you do not have to go  
20 to the Qualified Designated Entity. You can come directly  
21 to INS.

22 We set up these Qualified Designated Entities  
23 so that the people wouldn't fear, you know, an agency that  
24 has been, in fact, enforcing a law for their deportation,  
25 arrest and deportation.

1                   We have used these agencies that they are  
2 familiar with so that they would come into these agencies  
3 and apply for legalization.

4                   What has occurred, there has been such a large  
5 backlog in some of these Qualified Designated Entities that  
6 these people have left the Qualified Designated Entities  
7 and have come directly into the legalization office.

8                   This, as I speak now, we have legalized or we  
9 have accepted in feeding over 240,000 applicants within the  
10 Los Angeles District alone.

11                  MS. DAVIS: Now the paper work that -- I haven't seen  
12 what INS gives them but I have seen the paper that is  
13 given to them by these qualified agencies and it merely is  
14 a document that will try, you know, to solicit all the  
15 documents that they need to provide for INS.

16                  They, in turn, are given -- at least Catholic  
17 Charities, is giving the applicant a letter that says that  
18 they have gotten into the process.

19                  Does INS also give such kind of identification  
20 that they can then use with employers and is that an  
21 acceptable document for them to be employed?

22                  MR. CARROLL: Within one week of applying for  
23 legalization, the INS will -- in fact, you receive a receipt  
24 back in the mail with employment authorized up to the date  
25 of your interview for legalization.

1                   It can be used for an employer.

2           MS. DAVIS: How long does that usually take, your  
3 interview?

4           MR. CARROLL: In some offices I think we are about  
5 30 days, 35 days, but within seven days, seven working days,  
6 you will get a letter in the mail stating that you will  
7 receive employment authorized up to the date of your  
8 interview.

9           MS. DAVIS: Is there some way -- I understand that  
10 some employers are not accepting the private nonprofit  
11 receipt.

12          MR. CARROLL: That is correct.

13          MS. DAVIS: As a document for --

14          MR. CARROLL: That is correct.

15          MS. DAVIS: Is there some way that the INS can assist  
16 these agencies by giving them some kind of --

17          MR. CARROLL: Well, if you have been reading the  
18 papers, we have been trying to elicit from them as much  
19 cooperation as possible.

20                   They have -- what they have done, in fact --  
21 now we don't know whether the numbers are that great.  
22 They have not come out with the numbers, whether these  
23 numbers -- and we are talking about Catholic Charities.  
24 That is the agency we are talking about?

25          MS. DAVIS: Yes. That is the only one I am familiar

1 with.

2 MR. CARROLL: And they have backlogged to such an  
3 extent that again these people have left that agency and  
4 come to INS.

5 What we are recommending is that if someone  
6 has gone to a QED, Qualified Designated Entity, and they  
7 are having problems, to get their documents out of QED and  
8 come directly to INS.

9 MS. DAVIS: But again that doesn't solve the problem  
10 for the applicant who is going around with a letter that  
11 says they are in the process and they are trying to get a  
12 job.

13 MR. CARROLL: Come directly to INS and within five to  
14 seven working days you will receive employment authorized  
15 and set up for an interview.

16 That is what we are encouraging.

17 The bureaucratic -- logistic bureaucratic  
18 problems that the QED's have now gotten themselves into,  
19 it is almost going to be impossible for them to get out of.  
20 They have done it to themselves.

21 MS. DAVIS: Now the interview for the applicant within  
22 the 30-day period, is that when they present the documents  
23 that you give them a list of saying this is the kind of  
24 documentation you need to present in order to --

25 MR. CARROLL: Yes. They will get a letter. They

1 will fill out their application.

2                   Then they get their letter saying what they  
3 need, what they are lacking, to bring it in for the  
4 interview.

5                   MS. DAVIS: What if they are not able to because it  
6 was a very simple request but some of the people just have  
7 lost them or have never kept them and they are having to  
8 run around --

9                   MR. CARROLL: We are very liberal. We will give the  
10 benefit of the doubt to the individual.

11                   MS. DAVIS: You give them an extension beyond the  
12 interview or is the interview the final?

13                   MR. CARROLL: I mean it is such a liberal policy that  
14 we have instituted with documents and what they need in  
15 order to establish residency here since 1-1-82 that we have  
16 had really no problems with that, none whatsoever.

17                   Again 52 percent of all the legalization that  
18 has occurred in this country has occurred right here in the  
19 Los Angeles area, 52 percent.

20                   We have Thursday night --

21                   MS. DAVIS: In preparation for this hearing, I  
22 purposely spent a weekend with applicants, you know, with  
23 the forms and it was very simple. I mean but for instance  
24 there are some, especially single women, who may be never  
25 paid rent or anything like that so they don't have.

1 MR. CARROLL: Are you aware we even have Thursday  
2 night live with INS?

3 All our offices are open every Thursday  
4 evening to assist people in filling out the applications.

5 MS. DAVIS: Filling out applications. Okay.

6 MR. CARROLL: I don't think there is any agency in the  
7 history of the government that has gone to such an extent  
8 to assist people.

9 MS. DAVIS: How about in regards to the regulations  
10 in terms of employment discrimination where people have  
11 been hired or have been fired because the employer fears  
12 that he might be, you know, found out by INS and so on?  
13 Are those regulations coming down?

14 MR. CARROLL: They are being formulated. The final  
15 draft, I think, was -- has been written and it should be  
16 out within the next four weeks.

17 A Special Counsel or a special administrative  
18 judge and counsel have been named by President Reagan.  
19 I do not know the name.

20 Again there is sort of outside the realm of  
21 INS.

22 However, we jumped on the bandwagon before the  
23 Special Council was even formulated. We have on our own  
24 initiative established what we call the Fair Employment  
25 Officer within the Western Regional Office to, in fact,



1 answer or to mediate between any problems between an  
2 employee and an employer with a belief they have been fired  
3 because of any type of discrimination.

4 We have had some cases where we have mediated  
5 and it has been just a misunderstanding but not a tremendous  
6 number that we are hearing from certain groups.

7 MS. DAVIS: You originally had a number of sessions  
8 for employers, to\* you know, make them aware of their  
9 responsibilities and so on.

10 MR. CARROLL: We still have.

11 MS. DAVIS: You are continuing to do that?

12 MR. CARROLL: Continuation. Up to this date we have  
13 educated over 50,000 employers here in the Los Angeles  
14 District.

15 When I say educate, I mean on a one-to-one  
16 basis, 50,000.

17 We have approximately 200,000 employers here  
18 in the L.A. area. It is a monumental task that we have  
19 ahead of us.

20 CHAIRPERSON HERNANDEZ: What kind of outreach do you  
21 do? What kind of outreach do you do with employers in  
22 order to orient them appropriately?

23 MR. CARROLL: We have a unit now of anywhere between  
24 on a given day 10 special agents to 20 special agents going  
25 out to various employers speaking to them, knocking on the

1 doors and asking them if they need help with the I-9 and  
2 what the process is.

3 We also have just this week alone eight  
4 conferences set up with employers. We are meeting with  
5 the National Hispanic Chamber of Commerce. They are going  
6 to have their meeting here next month which is going to be  
7 over 40,000 people. We will have a speaker there. We will  
8 set up a booth at the convention.

9 We are every day, at least 2 to 300 contacts  
10 a day we have been trying to get here in the L.A. District.

11 CHAIRPERSON HERNANDEZ: But have you taken out ads  
12 in the newspapers?

13 MR. CARROLL: Taken out ads in newspapers. We spent  
14 over I don't know how many millions of dollars. There is  
15 what they call a Justice Group that we have hired, contracted  
16 out to, in fact, outreach to the people.

17 There have been boxing championships here in  
18 the L.A. area. We have had Mr. Ezell appear. We have had  
19 announcements there.

20 We have had tremendous response from the people  
21 and the employers on this.

22 CHAIRPERSON HERNANDEZ: There has been a significant  
23 concern for the breakup of families. When I addressed the  
24 issue of procedures early on, I guess the point that I was  
25 really trying to get at is the fact that I know that in the

1 Chicago area there seems to be more of a concern to make  
2 sure that families are not being split up, more so than  
3 here in the Los Angeles area, where as you indicate  
4 yourself that the majority of the people will be legalized.

5 Why is that? Why does there seem to be an  
6 inconsistency?

7 MR. CARROLL: Well, I would like you to clarify that  
8 for me.

9 Why do you feel that here in the L.A. area?

10 There is no indication of that whatsoever that  
11 we are different than Chicago. That is something that the  
12 media has played up for media purposes to pit Chicago  
13 against L.A. and I take offense at that because that is  
14 not true.

15 Mr. Gustafson has mandated we are not removing  
16 any family members who are, in fact, eligible for  
17 legalization.

18 The L.A. Times just had a -- and Orange County  
19 Register just had a report on it the other day.

20 That is right. That is correct. So we are not.

21 Each day the problem is that the media is  
22 misinterpreting and it is that each case is going to be taken  
23 on its own merit and that is something that we have done in  
24 many, many other cases.

25 Each case will have to be taken on its own

1 merit. There are legitimate cases where we will, in fact,  
2 say, "I am sorry."

3 Maybe the whole family is still back in, say,  
4 Central America somewhere and they have been separated for  
5 ten years.

6 Now does that case -- I don't know. Will that  
7 case fit into where now that the other individuals have to  
8 be parolled into the United States?

9 I don't know but that is the type of thing  
10 that may come up in this issue.

11 CHAIRPERSON HERNANDEZ: So Mr. Carroll, what you are  
12 saying is --

13 MR. CARROLL: But then again it may be that a family  
14 here that have been together for the last ten years, that  
15 is the stronger case for it, in fact, you know, not  
16 splitting up that family.

17 CHAIRPERSON HERNANDEZ: Just for my own clarification,  
18 are you saying that if there is a family where perhaps the  
19 husband has been here before 1982 and the wife perhaps came  
20 six months or a year afterwards, that they would, in fact,  
21 be considered for legalization?

22 MR. CARROLL: That would have to be on a case-by-case  
23 basis.

24 Congress passed this law, not the Immigration  
25 Service. Congress drew its line in the sand.

1                   Those who were here before 1-1-82 would be  
2 eligible for amnesty. It is not the Immigration Service  
3 that had, in fact, formulated this law.

4                   Nowhere in the Statute does it say derivative  
5 rights or benefits from amnesty and that is the problem we  
6 are at.

7                   I would like -- this becomes a tremendous  
8 issue, and we have said this publicly, that we should go  
9 back to Congress and have them address the issue.

10                  MS. DAVIS: The expectations that the INS had in  
11 terms of applicants, how close are you to those?

12                  MR. CARROLL: Very close, very close. I mean we are  
13 here in the L.A. area and believe we are going to legalize  
14 over a million people.

15                  MS. DAVIS: I know for a fact because I have been  
16 dealing with the people who have been doing the buildings  
17 and they come to us for permits and what have you, that we  
18 have had to indicate to you that you have gone way over the  
19 limits of the permit for the building.

20                  I know you are getting a lot of people.

21                  MR. CARROLL: We are full, yes, full guns.

22                  CHAIRPERSON HERNANDEZ: Phil, do you have a question?

23                  MS. DAVIS: Oh, I have another question. You said  
24 they are open on Thursday.

25                  All 15 legalization offices are open every

1 Thursday until 9:00?

2 MR. CARROLL: Right.

3 CHAIRPERSON HERNANDEZ: Phil?

4 MR. MONTEZ: I just wanted to ask Mr. Carroll a  
5 question.

6 We have had a hearing like this in Albuquerque,  
7 New Mexico and Houston, Texas and this week we are having  
8 them in Colorado.

9 I was at the Albuquerque one, and the question  
10 I ask you has to do with some inconsistencies.

11 The regulation states that misdemeanors, if you  
12 have three, you are not eligible for amnesty.

13 In New Mexico a parking ticket is a misdemeanor.  
14 In California it is not.

15 What seems to be, you know, and the question  
16 I raise for the record, is all I wanted was the  
17 inconsistency or the unequal protection under the law,  
18 the Federal law now, how is that being considered by INS.

19 In other words, if in New Mexico you are  
20 residing and you have more privilege if you had been  
21 residing in California.

22 MR. CARROLL: That is correct.

23 MR. MONTEZ: So I don't know what the response to  
24 that would be from INS.

25 In Texas, for example, one drunk driving --

1 any drunk driving is a felony.

2 MR. CARROLL: I think that is a question that should  
3 again be addressed back in Washington D.C.

4 When Congress again wrote this law, they left  
5 it very general, three misdemeanors.

6 Now we are not beyond the law. What is the  
7 interpretation on that?

8 I cannot honestly answer you. I am concerned  
9 mainly here in California and what three misdemeanors means  
10 here in the Los Angeles district.

11 MR. MONTEZ: You know that a parking ticket in  
12 California is not a misdemeanor?

13 MR. CARROLL: That is correct.

14 MR. MONTEZ: It is just a motor vehicle violation is  
15 what it is here.

16 MR. CARROLL: That is correct.

17 MR. MONTEZ: I was very curious because I heard  
18 that come up in New Mexico and I was wondering as to what  
19 because it really talks to the Fourteenth Amendment which  
20 civil rights --

21 MR. CARROLL: Equal protection.

22 MR. MONTEZ: Yes, equal protection. Thank you.

23 MR. CARROLL: That should be clarified.

24 My opinion is with the three misdemeanors,  
25 they should have clarified that to maybe include crimes of

1 moral turpitude.

2 MS. DAVIS: Well, in the criminal, at least my  
3 experience has been that the definition of crimes is usually,  
4 you know, the school district and LAPD and all those people  
5 take the categories for classifying crime from the Federal  
6 level so why -- I don't understand if there is a Federal  
7 definition for misdemeanor, why that wouldn't supercede.

8 MR. CARROLL: Well, there is, of course, six months  
9 to a year.

10 MS. DAVIS: So then why wouldn't that then be  
11 applicable to interpretation of a Federal rule rather than  
12 the State?

13 MR. CARROLL: So parking ticket in New Mexico is six  
14 months in prison?

15 MR. MONTEZ: The what?

16 MR. CARROLL: A parking ticket in New Mexico is six  
17 months in prison?

18 MR. MONTEZ: No, I don't think it was.

19 Is your requirement of a misdemeanor that they  
20 have had to have done six months in jail? Is that what you  
21 are saying?

22 MR. CARROLL: Convicted of three misdemeanors.  
23 Now convicted, you may not have to spend six months but a  
24 misdemeanor under Federal definition is six months or more,  
25 you see.



1                   That is hard to understand how a parking  
2 ticket in New Mexico, you know, is, in fact, a misdemeanor.

3           MS. DAVIS: I would think it has to be subject to  
4 Federal interpretation.

5           MR. MONTEZ: Wasn't that the record in New York,  
6 John?

7           MR. DULLES: Yes, it was.

8           MR. CARROLL: So if you have a parking ticket in  
9 New Mexico, you are amenable to six months or liable to  
10 six months?

11          MR. DULLES: I don't know. I know it is just a  
12 misdemeanor.

13          MR. CARROLL: Is there a subcategory of misdemeanor,  
14 also, called petty offense?

15          MR. MONTEZ: I was just trying to see if there is  
16 any clarification here. At the time I was sort of  
17 surprised --

18          MR. CARROLL: Let me put this on the record. We don't  
19 have that problem here in California.

20          MR. MONTEZ: No, because it is merely a motor vehicle  
21 violation.

22          MR. DULLES: But that was admitted to by the INS  
23 officer in charge. It was a problem in terms of consistency  
24 or lack of consistency of definitions.

25          MR. CARROLL: I would have to see what the law actually

1 states in New Mexico.

2 MR. DULLES: We could share that part of the  
3 transcript with you.

4 MR. CARROLL: No. The law itself, the Statute in  
5 New Mexico, what it actually states. I would have to give  
6 you again my interpretation of what that means.

7 Is it truly a misdemeanor or is it a petty  
8 offense?'

9 CHAIRPERSON HERNANDEZ: I am curious as to how  
10 undocumented individuals are feeling going down to the  
11 Immigration and Naturalization Service or going to these  
12 QED's, as you have indicated, given the fact that you know  
13 over the course of the year certain of the INS is  
14 considered to be a significant adversary.

15 MR. CARROLL: I wish you were there this morning with  
16 myself, Mr. Ezell and Mr. Gustafson at the Wilshire  
17 Boulevard office.

18 I welcome you any time, any day that you can  
19 come over. These people are happy, smiling as they are  
20 sitting there, knowingly are getting their permanent  
21 residency in the United States.

22 Again 200 -- over 240,000 people since May  
23 have applied here in the Los Angeles District. I don't  
24 think the fear is in the community.

25 We have gone out to the community. We have

1 gone to almost every Hispanic newspaper and TV station when  
2 we are available to speak.

3                   We have had tremendous outreach on this.  
4 Again L.A. District here is leading the country by  
5 52 percent.

6                   CHAIRPERSON HERNANDEZ: But aren't your estimates  
7 down than originally what you had anticipated in terms of  
8 legalization?

9                   MR. CARROLL: No, they are up.

10                  CHAIRPERSON HERNANDEZ: They are up?

11                  MR. CARROLL: They are up here in the Los Angeles  
12 District. I don't know where you are getting that  
13 information.

14                               They are up.

15                  MS. DAVIS: What percentage of those people have come  
16 through these other agencies that have not come directly to  
17 you?

18                  MR. CARROLL: About two percent.

19                  MS. DAVIS: Two percent?

20                  MR. CARROLL: Very small so now we are told that  
21 there is still another 2 or 300,000 but we ask to please  
22 produce the names, produce these people.

23                               We don't see anything yet.

24                  MS. DAVIS: See, in my estimation, going through the  
25 agencies is prolonging because, for instance, with the

1 individuals that I worked with, they are now waiting for  
2 an interview from these agencies who then review the  
3 documents.

4                   They will not submit them to INS unless in  
5 their judgment they meet the requirements.

6           MR. CARROLL: Well, if they are having again problems  
7 with that Qualified Designated Entity, leave them. Get  
8 your papers, come and get your documents, and come directly  
9 in to INS.

10           CHAIRPERSON HERNANDEZ: Are the INS forms in English  
11 or are they bilingual?

12           MR. CARROLL: Bilingual.

13           CHAIRPERSON HERNANDEZ: They are bilingual?

14           MR. CARROLL: Yes.

15           CHAIRPERSON HERNANDEZ: And is it true that when  
16 someone is applying for amnesty, they have to list all of  
17 their relatives in the United States that are legal or here  
18 perhaps undocumented?

19           MR. CARROLL: Yes.

20           CHAIRPERSON HERNANDEZ: Why is that?

21           MR. CARROLL: That was something they created in the  
22 form, in order to, I believe, prevent fraud in the  
23 application process.

24                   We are very serious about preventing fraud  
25 in the application process. You know, if we are going to

1 legitimately legalize one million people, can you imagine  
2 how the system would be bogged down if another million  
3 thought they could come in and defraud the government?

4 That was one of the reasons. We want to have  
5 an honest application and we will prosecute.

6 In the near future there will be prosecutions  
7 of people who are applying fraudulently in the legalization  
8 process.

9 CHAIRPERSON HERNANDEZ: But will you be using the  
10 addresses later on, if, in fact, they are listed as  
11 undocumented?

12 MR. CARROLL: No.

13 CHAIRPERSON HERNANDEZ: Will you be using that for your  
14 own purposes later on, for purposes of raiding?

15 MR. CARROLL: No, we will not. Emphatically, no,  
16 because the law states that there are penalties.

17 The confidentiality of the application is  
18 utmost important and it is in the Statute where if I violate  
19 that or any of us here in this room violated that, we would  
20 be subject to criminal penalties.

21 MR. DAVIS: I don't understand your rationale because  
22 it would seem to me that the reason that any applicant  
23 would add any other member of their family is because they  
24 are all trying to include them in being applicants or so on.

25 Why is it necessary?

1 MR. CARROLL: Again that application was formulated  
2 in Washington. This is again what I believe the reason  
3 for this.

4 You can see that it is a pretty logical reason.

5 CHAIRPERSON HERNANDEZ: Is the INS still continuing  
6 their raids or are they -- have they pulled back somewhat  
7 during this whole amnesty process?

8 MR. CARROLL: What do you mean by raids?

9 CHAIRPERSON HERNANDEZ: Raids on factories and/or  
10 industries that you feel are perhaps significantly higher  
11 in undocumented.

12 MR. CARROLL: Let me say this, that the employment  
13 sanctions part of this law was overwhelmingly passed by  
14 Congress.

15 The legalization portion of the law was just  
16 about passed but the employer sanctions portion of the law  
17 was overwhelmingly passed by Congress.

18 We have been and will be in an enforcement  
19 posture. We have, in fact, issued citations, seven  
20 citations within the last week.

21 We are in the process now of, in fact, about  
22 notice of intent of a fine so we are, in fact, in an  
23 enforcement posture.

24 MS. DAVIS: How many new, additional staffpersons  
25 did the Los Angeles office hire for this amnesty program?

1 MR. CARROLL: Amnesty approximately 400 -- I think  
2 we are up to about, and we are having another additional,  
3 so totally would be about 500 people, 500 additional staff  
4 just for amnesty now.

5 MS. DAVIS: Just amnesty, and they will be here just  
6 through next May?

7 MR. CARROLL: No. Then it will continue, then the  
8 SAW Program, so they will be here for at least three to  
9 four years.

10 CHAIRPERSON HERNANDEZ: What are the percentages in  
11 terms of people applying for amnesty, in terms of Asian,  
12 Hispanic?

13 MR. CARROLL: Mostly Hispanic.

14 CHAIRPERSON HERNANDEZ: Can you give me an idea?

15 MR. CARROLL: I don't have the percentages on me  
16 right now.

17 CHAIRPERSON HERNANDEZ: Ratio 3 to 1, 2 to 1,  
18 4 to 1, 3 to 2?

19 MR. CARROLL: I wouldn't even attempt to answer that  
20 one without seeing the statistics.

21 MS. DAVIS: Are you able to distinguish between or  
22 are you keeping statistics to distinguish between people  
23 coming from Mexico and other Latin countries?

24 MR. CARROLL: Yes, yes.

25 CHAIRPERSON HERNANDEZ: I had occasion to tour the

1    INS facilities some years back in downtown on Los Angeles  
2    Street, and at that point in time you had a holding cell  
3    called the OTM unit.

4                    Do you still have that facility, that locale?

5                    It was known for -- the OTM stood for  
6    Other Than Mexican.

7           MR. CARROLL:  You mean in the detention facility?

8           CHAIRPERSON HERNANDEZ:  Yes.

9           MR. CARROLL:  In the holding facility?

10          CHAIRPERSON HERNANDEZ:  Yes.

11          MR. CARROLL:  The reason for that, those individuals  
12   are separated because usually what happens with people  
13   from Mexico, the transportation is totally different between  
14   someone coming from, you know, South America than someone  
15   coming from Mexico.

16                    That is the main reason we do that.

17                    We don't want to have someone go to the wrong  
18   area really.  That is what it comes down to.

19          CHAIRPERSON HERNANDEZ:  You also -- the INS also have  
20   reservations nightly on a flight to Mexico City, so many  
21   reservations per day.

22                    Is that still in effect?  Do they still do  
23   that, to transport undocumented people that perhaps were  
24   coming in from Central America or, as you said, from South  
25   America to get them back?



1           MR. CARROLL: We always try to get flights. We are  
2 always constantly, whether they are from the Los Angeles  
3 District area, but our majority of people now that we are  
4 deporting from the United States are criminal aliens.

5                     Yes, we do still try to keep reservations on  
6 flights. I think that is something that many people don't  
7 realize that last year we had deported more narcotics  
8 criminals here in the United States than any other law  
9 enforcement agency in the United States.

10                    Our major focus now is not the undocumented  
11 worker so much because now with sanctions but our major  
12 focus now is the criminal alien in the United States.

13                    Something like 95 percent of all narcotics  
14 cases last year in the United States were from criminal  
15 alien groups.

16                    The President's Commission on Organized Crime,  
17 one of their themes in the study was that the new,  
18 emerging criminal groups, ethnic criminal groups here in the  
19 United States, are one of the greatest threats we have here  
20 to our society.

21                    The Immigration Service has now turned and  
22 focused in on this and we have tremendous cooperation between  
23 L.A. County and the City with this criminal alien problem  
24 that we have here.

25                    CHAIRPERSON HERNANDEZ: So these flights are

1 predominantly used to transport criminal aliens rather than  
2 just your normal --

3 MR. CARROLL: Well, both, but again I am saying,  
4 now what we are mainly moving in the Los Angeles District  
5 are criminal aliens out of the United States.

6 CHAIRPERSON HERNANDEZ: So how many reservations do  
7 you have --

8 MR. CARROLL: That I don't know. I am not involved  
9 in the daily process of that.

10 MR. MONTEZ: Do you have a high percentage, do you  
11 visualize, of Asian Pacific peoples as undocumented?

12 I know you have made projections of Hispanics,  
13 Latin American, Mexicans, but is there a high percentage  
14 of --

15 MR. CARROLL: Well, what do you mean? Compared to  
16 what?

17 MR. MONTEZ: Well, you have made projections on  
18 Hispanics from Latin America, Mexico and so forth.

19 I haven't seen any projections --

20 MR. CARROLL: I am not familiar with those projections.  
21 I think what we have projected was a million people  
22 legalized here in the L.A. District.

23 MR. MONTEZ: Was that including all?

24 MR. CARROLL: That is including all, right. It is  
25 including all.

1 MS. DAVIS: But we didn't anticipate so many Asians  
2 and so many --

3 MR. CARROLL: No, we didn't get that specific.

4 MS. DAVIS: Are there -- I know you said you didn't  
5 have the percentages but just from your recollection, is  
6 there a surprisingly large number of Asians coming forth?

7 MR. CARROLL: Well, we have met with the Asian group  
8 community leaders last week, Mr. Gustafson did, and they  
9 are a little bit disappointed that there aren't more  
10 Asians coming across and the reason being, you know, the  
11 language barrier, there is a language barrier between, you  
12 know, the group, their community, and us trying to get out  
13 in the outreach programs.

14 We have had various meetings with those  
15 Asian Pacific leaders. Mr. Gustafson will be in the  
16 Korean Day Parade next week.

17 We are trying to do our best to get these  
18 people motivated to come into the legalization office.

19 CHAIRPERSON HERNANDEZ: What about European, Canadians,  
20 Filipinos?

21 MR. CARROLL: They are coming in. They have met  
22 with the Filipino leaders in the community.

23 We have a myriad of almost every ethnic group  
24 in the United States coming in.

25 CHAIRPERSON HERNANDEZ: When do you think you will

1 have those statistics available as to what the ratio is  
2 in terms of various minority groups coming in to apply  
3 for amnesty?

4 MR. CARROLL: That always lags behind our statistics  
5 because all that gets sent back to Washington.

6 That is our statistical bureau in Washington.  
7 I can't say for sure.

8 CHAIRPERSON HERNANDEZ: So we should contact  
9 Washington if we want that information. Okay.

10 Grace?

11 Phil?

12 MR. CARROLL: I would like to say something in closing,  
13 especially about employer sanctions.

14 You know, when I hear throughout the employer  
15 community or people such as the Rand Corporation, the  
16 study about undocumented aliens are good for the community  
17 and that may be true, but, you know, we always forget one  
18 thing and here talking to the Civil Rights Commission, I  
19 think it is appropriate.

20 I have been in the law enforcement business for  
21 about 16 years and I have seen the way these people are  
22 treated by the employer.

23 I keep hearing that this country needs cheap,  
24 undocumented labor, and I keep hearing, oh, the undocumented  
25 alien is good for our society.

1 I mean again could be possibly true but what  
2 we forget is the human aspect of these people who are working  
3 for these so-called employers -- poor wages, terrible  
4 living conditions, and almost to what I compare to our  
5 modern day form of slavery.

6 I never hear from the employer, well, maybe  
7 they can cut back on their profit in order to give a fair  
8 wage.

9 What I do hear is, hey, they need these people  
10 in order to exist.

11 Well, that is the same argument that was used  
12 prior to the Civil War in this country, and if we don't  
13 address it in that vein, then we are going to have a  
14 subculture here in this country for the next 100 or 200  
15 years.

16 That is why employer sanctions are important  
17 to gain some sanity back here in this country with our  
18 immigration policy and to gain control of our borders so  
19 we don't have people abused by other people for profit.

20 Thank you.

21 CHAIRPERSON HERNANDEZ: Mr. Carroll, thank you very  
22 much.

23 Just for the record I would like to say that  
24 certainly it is this Advisory Committee's roll to ensure  
25 that we study and collect information regarding these legal

1 developments as well as anything that might be  
2 discriminatory, either by employers or by the Immigration  
3 and Naturalization Service or any other entity that might  
4 be taking these individuals who are applying for legalization  
5 for granted.

6 Thank you very much.

7 Our next speaker is Ms. Susan Drake. Ms. Drake  
8 is an attorney with the National Center for Immigrant  
9 Rights. She will discuss with the Committee the problems  
10 faced by individuals who are seeking residence and status  
11 in the United States.

12 There are various problems faced by individuals  
13 by the Immigration Reform Act of 1986.

14 Ms. Drake, thank you very much for being with  
15 us today.

16 MS. DRAKE: Thank you very much. I want to thank  
17 the Commission for giving us this opportunity to talk about  
18 some of the very difficult civil rights problems that have  
19 been created by the Immigration Reform and Control Act or  
20 IRCA.

21 I work as an attorney at the National Center  
22 for Immigrant Rights, and we are a national support center  
23 for the legal problems faced by low-income immigrants  
24 around the country.

25 We receive funding from the Legal Services

1 Corporation. We also have private money.

2 We do a lot of work with both church,  
3 nonprofit and legal services groups around the country  
4 who are getting low-income immigrants coming into their  
5 offices and seeking help.

6 Frankly, we have been deluged with calls  
7 since the Act passed last November from attorneys and other  
8 people asking us, "How in the world are we going to  
9 interpret this law," asking us to try to sort out for them  
10 some of the very difficult problems raised by the law.

11 We give advice to people. We give training  
12 and we give litigation support.

13 What I would like to focus on this morning in  
14 talking with you are some of the very difficult  
15 discrimination problems that we feel are raised by the  
16 government benefits restrictions in the Immigration Act.  
17 These have not received nearly the attention in the press so  
18 far that a number of other aspects of the Act have  
19 received because, of course, people are very concerned just  
20 to get the Act implemented and just to get people legalized.

21 What I am going to be discussing with you are  
22 the problems that these immigrants are going to face after  
23 they get legalized in being able to fully participate in  
24 American society.

25 I know, as the Commission well knows, and as

1 they eloquently pointed out in its 1980 analysis of civil  
2 rights issues in immigration, the Tarnished Golden Door.

3           America historically had a perversely  
4 schizophrenic attitude toward immigrants. On the one  
5 hand, we have extolled our country's history as a nation  
6 of immigrants and glorified the Statue of Liberty as a  
7 national symbol.

8           At the same time we have responded to economic  
9 downturns and social changes with waves of nativist,  
10 anti-immigrant legislation at both the Federal and at  
11 the State levels, and the denial of government benefit  
12 programs to the newly legalized that is inherent in the  
13 IRCA Statute, and which suffers from the same kind of  
14 negative dualism that historically America has faced in  
15 treating its immigrants.

16           IRCA purportedly extends a welcome to these  
17 people and says that if you have been here for more than  
18 five and a half years we will allow you to legalize.

19           However, once they have achieved legalization,  
20 the Congress is trying to not let them fully participate in  
21 U.S. society to the same extent as other people who are  
22 legal, permanent residents, much less to the same extent  
23 as U.S. citizens.

24           This is despite the fact that they will all  
25 have to show that they have paid taxes, and in order to get



1 their permanent residency they are going to have to meet  
2 standards, knowledge of English, knowledge of U.S. history,  
3 presence in the U.S. for more than five years, that are  
4 usually good enough to get U.S. citizenship.

5 Even in meeting those standards, not only will  
6 they not get citizenship, they are going to be denied  
7 benefits once they become permanent residents.

8 In addition, some very difficult issues are  
9 raised by these restrictions about the rights of U.S.  
10 citizens and legal, permanent, residents who are family  
11 members of people who are legalizing under IRCA and the  
12 extent of the restrictions for the IRCA family.

13 Let's say a wife who legalizes under IRCA,  
14 what will her inability to participate in the government  
15 benefit program do to the ability of her husband and  
16 children, who may be U.S. citizens or legal, permanent  
17 residents, do to their ability to participate in that  
18 particular program.

19 I will explain this problem in more detail  
20 when I get into the actual difficulties.

21 First, it might be helpful if I just lay out  
22 briefly what the statutory scheme is and then get into  
23 what we see some of the problems to be.

24 The section of the Statute is Section 201H  
25 of the Immigration Act of IRCA which becomes new Section

1 245AH of the Immigration Act.

2           What it does basically is set up a two-tiered  
3 scheme, As far as the Federal government is concerned,  
4 the Statute says that from Federal programs the newly  
5 legalized aliens will be barred from participating in Federal  
6 financial assistance programs based on financial need for  
7 five years after they achieve their temporary residency.

8           Now this five-year period will include about  
9 18 months as temporary residents and then, as I know the  
10 Commission knows, they will go in after a year and a half  
11 as temporary residents and apply for their permanent  
12 residency so the five and a half year span includes a  
13 year and a half as temporary residents and three and a  
14 half years as permanent residents.

15           They are going to be barred for many, many  
16 years up through their permanent residency from participation  
17 in this Federal financial assistance programs.

18           The second thing that the Statute does is it  
19 says the State and local governments can also bar these  
20 people from participating in local programs of financial  
21 assistance or the State funded portion of Medicaid for  
22 five years.

23           Now these provisions in the Statute are clearly  
24 discriminatory. There is no question that they discriminate  
25 against this group of people.

1                   We are barring these legalized aliens from  
2 participating in programs that other legalized aliens  
3 participate in.

4                   We believe that this discrimination raises  
5 serious problems of both due process and equal process under  
6 the Fifth Amendment and Fourteenth Amendment to the  
7 Constitution and the problems come in both in the Statute  
8 itself and in the regulations that the government is  
9 issuing to implement the Statute.

10                   Let's take a closer look, first at the Federal  
11 attempt to discriminate against these people. How does it  
12 work? What is set out in the Statute?

13                   Well, what Congress did was they said that the  
14 five year plan will apply to everyone who legalizes under  
15 IRCA, with the exception of Cuban, Haitians and aged,  
16 blind and disabled people.

17                   Everybody else who legalizes -- children,  
18 women, family members, it doesn't matter -- unless they are  
19 aged, blind and disabled or Cuban, Haitian, the ban will  
20 apply to them.

21                   Then they implemented it in the Statute in  
22 three ways. First of all, Congress listed three programs  
23 in the Statute that these people can't participate in,  
24 aid to families with dependent children which is what we  
25 commonly think of as welfare; the welfare program; food

1 stamps; and certain portions of the Medicaid program which  
2 is the federally funded health care program for the poor.

3 The second thing Congress did was they then  
4 said, and such other programs that are Federal financial  
5 institutions as identified by the Attorney General. Didn't  
6 list them. Didn't say what they had to be.

7 Just said, well, the Attorney General can  
8 list other ones. We are only going to name three.

9 The third thing they did, which is the one  
10 bright spot in all of this, is that they went on then in  
11 another section to list more than 20 programs that they  
12 could not be barred from participating in and these 20  
13 programs are basically child nutrition programs, job  
14 training programs, education programs.

15 The Congressional Committee that put those in  
16 that said that you can't bar them from participating in  
17 these programs. They said that they didn't want to bar them  
18 from critical educational, nutritional, other programs  
19 essentially for their development.

20 Now first of all, does Congress even have the  
21 power to bar legalized aliens from participation in Federal  
22 benefit programs?

23 Well, there is Supreme Court law on this. The  
24 case is called Matthews versus Diaz. Several years ago  
25 Congress tried to bar legal, permanent residents from

1 Medicare, which is the Federal medical program for aged  
2 people, for five years after they became a legal, permanent  
3 resident.

4           The Supreme Court upheld Congress' power to  
5 do this. It said that you can discriminate against legal,  
6 permanent residents.

7           Basically what the court said is we are going  
8 to give deference to Congress because their power to  
9 regulate immigration derives from the plenary power,  
10 foreign policy power, so the court really isn't going to  
11 look into it too closely.

12           However, an increasing number of constitutional  
13 law scholars are questioning the rationale of the  
14 Mathews versus Diaz case and what they are pointing out  
15 is that the foreign policy power obviously gives Congress  
16 authority to regulate immigration because it relates to  
17 our foreign policy but that doesn't necessarily mean that  
18 that broad based power to regulate immigration should  
19 extend, once that people have been allowed to emigrate and  
20 are here legally, to be kinds of terms of their  
21 participation in U.S. society.

22           After all, they are persons under the  
23 Fourteenth Amendment. They have allowed -- they have been  
24 allowed to be here legally, and Congress should be not  
25 necessarily able to get from underneath the Constitution

1 once they have met the criteria for legal residency.

2           Some constitutional scholars are questioning  
3 the rationale of Matthews versus Diaz. Even if we concede  
4 Congress' power to bar the legalized aliens from Federal  
5 programs, is Congress able to delegate to the Attorney  
6 General the power to list which programs they can't  
7 participate in?

8           We have some real serious questions. Even  
9 if you concede Congress has the power, we feel Congress has  
10 to exercise the power itself. They have to bite the bullet  
11 and say, okay, no AFDC, no food stamps.

12           They have got to list the programs. They  
13 can't delegate that power to the executive branch.

14           Those are some of the problems we see with the  
15 Statute that we think implicate the Fifth Amendment.

16           In addition, however, there is a very serious  
17 problem with the regulations. The Attorney General has  
18 just issued a couple of weeks ago the regulations to  
19 implement this ban on Federal financial assistance programs.

20           They appear at 52 Federal Registrar, Page 31784.  
21 They were issued on August 24 and comments are due on  
22 September 23.

23           What programs did he list? Remember I said  
24 Congress only listed three?

25           Well, the Attorney General has added

1 43 programs to the list that the legalized people will not  
2 be able to participate in for five years.-- all Federal  
3 housing programs, you name it, mortgage, guarantee, loans,  
4 subsidies, Section 8 voucher, any housing program you can  
5 possibly imagine.

6                   This includes farm housing programs that  
7 SAW's will be eligible for if the SAW's wife is IRCA  
8 because she didn't work in the fields but she has been here  
9 for five and a half years so she won't be able to  
10 participate in the farm housing program.

11                   Graduate and professional level fellowships,  
12 including Jacob Javitz, minority fellowships for minority  
13 group people who evidence superior academic achievement,  
14 ABA fellowship for legal education for the disadvantaged,  
15 all of these are going to be barred to those people.

16                   Small business administration loans, farm  
17 loans to enable them to get loans to do crops and to do  
18 farms and planting, jobs programs for seniors and for  
19 disadvantaged youth, to enable them to stay in school,  
20 they won't be able to participate in them for five years.

21                   Community block grant programs and not just  
22 community block grant programs but UDAG programs and the  
23 other kinds of social service block grant programs, not  
24 just ones based on if an individual has to show you  
25 financial need but even where cities and local governments

1 distribute community block grant funds to a disadvantaged  
2 neighborhood.

3                   You have got to be sure that it doesn't get  
4 to an IRCA eligible alien for five years.

5                   Just think about how just impractical terms  
6 you are going to possibly be able to administer it.

7                   I must admit one of the most devastating for  
8 us is legal services for the poor. They are proposing that  
9 for five years they be unable to get any help for any of  
10 their legal problems from any of the field problems of the  
11 Legal Services Corporation.

12                   Now there is a number of problems with this  
13 regulation and I would like to outline three problems --  
14 we think there is a series of problems with the regulation  
15 but I would like to just highlight for you what I think  
16 three of them are.

17                   First of all, they listed no criteria for how  
18 they decided which 43 programs they were going to list.

19                   Now the purpose of this bar on their  
20 participation in public benefits programs should be to  
21 try to ensure that they don't become welfare dependent and  
22 yet many of the programs that they list -- stay in school  
23 programs, graduate fellowships, Small Business Loans,  
24 even much help from the Legal Services Corporation --  
25 are programs which help people become independent, not



1 dependent.

2 It makes absolutely no sense in policy or any  
3 kind of rationale to list programs which help people become  
4 independent and get off of welfare.

5 Second, the bar on legal services, as a  
6 practical matter, is going to deny to these people  
7 access to attorneys to help them ~~preserve~~ their rights in  
8 the American judicial system.

9 Now it is going to have an absolutely  
10 devastating affect on their ability, first of all, to  
11 assert their rights to the benefit programs Congress did  
12 open up to them. Remember, there are 20 critical child  
13 education and nutrition programs that they would participate  
14 in.

15 The only attorneys really in the country that  
16 know anything about those programs and work with intake  
17 workers to explain who is eligible and also can understand  
18 the complex immigration restrictions ~~are~~ legal services  
19 attorneys.

20 Yet they are verboten from even just picking  
21 up the phone and saying, you know, that this person really  
22 does qualify for the school lunch program or they qualify  
23 for WIC and point out the section of the Statute.

24 They won't be able to do that. They won't  
25 be able to assert their rights to the programs Congress did

1 open up to them.

2           Second of all, for employment discrimination,  
3 in many areas of the country the limited attorneys' fees  
4 provision in the employment discrimination section is going  
5 to make it very difficult for people to find an attorney to  
6 help them when they have got an employment discrimination  
7 problem and they won't be able to turn to Legal Services.

8           In addition, there are some other consumer  
9 problems that have nothing to do with really being poor  
10 but landlord problems, civil problems with credit on cars.

11           They will not have access to the American  
12 judicial system as a practical matter.

13           The third major problem that the regulation  
14 raises is the problem I mentioned earlier of discrimination  
15 against U.S. citizens and legal, permanent resident family  
16 members of the IRCA eligible people because the regulation  
17 makes the IRCA people ineligible for benefit programs which  
18 are financed directly or indirectly, for any benefits  
19 financed directly or indirectly for any of these 43 programs.

20           For example, if we have a U.S. citizen husband  
21 who has got a family and his wife has just legalized under  
22 IRCA, let us say they need legal services to prevent the  
23 landlord from unlawful eviction. That directly benefits the  
24 whole family.

25           Does this mean that the U.S. citizen husband

1 no longer has the right to get legal services from a lawyer  
2 because his wife is an IRCA eligible person and is going to  
3 indirectly benefit from that help?

4 That is certainly how it reads. This tremendous  
5 problem with the impact on U.S. citizens and legal,  
6 permanent residents pervades all of the housing restrictions.

7 It means that no loans, vouchers, mortgage  
8 guarantees can go to U.S. citizens or legal, permanent  
9 residents who have IRCA family members.

10 This is not just an esoteric concern. Social  
11 science research shows that more than 50 percent of the  
12 undocumented have U.S. citizen or legal, permanent resident  
13 family members.

14 These people for years have been inextricably  
15 linked with legal members, legal citizens or legal,  
16 permanent residents.

17 This is going to affect vast numbers of people  
18 who are legalizing.

19 Those are some of the problems with the Federal  
20 Statute and with the new proposed Federal regulations.

21 In addition, we are also tremendously concerned  
22 about the potentiality for State and local discrimination.  
23 Remember, I mentioned that the Statute attempts to give the  
24 States permission to discriminate against aliens for State  
25 public assistance programs.

1                   This is just as serious as the Federal  
2 restrictions and, in fact, going to be even more difficult  
3 to monitor.

4                   As you know, for years the States have tried  
5 to limit alien participation in State programs.

6                   Some of the classic Supreme Court cases,  
7 Yuk versus Wogram versus Richardson (phonetic), are ones  
8 where the Supreme Court has struck down attempts to  
9 discriminate against aliens as a violation of the Fourteenth  
10 Amendment and yet the new section, 245AH, Congress is trying  
11 to permit the States to discriminate against these people for  
12 five years.

13                   We doubt Congress has the power to permit the  
14 States to do this but I can assure you they are going to  
15 try.

16                   The question is going to be who is going to  
17 try to counteract the States' and local government's  
18 attempts?

19                   Let me give you an example of the kinds of  
20 things that have been going on in California as an example  
21 of really the mischief that this section is going to mean.

22                   The State of California Health and Welfare  
23 agency has an immigration implementation task force, and I  
24 am one of the members of the task force.

25                   As a result of the task force meetings, I can

1 tell you that the people from the Department of Finance,  
2 the State Department of Finance, are already saying,  
3 "If IRCA gives us permission to discriminate against these  
4 people, is that permission in IRCA enough to let us do it  
5 or do we also have to pass State legislation?"

6           You see, they want to try to get away with  
7 restricting their eligibility without passing State  
8 legislation just because they are authorized by Congress.

9           Counties are getting very nervous about what  
10 they think are going to be tremendous additional health care  
11 and other benefits they are going to have to provide.

12           San Diego County has already received an  
13 opinion from its General Counsel that despite the fact  
14 that these people are legalized under the Federal Immigration  
15 laws, they are not legal residents of California and so,  
16 therefore, San Diego isn't going to have to extend general  
17 assistance or health care to them.

18           L.A. County people have said to the State  
19 task force, "Well, we think we are going to extend benefits  
20 to them but if we don't get enough Federal assistance  
21 money, we might rethink it and decide to limit benefits  
22 to them after all."

23           In other words, they are hooking it up to  
24 just a quid pro quo about how much money are we going to  
25 get and if we get enough money, maybe we will extend the

1 benefits to them.

2 Now<sup>i</sup> fortunately the California Attorney  
3 General has given an opinion to the State Health and  
4 Welfare agency that once they are legalized, they are lawful  
5 residents of California and so, therefore, like any other  
6 lawful resident, they are entitled to care under the  
7 Indigent Care Statute but I anticipate a great deal of  
8 litigation on this issue, probably not just in California  
9 but in other states around the country.

10 Thank you.

11 CHAIRPERSON HERNANDEZ: Thank you very much. I have  
12 a question about AFDC and I guess clarification on what  
13 the government means by having received aid.

14 Say, for example, if we have an undocumented  
15 mother who bears a child here in the United States who is  
16 a citizen, then applies for AFDC for that child, not for  
17 herself --

18 MS. DRAKE: Right.

19 CHAIRPERSON HERNANDEZ: -- does that then make her  
20 ineligible to apply?

21 MS. DRAKE: For legalization?

22 CHAIRPERSON HERNANDEZ: For legalization.

23 MS. DRAKE: Well, according to the government  
24 regulations, yes. What the government -- what the INS has  
25 done in their regulations is they have said that despite the

1 fact that the Statute says they only have to show self  
2 support without reliance on public cash assistance, receipt  
3 of public cash assistance by U.S. citizen or other family  
4 members will count against the IRCA eligible person.

5 There is a group of people I know here in  
6 Los Angeles very concerned about this. There is a group  
7 trying to organize in San Francisco.

8 We have heard of problems from other areas  
9 around the country because basically we have a situation  
10 where you have women who for one reason -- whose husbands  
11 have left them for one reason or another and have had to  
12 go on to AFDC to support their children, not getting  
13 benefits for themselves.

14 You have this anomalous situation whereby if  
15 we would legalize these women and they got work permits,  
16 we can enroll them in again. We could enroll them in the  
17 Job Training Partnership Act.

18 We could enroll them in job training programs  
19 and help them become self proficient, support those children  
20 and get them off of welfare.

21 Perversely, what we are doing is instead of  
22 that which is good, sound public policy, what we are doing  
23 is we are saying to them, is, no, you remain undocumented.  
24 You will never have a right to work, which means that  
25 their children will always be dependent on AFDC until they

1 themselves become 21.

2                   It makes absolutely no sense from the public  
3 policy reason not to legalize them.

4           CHAIRPERSON HERNANDEZ: So in other words, they will  
5 not be allowed to legalize?

6           MS. DRAKE: The way the regulations read, that is  
7 correct.

8                   Now if an individual INS legalization officer  
9 has discretion to, shall I say, ignore that, and we are  
10 getting reports from some areas that because of the pressure  
11 on them to increase the numbers for political reasons, they  
12 just are not asking questions.

13           CHAIRPERSON HERNANDEZ: What if the mother has been  
14 working?

15           MS. DRAKE: Well, if she has been working, and it is  
16 possible to be working and also have a low enough income,  
17 obviously with minimum wage the way it is, to still receive  
18 some small portion of AFDC for the dependent children she  
19 would have a better chance of showing self support but  
20 they would still be able to take that aid that went into the  
21 child into account in evaluating her application.

22                   We have examples of women who are going to  
23 school, enrolled in job training programs or educational  
24 programs that would clearly make them not welfare dependent  
25 but clearly enable them to be self-supporting.



1 Right now they are partially on AFDC because  
2 they are not working. They are going to school and yet they  
3 are torn.

4 Should I drop out of school?

5 Well, if I drop out of school to get a part-  
6 time job, I will never get out of the minimum wage trap  
7 and yet if I don't do that and try to get off of AFDC, I  
8 can't legalize.

9 It is a tremendous problem for them.

10 MS. DAVIS: What is your reaction to the question on  
11 the information form that has the applicant list all other  
12 members of the family, whether they are legal or not?

13 MS. DRAKE: Right. One of the things -- it is  
14 interesting to hear his reaction to why he thought they had  
15 put that on the form nationally.

16 I must say that I do remember a provision in  
17 some of the statutory language about the fact that the  
18 Congress wanted the INS to collect information -- I am trying  
19 to think of a simple way to say this.

20 They wanted the INS to collect information  
21 on how many potential applications for immigration, based  
22 on family relationships, might result from the  
23 legalization of these people and that that is the rationale  
24 for having people list those.

25 In other words, if you have two children in

1 Mexico and you legalize, you will then, after a certain  
2 period of time, be able to petition to be able to immigrate  
3 those children to the United States or your brother or your  
4 mother or whomever and that that was the rationale for  
5 having them list all of the household members.

6 Obviously it has caused tremendous fear among  
7 the population because, as I have mentioned, we have a very  
8 mixed situation.

9 Many people have families where some people  
10 qualify and some don't, and they are terribly afraid that  
11 this will mean that they will be subject to deportation.

12 CHAIRPERSON HERNANDEZ: We have heard testimony this  
13 morning where a representative from the Immigration and  
14 Naturalization Services said there is no hesitancy on the  
15 part of applications, that they are just happy as can be to  
16 be applying.

17 Yet we have also heard that there has been a  
18 significant drop in the numbers because of fear on the part  
19 of people that should be applying for amnesty.

20 What is your perception?

21 MS. DRAKE: Well, there clearly is fear, and one of  
22 the things that we have to realize is that many people who  
23 might have gone to community outreach sessions back in  
24 March or April and be very afraid of whether or not they  
25 qualified, be very afraid at that time for it was very

1 unclear as to whether the INS really was not going to  
2 deport other family members and has just never gone back  
3 since because of fear.

4           There are people who were put out of the  
5 process in the very, very early stages. People are  
6 desperate to legalize and you can try to overcome any  
7 fear but that doesn't mean that fear still does not exist  
8 and is not an inhibiting factor, both in the urban areas  
9 as well as in the more rural areas where you have even  
10 fewer other examples to look to to try to get some feeling  
11 about is it safe for me to go ahead and apply?

12           MS. DAVIS: You know, like this information that you  
13 had given me is just overwhelming but I just was not --  
14 every day, you know, that I encountered something new.

15           There are, however, and we haven't discussed  
16 it this morning, some other requirements in terms of  
17 speaking English, applying for citizenship and so on.

18           Could you tell us a little bit about that and  
19 what kind of an impact that is having on the applicants?

20           MS. DRAKE: Well, the requirement that they have a  
21 basic knowledge of English and a knowledge of U.S. history,  
22 as I mentioned, is normally required to become a citizen.

23           There is a lot of concern on the part of many  
24 people that if this is stringently applied, a whole group of  
25 people will have presented themselves to the INS, gotten

1 temporary residency and will not make it through the second  
2 stage, both because there will be no sufficient classes for  
3 them to attend.

4 Many of these people are working two and three  
5 jobs. There is absolutely no way physically they can  
6 actually get to classes in the evening and it is going to  
7 be extremely difficult.

8 I know the State Department of Education is  
9 tremendously concerned about their ability to make sufficient  
10 numbers of classes available during that time period when  
11 people have to go in because you can just simply show you  
12 are enrolled in a class.

13 There is a lot of concern about the ability  
14 of -- there is a waiting list of 40,000 people in Los Angeles  
15 alone to get into English as a second language classes so  
16 there is tremendous concern about the ability to provide  
17 sufficient classes for these people to attend.

18 MS. DAVIS: Are they supposed to meet that  
19 requirement during that 18-month period?

20 MS. DRAKE: They need to be able to demonstrate that  
21 they have met it when they go in to apply for their  
22 permanent residency.

23 That is correct, so it is at the end of the  
24 18-month period.

25 MS. DAVIS: Really.

1 MS. DRAKE: That is correct. That is correct.

2 This is an unknown area. If the INS looks the  
3 other way, shall we say, and just asks a few questions in  
4 English, maybe who is the president of the United States,  
5 they can decide that they have met the requirements.

6 However, if they decide to be stringent about  
7 it, it is going to be very little that people can do to try  
8 to overturn those decisions.

9 I did hear the other day that they are  
10 anticipating about a 15 percent dropoff rate between  
11 temporary residency and permanent residency, which indicates  
12 to me -- I was surprised at how high that is because right  
13 now the disqualification rate is very, very low, I think,  
14 for political as well as other reasons.

15 They are only disqualifying -- what is it --  
16 two percent or something of the applicants and I was  
17 surprised to hear that they were anticipating as high a  
18 dropoff rate at the transition from temporary to permanent  
19 residency.

20 How much of that they are anticipating is  
21 failure to meet the English requirements or how much of it  
22 may be other reasons, I don't know what the breakout is.

23 It would be an interesting question to ask  
24 them though obviously.

25 CHAIRPERSON HERNANDEZ: Have you seen -- we raised the

1 issue with the representative from the Immigration Service  
2 regarding the discrepancies in the procedures used in  
3 various other regions across the United States.

4 Have you found that as well?

5 MS. DRAKE: We have found tremendous discrepancy in  
6 procedures, and if you would like, one of the things I  
7 would be happy to provide the Commission, we have a  
8 newsletter. We have published five or six editions now  
9 which started since last spring that goes into great detail  
10 about reports from field officers, phone calls that we  
11 get from church groups and legal groups all around the  
12 country.

13 People in Houston are saying they say there is  
14 no waiver for public charge. Other people in Chicago are  
15 saying they are making everyone apply for waiver for public  
16 charge; tremendous inconsistencies in the way the agency  
17 is administering the Statute.

18 There is a great deal of, some say, feudalism  
19 in the way the INS is structured. District directors have  
20 tremendous discretion, which if they exercise it properly  
21 is wonderful.

22 On the other hand, it gives you very little  
23 control and inability to be sure the law is applied fairly  
24 across the country.

25 I think this would be very good resource for

1 the Commission and I would be happy to provide you with  
2 copies of the newsletter.

3 CHAIRPERSON HERNANDEZ: Do you have any questions?

4 MR. MONTEZ: No.

5 CHAIRPERSON HERNANDEZ: Ms. Drake, you certainly have  
6 given us some very valuable information. It will be an  
7 asset in our continuing fact-finding into the whole process.

8 We thank you very much and hope that you will  
9 be available to speak to us if we need your input later on.

10 MS. DRAKE: Certainly.

11 CHAIRPERSON HERNANDEZ: Thank you again.

12 We will now recess for lunch and be back in  
13 session at 1:30.

14 (Whereupon, a luncheon recess was  
15 taken from 12:45 to 1:45.)

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AFTERNOON SESSION

(At this time all panel members were present except Ms. Grace Montanez Davis.)

CHAIRPERSON HERNANDEZ: Okay. Our next presenter will be Judith Keeler, District Director for the Equal Employment Opportunity Commission in Los Angeles.

Ms. Keeler, welcome. Thank you for agreeing to appear before us.

Do you have a prepared statement?

MS. KEELER: I do not have a written statement, no, but I have some things I would like to say.

CHAIRPERSON HERNANDEZ: Please, whatever you would like to share with us.

MS. KEELER: Good. Thank you, Ms. Hernandez, Mr. Montez for inviting me to speak on what we consider at the EEOC to be an extremely important issue in the area of employment discrimination and that is the effect of the new Immigration Reform and Control Act on employer practices and possible national origin discrimination impact that those practices may have.

As you are aware, our agency has the primary enforcement responsibility for Title VII of the 1964 Civil Rights Act. Our responsibility has been not obligated in any fashion by passage of the Immigration Reform and



1 Control Act.

2           What I will refer to as IRCA specifically  
3 provides that national origin discrimination complaints will  
4 be handled by the EEOC, if the EEOC otherwise has  
5 jurisdiction over those complaints.

6           Complaints of citizenship discrimination will  
7 be handled by the offices of the Special Counsel through  
8 the Department of Justice.

9           One of the most important issues facing our  
10 agency at this time is the determination of which agency  
11 has jurisdiction. That is critical to the people who may  
12 be affected by this law.

13           The EEOC has jurisdiction over employers  
14 with 15 or more employees and we cover discrimination in  
15 employment on the basis of national origin.

16           The Department of Justice under IRCA has  
17 jurisdiction, in effect, over those employers with between  
18 four to 14 employees regarding claims of national origin,  
19 discrimination and has jurisdiction over complaints of  
20 citizenship discrimination.

21           Under the Statute, jurisdiction is exclusive,  
22 not concurrent, so one of the most important things that  
23 a potential victim of discrimination is faced with is  
24 which agency to go to.

25           Does he or she have a national origin claim.

1 or a citizenship claim?

2                   Sometimes that is not easy to tell. It  
3 certainly isn't easy to tell for a lot of the individuals  
4 who will, in fact, be affected.

5                   All they know is that they weren't hired or  
6 all they know is all of a sudden they were fired or all they  
7 know is that all of a sudden the company passed some policy  
8 or rule which made it impossible for them to continue  
9 working there.

10                   If they come to the EEOC believing it may be  
11 national origin discrimination and, in fact, it turns out  
12 to be citizenship discrimination, it is critical that the  
13 Department of Justice and the EEOC have some agreement  
14 whereby that charge may be transferred to the Department  
15 of Justice.

16                   Let me give you an example of how this  
17 jurisdictional issue may become very hairy. Our agency  
18 has issued a policy which says that a citizenship preference  
19 has a disparate impact on the basis of national origin,  
20 there is a violation of Title VII.

21                   As you know, IRCA contains a provision that  
22 says you may give preference to citizens. Our agency has  
23 said not if it violates Title VII.

24                   If an individual comes into our agency,  
25 therefore, and has been subjected to discrimination which

1 looks like preference is being given to citizens, we have  
2 to determine whether there is a disparate impact under the  
3 law.

4           There is a Supreme Court case called Espinoza  
5 versus Farah Manufacturing Company in which the Supreme  
6 Court made very clear that alienage discrimination is not  
7 covered by Title VII. One of the analyses referred to by  
8 the court in that case was whether or not there was the  
9 purpose or effect of discriminating on the basis of national  
10 origin in some citizenship or documented status requirement.

11           In that case the court said that there was no  
12 such discrimination because the vast majority of the workers  
13 at that plant were of Mexican-American ancestry.

14           We would be faced with the same task at EEOC.  
15 One of the first things we would look at, therefore, is  
16 what is the composition of the employer's work force if  
17 we receive that kind of claim?

18           I think that probably the most prevalent  
19 claim we are going to get, however, is the claim of  
20 differential treatment and how it will go is this: I was  
21 asked to fill out an I-9 form because I appear to be or  
22 am of Latino or Asian background. Nobody else in my  
23 applicant pool or nobody else that I am aware of was asked  
24 to fill out an I-9 form.

25           I sat with ten Anglos and they weren't asked

1 to fill out an I-9 form or they inquired of me what my  
2 documented status was. They didn't inquire that of anyone  
3 else.

4 It is interesting because I think there is  
5 still a lack of understanding about the requirement for  
6 employers and it is a misunderstanding in the public at  
7 large.

8 We had one of our own workers come into our  
9 office. Happened to be black, come into our office and  
10 said, "You know, they have just asked my son -- my son is  
11 getting ready to get a new job and they have asked him to  
12 document his status."

13 She was suspecting discrimination.

14 We had to explain to her that they must  
15 inquire of everyone, no matter how apparent it may be that  
16 the person would or would not be of documented status.

17 Somebody would have to ask me and Mr. Reich  
18 as much as you or Mr. Montez, and we think that that will  
19 be the most common claim.

20 Now here is what we foresee the difficulty to  
21 be in enforcing the Statute on a very practical basis and  
22 that is that the people that this law may affect in terms  
23 of national origin discrimination are going to be very  
24 reticent to file complaints because they may very well be  
25 of undocumented status.

1                   For that reason our office has a policy,  
2                   though, as you may have heard, we have a present inventory  
3                   of approximately 5,000 charges, that if someone comes to  
4                   our office and files an IRCA related national origin  
5                   discrimination claim, that charge will be given top  
6                   priority in our office and investigation will be completed  
7                   within 120 days.

8                   It will be assigned to a person of the  
9                   charging party's language or to a team of persons, one  
10                  of whom speaks the charging party's primary language.

11                  If we do not have that language capability  
12                  on our staff, for instance at the present time we have no  
13                  Japanese-speaking people on our staff, then we will hire a  
14                  translator to participate in the investigation.

15                  One of the reasons that that is so important  
16                  to us is because there may be class aspects, and even  
17                  though our charging party may be bilingual and have English  
18                  fluency, it may be that there are other members of the  
19                  class who are not that we will have to reach.

20                  The other thing that is important to know,  
21                  and this is new, is that now in our headquarters' office  
22                  we have a relationship so that if somebody comes to our  
23                  office and files a claim which appears to be of citizenship  
24                  rather than a national origin claim, we will take that  
25                  complaint, forward it to headquarters in Washington, and

1 they will turn it over to the offices of the Special  
2 Counsel.

3           One of the reasons that arrangement was made  
4 was because in this and other communities primarily  
5 affected by this Statute, one of the complaints that we  
6 heard is that the office of Special Counsel has no presence  
7 here, has no local office to go to so if somebody has a  
8 citizenship claim, they can come to EEOC.

9           We will take the claim. We will just not  
10 sign it or treat it as a charge, and we will forward it to  
11 the people who need to get it in Washington.

12           If we investigate a claim, because it appears  
13 to be a national origin discrimination, and subsequently  
14 find out that it is a citizenship rather than a national  
15 origin claim, we will forward that claim on to headquarters  
16 and again it will be referred to the Department of Justice.

17           However, I must emphasize that at this time  
18 we have no work sharing agreement. One of the reasons it  
19 is necessary to deal with these charges so very early is  
20 because there are time limits on filing under IRCA, as well  
21 as under Title VII and we need to make sure those complaints  
22 get there within the time frame that they have to file  
23 under IRCA.

24           I would be happy to answer any questions you  
25 have or to discuss any specific issues that you are

1 interested in.

2 CHAIRPERSON HERNANDEZ: Do you have a working  
3 relationship then with the Immigration and Naturalization  
4 Service at all?

5 MS. KEELER: No, we have no working relationship with  
6 the INS at all. One of the things that we did -- our first  
7 effort when IRCA became effective was an educational  
8 program because we did see the problem with employees or  
9 potential aggrieved persons coming and filing charges.

10 We had an educational effort and we did  
11 have some joint ventures in terms of getting out  
12 information with INS, but we have no actual working  
13 relationship with them.

14 CHAIRPERSON HERNANDEZ: So how did you, in effect,  
15 disseminate this information that you have for the types of  
16 complaints that you would be able to handle if, in fact,  
17 someone had a concern or had alleged discrimination.

18 MS. KEELER: With respect to employers, we have used  
19 seminars. We have used the voluntary assistance program  
20 which is a regular part of our program.

21 We have taken the opportunity to speak when  
22 and wherever we could.

23 With respect to constituent groups, we have  
24 been working with, for instance, MALDEF, Center for Law and  
25 Public Interest, and other agencies, Catholic --

1 MR. MONTEZ: Charities, Catholic Charities.

2 MS. KEELER: -- one of the primary registration  
3 folks.

4 MR. MONTEZ: Yes, Catholic Charities.

5 CHAIRPERSON HERNANDEZ: Catholic Charities.

6 MR. MONTEZ: Center for Legalization.

7 MS. KEELER: We have gotten information out to them.

8 For instance, MALDEF has a hot line and one  
9 of the things they knew to do and they include is referral  
10 to EEOC.

11 I shouldn't leave the State out of this by the  
12 way because the State Department of Fair Employment and  
13 Housing also has responsibility and handles national origin  
14 claims.

15 CHAIRPERSON HERNANDEZ: Now does EEOC fall under the  
16 purview of the Justice Department?

17 MS. KEELER: No. We are an independent executive  
18 agency.

19 CHAIRPERSON HERNANDEZ: Because some time this morning  
20 there had been concern expressed that there is a provision  
21 in the law dealing with employment discrimination but that  
22 the Justice Department has not implemented procedures to  
23 deal with it.

24 Where do you come into play in all of this  
25 then?



1 MS. KEELER: Nothing. We don't come into play with  
2 what the Department of Justice is doing internally, other  
3 than to try to coordinate so that we make sure that cases  
4 that should go there do go there.

5 We have our own enforcement mechanism but  
6 we don't have any control over their internal procedures.

7 CHAIRPERSON:HERNANDEZ: Any questions?

8 MR. MONTEZ: You, in fact, Ms. Keeler, have not  
9 received any kinds of complaints yet as applies to IRCA?

10 MS. KEELER: That is not entirely accurate.

11 We have received at this point, I think,  
12 approximately ten charges which are interrelated -- which  
13 appear to be interrelated.

14 It may turn out that some of those charges  
15 are not IRCA related but are, in fact, citizenship claims,  
16 if they are anything.

17 We, by the way, have an obligation to report  
18 to the GAO bi-annually all of the charges that we have  
19 that are IRCA related and what their status is.

20 Our next report is due to them by the end of  
21 September.

22 CHAIRPERSON HERNANDEZ: Now those charges, were they  
23 filed by predominantly Hispanic individuals?

24 MS. KEELER: Yes.

25 CHAIRPERSON HERNANDEZ: Have you heard any concerns

1 expressed by other segments of the community that are also  
2 applying for legalization?

3 MS. KEELER: We have not yet heard a lot of complaints  
4 from the Asian community but I think that might be due to  
5 two reasons, and one is, frankly I don't think that our  
6 outreach efforts to the Asian community are as good as they  
7 should be.

8 The other is that the Asian community,  
9 certain aspects of the Asian community, we have been told  
10 from our outreach efforts are fairly insular and would  
11 rather not seek government assistance in handling that  
12 kind of problem.

13 That is what we have been told by some of the  
14 constituency groups that we have contacted.

15 CHAIRPERSON HERNANDEZ: Has your work force increased  
16 at all in terms to keep up with the demand with potential  
17 types of charges?

18 MS. KEELER: No. Our work force has increased but it  
19 is unrelated to IRCA.

20 There was no additional funding or staffing  
21 provided or any sort of resources in IRCA for the EEOC.  
22 We just happen to have an increase in staff but that is  
23 because we needed it and somebody figured out before IRCA.

24 MR. MONTEZ: You certainly resolved the Sears Roebuck  
25 case in one day, didn't you?

1                   They filed a complaint with you, didn't they,  
2 and next day Sears Roebuck was asking him to come back to  
3 work or something.

4                   MS. KEELER: Okay. I have a difficulty because under  
5 the confidentiality provisions, I can't talk about any  
6 specific charges that have been filed.

7                   MR. MONTEZ: My apologies. Just drop it.

8                   MS. KEELER: However, I could say that probably that  
9 is not a totally accurate characterization.

10                   I think that that is certainly Sears' position  
11 with respect to any charge that may have been filed.

12                   MR. MONTEZ: In the Civil Rights Commission you can  
13 say anything.

14                   MS. KEELER: We cannot divulge any specific charge.

15                   MR. MONTEZ: I understand that now. Unless it was  
16 a closed session, then we would have the same confidentiality.

17                   MS. KEELER: Right.

18                   CHAIRPERSON HERNANDEZ: I don't have anything else.

19                   Do you?

20                   MR. MONTEZ: No.

21                   MS. KEELER: I have read the newspaper though the same  
22 as you and I understand that it has been characterized by  
23 both sides as something.

24                   CHAIRPERSON HERNANDEZ: Ms. Keeler, thank you very  
25 much for sharing this time with us.

1 MS. KEELER: Thank you. It was a pleasure.

2 I only wish that we could all find some way  
3 to get out more information to the public.

4 CHAIRPERSON HERNANDEZ: Our next guest is Mr. Peter  
5 Reich. Mr. Reich is a practicing attorney in Los Angeles  
6 and has clients in business and management needing legal  
7 advice in handling the implications of the new Immigration  
8 Reform Act.

9 Mr. Reich, welcome.

10 MR. REICH: Thank you, members of the Advisory  
11 Committee.

12 I am an attorney in private practice in  
13 Downtown Los Angeles with Parker, Milliken, Clark, O'Hara &  
14 Samuelian.

15 Our practice has led us to counsel employers  
16 on the implications of the Immigration Reform and Control  
17 Act for their business and in so doing, we have had to deal  
18 with many of the law's specific provisions.

19 We have a number of comments that we would like  
20 to make about the way the law has been written and the way  
21 that it is enforced.

22 First, I would just like to say a little bit  
23 about my own background. In addition to being an attorney,  
24 I am a Ph.D. candidate in Latin American History at UCLA  
25 and the Editor of the Statistic Abstract of the United

1 States-Mexico Borderlands.

2 I have recently made a number of public  
3 appearances and written several articles regarding employers'  
4 duties under IRCA.

5 Our first concern is with the issue of the  
6 warrantless inspection of I-9 forms. Now the regulations  
7 that the INS has issued under IRCA allow some inspection  
8 of the I-9 without subpoena or warrant but what is  
9 interesting in the law itself, there is no provision for  
10 a warrantless inspection.

11 There is only a provision that the I-9 must  
12 be retained and made "available for inspection."

13 Now drawing up this regulation clearly exceeds  
14 the scope of the Statute's authority.

15 Also, as to the warrantless inspection issue,  
16 we consider that it is a violation of the Fourth Amendment  
17 because current case law allows a search on an employer's  
18 premises for persons reasonably believed to be undocumented  
19 workers. Allowing a warrantless inspection of the I-9  
20 form would undercut this protection because the I-9 form  
21 contains much personal information by which the INS could  
22 find out who the individuals are that it may believe to be  
23 undocumented.

24 There is no point in allowing a search for  
25 persons only with a warrant if you can then allow a

1 warrantless inspection of these forms providing personal  
2 information.

3           The employer has a right to secure his  
4 premises from unreasonable search and seizure and the  
5 employee should also have a right to have his person free  
6 from unreasonable search and seizure.

7           Secondly, I would like to talk about the  
8 effect of the labor shortage that is being exacerbated  
9 by IRCA and how that labor shortage is impacting on  
10 productive employment relationships.

11           As many as you may have seen in the media  
12 and numerous articles in the last year, there is a labor  
13 shortage in the United States, particularly in certain  
14 manufacturing and service sectors.

15           There was an article in Business Week in  
16 August talking about this, talking about the problems of  
17 getting workers in many areas of the country, particularly  
18 the Southwest.

19           When this fact is combined with the fact that  
20 undocumented workers have in the past been found to  
21 compose 70 to 75 percent of many industries in the  
22 Southwest, such as restaurant, garment, hotel industries,  
23 the impact of a law which further curtails this labor  
24 supply is going to be severe.

25           Already we have heard reports from employers

1 in the electronics, hotel, construction industries about  
2 the problems in finding qualified workers.

3 We have had employers talking about possibly  
4 relocating Overseas, to Mexico, to other countries in the  
5 Far East.

6 This existing labor shortage has simply been  
7 exacerbated by fears of what IRCA is going to do when it  
8 is enforced.

9 Also, I want to add on this point that it is  
10 not just business employers who are affected by IRCA but  
11 it is many nonbusiness employers, such as the disabled and  
12 working mothers who often have hired people as personal  
13 attendants or day care sitters. are having problems with  
14 this shortage.

15 This is born out by references which have  
16 come to us at, as well as several articles in the  
17 Los Angeles Times.

18 I cannot emphasize enough how important a  
19 productive employment relationship is to both the employer  
20 and the employee. The loss of such a relationship means  
21 the loss of stability and growth in the particular  
22 industry.

23 There is no return for the loss of this  
24 relationship in any benefit achieved by the law because  
25 study after study, such as the Rand Corporation study of

1 1976, the Maram study of 1980 and Wayne Cornelius study  
2 in 1982, has shown that undocumented workers have given a  
3 net contribution to the economy.

4 This is above and beyond any issue about  
5 whether or not they are undocumented. It is simply that  
6 there are certain sectors of the economy that have needed  
7 people continually entering those sectors.

8 Thirdly, I would like to talk about an issue  
9 which has been very much in the news and which we have  
10 heard many comments about from our clients which is a lack  
11 of derivative amnesty for family members.

12 Legalization, of course, under the law applies  
13 to individuals, not to families.

14 Many of our clients have lost valued workers  
15 because they were afraid to stay in the United States  
16 when they thought that a family member was going to be  
17 deported.

18 Now, of course, it is also true that the INS  
19 District Director has discretion to stay deportation, to  
20 extend deportation proceedings.

21 However, except in one case reported  
22 yesterday in the L.A. Times, we haven't seen any evidence  
23 of this happening and the fear that it has caused in both  
24 the employer and employee communities is damaging employment  
25 relationships far beyond what necessarily would have to



1 happen.

2                   In conclusion, I would like to say that much  
3 of what will happen with IRCA is going to be a question  
4 of how it is enforced but the law, as it is written,  
5 provides a potential for serious abuse with the warrantless  
6 inspection provisions, the effective labor shortages and the  
7 lack of derivative amnesty.

8                   It is important for government agencies, such  
9 as the Commission, to monitor the law, particularly in  
10 light of the Sunset provisions by which every year the  
11 Controller General draws up a report on the law's impact  
12 in terms of its burdensomeness to employers and effect on  
13 discrimination. As part of this Sunset process, the Civil  
14 Rights Commission performs a consultative role and this is  
15 written into the Statute.

16                   This may be something that we will want to  
17 think about when the GAO starts drawing up its report.

18                   Thank you very much. If there are any  
19 questions, I will be happy to answer them.

20                   CHAIRPERSON HERNANDEZ: Thank you, Mr. Reich.

21                   This morning we heard from an individual who  
22 was with the garment industry and he had expressed concern  
23 on behalf of his industry that if -- they have seen a  
24 significant decline in their work force and they are looking  
25 now to going Overseas to begin to manufacture.

1                   Are you hearing the same type of things from  
2 your clients?

3                   MR. REICH: We are, although the garment industry,  
4 I think, is probably -- we don't represent any garment  
5 manufacturers. The garment industry is perhaps the  
6 extreme case of an industry that is dependent upon  
7 undocumented workers.

8                   We, however, represent a number of canneries.  
9 We represent hotel businesses. We represent construction,  
10 electronics.

11                   The idea, for instance, of relocating just  
12 over the border to Mexico in a maquiladora has repeatedly  
13 come up.

14                   I think the garment industry is perhaps more  
15 vulnerable than others and, also, of course, the garment  
16 industry is an industry where traditionally abuses of  
17 workers has taken place in terms of low wages and sweatshop  
18 conditions.

19                   I think the law affects all industries and  
20 we have heard -- yes, we have heard the issue of relocating  
21 discussed beyond just the garment industry.

22                   For industries such as the restaurant industry  
23 which can't relocate, you can see there is really a problem  
24 because they just have to go out of business.

25                   CHAIRPERSON HERNANDEZ: Are you aware of any of your

1 clients providing some sort of assistance programs for  
2 their employees to encourage them to file for legalization?

3 MR. FREICH: Yes, that is part of our general counseling  
4 package that we give to employers. We encourage them to  
5 help legalize their employees.

6 We have encouraged them not to fire anyone  
7 for any reason unless it is very clear that they are both  
8 undocumented and could not qualify for amnesty.

9 That is something that is an approach that  
10 we have been taking to attempt to legalize as many employees  
11 as possible and to make the transition into this period  
12 when the law will strictly govern employers as easy as  
13 possible for the employees.

14 Obviously there are many reasons an employer  
15 could fire an employee and we are attempting to make sure  
16 that -- if an employee is fired, he is not fired for any  
17 reason which would be prohibited under the Civil Rights  
18 Laws or under IRCA.

19 Particularly in this time, I think that  
20 employers would be very afraid of the impact of the new law  
21 and it is very important, I think, for attorneys who are  
22 advising employers to make sure that the employer doesn't  
23 get skittish and fire everyone because it is not necessary  
24 and it is damaging.

25 CHAIRPERSON HERNANDEZ: We heard from a representative

1 this morning from the Immigration and Naturalization  
2 Service on the issue of the breakup of the families.

3 His position was on behalf of the INS that,  
4 in fact, families -- there is not an attempt to break up  
5 families and that each situation is judged on a case-by-case  
6 basis.

7 Has this been your experience?

8 MR. REICH: Well, it is interesting because I have not  
9 only counseled employers but I have handled some  
10 legalization cases pro bono for individuals and so far  
11 there is only one well reported case of a deportation being  
12 stayed because of a family situation.

13 That was in the paper, I believe, two days ago  
14 in the Los Angeles Times.

15 CHAIRPERSON HERNANDEZ: It is right here.

16 MR. REICH: We have not seen any specific examples  
17 of the INS exercising its discretion in other cases.  
18 Individuals have been told at INS offices that individuals  
19 must qualify for amnesty individually.

20 Certainly if there is any question of economic  
21 hardship or family hardship, that can be taken into account  
22 by the INS.

23 It is just that up to this point it generally  
24 doesn't seem to be the case.

25 Also, I would emphasize that much of the

1 effect of the lack of derivative amnesty is in the fear  
2 that it is created in the employee and employer community  
3 and is not so much a question of what the INS has done so  
4 far because many of legalization applications have simply  
5 not been processed but rather the perception that because  
6 the law does not provide for families and there are no  
7 publicized exemptions for families, people simply decide,  
8 well, I am not going to file for amnesty because I know  
9 that even if I make it, my wife isn't going to make it and  
10 my kids aren't going to make it.

11 I think much of the negative affect of the law  
12 could be ameliorated by a specific exemption in regulations  
13 which means doing it for families of amnesty eligible  
14 people.

15 CHAIRPERSON HERNANDEZ: We have also heard about  
16 inaccuracies in procedures, procedural inaccuracies here  
17 perhaps in this region versus the region in the Midwest  
18 where perhaps the District Director is more amenable to  
19 trying to maintain family whereas here in Los Angeles it  
20 seems to be just very lax, very different, not handled the  
21 same way.

22 MR. REICH: Yes, I think that handling of legalization  
23 here tends to be -- in Los Angeles tends to be fairly  
24 decentralized.

25 I don't see any particular policy in effect.

1           One of the problems in making conclusions about  
2 this whole process is that it is very early and we are only  
3 beginning to get people coming in and going through the  
4 process of bringing all their documents required for  
5 legalization.

6           I think it is true that Los Angeles has not so  
7 far been distinguished by an attitude on the part of the  
8 INS of let's give families an exemption or let's stretch  
9 everything to an attempt to include families, whereas I  
10 believe in Chicago the INS has taken a more liberal  
11 attitude.

12           This is something that, to be fair to the INS,  
13 may not be anything which particularly comes from them.

14           It may be simply because there is a lack of  
15 centralized policy and there are no regulations written  
16 regarding this issue.

17           CHAIRPERSON HERNANDEZ: Do you have any questions?

18           MR. DULLES: Could I ask a couple of questions?

19           CHAIRPERSON HERNANDEZ: Sure.

20           MR. DULLES: In our Texas Advisory Committee Meeting  
21 in Houston several weeks ago, several individuals alluded to  
22 a new potential subclass of employment.

23           This would be where some unscrupulous employers  
24 would exploit and take advantage of an underclass, would  
25 not pay minimum wage, would take the risk of violating the

1 new law and, in essence, would be saving money for the  
2 potential liability that would be incurred if they were  
3 fined.

4           There was even one example given of where an  
5 employer said, "You can continue to work for me but I am  
6 going to take \$50 a month out of your check as an insurance  
7 in case INS comes and fines us for being in violation. That  
8 will be a condition of your further employment."

9           I am just wondering if you had heard anything,  
10 any stories or allegations, similar to that in California?

11           MR. REICH: I have not so far heard anything other than  
12 what has generally been reported in the paper.

13           I think much of the social science literature  
14 on the undocumented immigration issue, which I am somewhat  
15 familiar with because of my background in U.S.-Mexico  
16 border studies, deals with this issue and I think the theory  
17 is that if an employer is willing to be a law breaker as  
18 far as IRCA is concerned, then he certainly is willing to  
19 become a law breaker as far as minimum wage or any other  
20 provision regulating his conduct would be concerned.

21           I certainly see this as a threat that the  
22 law creates.

23           I haven't seen any specific evidence of this  
24 happening, although actually -- excuse me. I take that  
25 back.

1 I did hear one report from a pro bono client  
2 that one of the places where he had worked in the last few  
3 months had, in fact, not been taking I-9 forms and not  
4 been -- even after the deadline and that they were  
5 continuing to employ illegal people at below minimum wage.

6 I think that certainly it is a problem.  
7 Obviously these employers would be in violation.

8 It is going to be a question of whether the  
9 INS can effectively enforce the law against these employers.

10 Unfortunately, the law creates a risk that  
11 if there are employers now who undercut the law, that these  
12 employers will have additional incentive to continue  
13 violating the law because, in fact, if they can take out  
14 of the pay check of the individual the value of the IRCA  
15 fines, then they can recoup any losses that they might have.

16 In fact, these employers would tend to be even  
17 more fly by night and harder to enforce the laws against  
18 than existing employers.

19 MR. DULLES: What about the November 6, 1986 deadline?

20 Employees who were hired before November 6 of  
21 1986 do not need an I-9.

22 MR. REICH: That is right.

23 MR. DULLES: Is that in your view going to have any  
24 impact -- number one, do employers understand that and,  
25 number two, could those individuals who are retained because



1 they were hired before November 6 be subject to any  
2 harassment or discrimination for fear of retaliation?

3 MR. REICH: Well, in answer to your first question,  
4 I think employers do understand, that that is one thing we  
5 have been trying to communicate to all clients that  
6 essentially anyone who was hired before November 6 and  
7 hasn't taken some long, unexcused leave of absence, which  
8 was in essence a termination of employment, that individual  
9 is still protected as far as the employer's liability is  
10 concerned; of course, if that individual is illegal, not  
11 eligible for amnesty, that individual could still be  
12 deported.

13 I think there is the potential for  
14 discrimination against these individuals, although we are  
15 trying to make clear to our clients that because there is  
16 no potential liability as far as these individuals, there  
17 is no reason to discriminate in promotion or hiring --  
18 well, obviously wouldn't be hiring but promotion or any  
19 other term of employment.

20 I don't think that employers, if they are  
21 aware that they don't incur any liability, I don't think  
22 that most rational employers would discriminate.

23 I just think there is a dearth of information  
24 out there. I think whether you, as an employer, know what  
25 the provisions of the law are depends on who your attorneys

1 are and how many times you read the paper.

2                   Unfortunately, the specific terms of the law  
3 have simply not been well publicized.

4                   MR. DULLES: Thank you.

5                   MR. MONTEZ: Prior to IRCA, Mr. Reich, there were no  
6 warrants required then when they came in on what they  
7 called raids? I mean they just did that indiscriminately?

8                   MR. REICH: There are a series of court decisions  
9 that really have nothing to do with IRCA that were prior  
10 to IRCA.

11                   MR. MONTEZ: Yes, prior.

12                   MR. REICH: No warrants were required for a premise's  
13 search after 1981. You had to have reasonable suspicion  
14 that the person -- that the people you were looking for were  
15 undocumented.

16                   Agriculture, there was an open field's exception  
17 for agriculture. You didn't have to have a warrant but for  
18 the factory raid situation, you did have to have reasonable  
19 suspicion of illegal aliens.

20                   That was Blackie's House of Beef versus  
21 Castillo case, and that was followed up in California by  
22 the International Molders' case.

23                   That is why this issue of whether the INS can  
24 inspect the I-9 without a warrant is particularly important  
25 because under existing law they needed a warrant to search

1 a premises, an employer's premises, for persons that if  
2 you can now search without a warrant for documents which  
3 reveal personal information, the INS will then be able  
4 certainly to take that information, get a warrant to search  
5 the premises for persons.

6 MR. MONTEZ: I am purely being speculative but is it  
7 too early for people in business that have been dependent  
8 on this kind of labor to begin to organize some opposition  
9 to what is going on under the Act?

10 It seems to me that in our job we have been  
11 having difficulty in the business community. They want to  
12 talk but they are reluctant for some fear of retaliation.

13 That is the view I get. It is a limited  
14 perception but it is the view that I have.

15 I just wonder if you have any knowledge as to  
16 is there intimidation across the board, not only for the  
17 people applying for amnesty but for employers?

18 MR. REICH: I think that many employers are afraid  
19 that if they identify themselves as being overly concerned  
20 about the Act, then the INS will say, well, this individual  
21 business must be an employer of undocumented workers. We  
22 will raid them.

23 I think that is understandable, and I think  
24 that is one of the reasons why many of the individuals  
25 who have been speaking publicly from an employer's

1 perspective have been attorneys who represent employers or  
2 who are immigration attorneys rather than individual  
3 employers.

4           Of course, you are not going to specifically  
5 reveal the name of your client. I think there is general  
6 concern in the employer community not just by employers  
7 who hire or they have in the past hired undocumented workers  
8 simply because there is a huge bureaucracy involved in  
9 filling out the I-9, assigning a personnel director or  
10 someone to do it, checking everyone's birth certificate or  
11 other work authorization and identity at this time.

12           It is something that employers are concerned  
13 about but without, I think, being able for various reasons  
14 to individually come forward and say anything about it.

15           I think, however, much of the problem of  
16 intimidation regarding the law could be dealt with by  
17 publicity both on the part of the INS..and other  
18 organizations, and there has been to the INS's credit some  
19 of that.

20           It is just that there are so many employers to  
21 reach and there are so many different ways that they have  
22 to be reached.-- through television, through leafletting,  
23 through public forums -- and the publicity simply is not  
24 there at this point.

25           I think that in terms of any lobbying for

1 employer interests under IRCA, this simply hasn't happened  
2 yet on any kind of a large scale, although I will say that  
3 in many respects, and most of the respects that I have  
4 discussed today, the interest of employers are completely  
5 consistent with the interest of civil liberties'  
6 organizations, such as MALDEF, which have been discussing  
7 issues of warrantless inspection and problems of  
8 discrimination.

9 I think in many ways these organizations are  
10 in a better position to publicize these issues but I think  
11 also, as the Act is enforced, up to now we have just not  
12 seen much on-site enforcement.

13 I have only read in the paper that there has  
14 been one citation issued. Now that was a few weeks ago.

15 There may have been more but until there is  
16 widespread enforcement, I think you won't see as many  
17 employers willing to come forward and discuss the issue.

18 CHAIRPERSON HERNANDEZ: Mr. Reich, do any of your  
19 clients have labor union agreements?

20 Are they working in tandem with the union?  
21 Is it a concern that is really carried over to both areas?

22 MR. REICH: Yes. Some of them are.

23 Some of our clients, and some of them are  
24 cooperating in legalization efforts with the union.

25 Certainly the union has an ability, if it

1 wishes to, to mobilize, to help individuals legalize,  
2 as does the employer.

3 We are attempting to encourage cooperative  
4 relationships in that respect.

5 Unfortunately, the AFL-CIO is one of the  
6 primary supporters of the Immigration Bill. This has  
7 created a great deal of dissension in the union community.

8 Certain unions, such as the I.L.G.W.U., which  
9 represents largely garment workers, has taken a position  
10 very much at odds with the AFL-CIO umbrella leadership but,  
11 in fact, through the last few months I have seen a number  
12 of public statements and heard a number of statements by  
13 union leaders in support of the law.

14 I think many unions see it as a way to put  
15 pressure on employers and, also, a way essentially to  
16 narrow their work force to individuals that they can --  
17 they have better access to.

18 I don't think this necessarily need be so.  
19 The position has often been taken within the union  
20 community that undocumented workers cannot be organized  
21 but I think that as there is everywhere, there is still  
22 a lot of racism and xenophobia within the union community  
23 and this is something which will have to be overcome but  
24 we are, as employer attorneys, we are encouraging our clients  
25 to help legalize individuals.

1                   If they do it in cooperation with the union  
2 or not in cooperation with the union, it doesn't matter.  
3 The important thing is to keep a productive employer-  
4 employee relationship going.

5                   CHAIRPERSON HERNANDEZ: Anything else?

6                   Mr. Reich, thank you very much.

7                   MR. REICH: Thank you.

8                   CHAIRPERSON HERNANDEZ: Our next speaker is  
9 Ms. Josie Gonzalez.

10                   Ms. Gonzales is a practicing attorney in  
11 Los Angeles who works as a management consultant in assisting  
12 ~~businesses~~ who have undocumented workers in their employment.

13                   She will also discuss problems faced by her  
14 clients in attempting to qualify for amnesty.

15                   Well, Ms. Gonzalez.

16                   MS. GONZALEZ: Thank you. I appreciate the  
17 opportunity to be here.

18                   I would like to just give you a little  
19 information about my background and the type of clients  
20 that I represent.

21                   As you mentioned, I am an attorney in private  
22 practice and I specialize in immigration labor relations.

23                   Since the bill passed, I think I have lectured  
24 to over 5,000 employers in various seminars throughout the  
25 state, for example, to the California Restaurant Association

1 up in Sacramento and in Los Angeles and in San Diego and  
2 the Merchants and Manufacturing Association, various trade  
3 organizations.

4 I have given employers educational information  
5 on how to comply with the bill's provisions and I have  
6 answered their questions and their concerns about their  
7 responsibilities.

8 I believe that the sentiment being expressed  
9 today by the employers in Southern California is one of  
10 confusion and fear regarding this bill. They are confused  
11 because they do not understand the complexities of this  
12 Immigration Bill and they don't understand exactly what  
13 their responsibilities are.

14 They are fearful because of this confusion.  
15 They are fearful that they are going to violate the law  
16 and incur the wrath of the Immigration Service and,  
17 consequently, have levied on them some pretty heavy  
18 civil penalties and maybe even potential criminal  
19 imprisonment.

20 What this fear and confusion really amounts  
21 to is an overreaction on their part in attempting to comply  
22 with the law and that overreaction really triggers  
23 discrimination.

24 I am going to give you some examples of  
25 instances where I see employers are overreacting regarding



1 their responsibilities and thereby triggering  
2 discriminatory acts on their part.

3 First of all, there is a lot of confusion  
4 over which workers you have to screen for work authorization  
5 and which workers you need an I-9 for. Many employers are  
6 under the impression that you need an I-9 for the entire  
7 work force, not just for individuals whom you hired after  
8 November 6.

9 Another area is an insistence on the part of  
10 employers that job applicants give them certain preferred  
11 documents. The immigration regulations are quite clear  
12 that an employer should not insist on preferred documents.

13 You have an I-9 form and you have certain  
14 acceptable documents, either something from Column A on the  
15 I-9 form, which is a document which evidences work  
16 authorization and identity, or a single document from  
17 Column B and a single document from Column C.

18 I have seen employers who have discriminated  
19 against the Hispanic, and even though you have an Hispanic  
20 who claims he is a U.S. citizen and he has something from  
21 Column B, a driver's license, and he has a Social Security  
22 card from Column C, they say they want more.

23 I have even heard of one employer who says,  
24 "You are brown. I need more than that," insisting on a  
25 U.S. passport or a birth certificate when it is quite clear

1 that that -- that they cannot lawfully do that.

2 Before I came here, I spoke to a woman who  
3 heads the immigration project of the Los Angeles County  
4 Bar, and she was giving me some more examples, too, of  
5 instances that she had seen of discrimination. She states  
6 that in the last month she has seen at least 20 cases  
7 effecting Hispanics who are citizens but not citizens by  
8 birth in the United States.

9 They acquired citizenship through parents who  
10 were citizens. They were born in a foreign country, like  
11 Mexico, so they have derivative citizenship and they have  
12 applications pending in the Immigration Service now for  
13 many years trying to get certificates of naturalization to  
14 show that they are citizens.

15 They are citizens. There is no question but  
16 they cannot prove it. They check on the box that they are  
17 U.S. citizens and present Social Security cards and driver's  
18 licenses and they are being denied employment.

19 I think this is a very critical area.

20 Another area that is just right for abuse,  
21 and I am starting to hear instances of it now, has to do  
22 with the specific immigration regulation whereby an  
23 employer cannot continue to employ someone once that  
24 individual no longer has work authorization.

25 What happens is you interview someone and he

1 presents you with a document that has a finite period of  
2 work authorization, possibly he has -- he has applied for  
3 amnesty and he has the first card that is issued where you  
4 get a six-month period of work authorization.

5 An employer is not sure whether that six months  
6 is going to expire and not be renewed, in which case he  
7 will have lost money and valuable time in training this  
8 worker.

9 Employers are then very tempted, when they  
10 see individuals with limited grasps of employment  
11 authorization, not even to consider that person for  
12 employment. They are fearful in considering such people  
13 for employment because of the business losses that they  
14 are going to trigger in case that individual does not get  
15 an extended grant of employment authorization.

16 This is one particular area of the law that is  
17 very problematic for employers because it causes them to  
18 set up a docketing system within their personnel files  
19 where they are constantly having to monitor the expiration  
20 date of temporary grants of work authorization.

21 Because of the burden involved in doing that,  
22 some just think it is easier not to employ that type of  
23 person.

24 One example where employers did run into  
25 trouble with employing individuals who had limited

1 authorization had to do with the September 1 special rule.  
2 I think you have heard about that rule.

3           Individuals who qualified for amnesty were  
4 eligible for employment and they, in fact, attested that  
5 they had work authorization orally but that work  
6 authorization was just valid until September 1.

7           I received many calls months ago from employers  
8 saying, "Do I have to hire these people? What happens  
9 come September 1 if they have not yet filed and I will have  
10 invested this time in training them?"

11           Of course, my answer to them was, "They have  
12 employment authorization. Yes, you can't discriminate.  
13 You must hire them."

14           Well, today I am getting the phone calls from  
15 employers saying, "You know, we hired 50 such people and  
16 only half of them by September 1st had evidence of  
17 employment authorization. We have had to let the others  
18 go and we have now had to scramble around trying to  
19 reinforce our work force."

20           In effect, they have been burned once by this  
21 issue of work authorization that has an expiration date and  
22 in the future they are going to think twice when they  
23 start employing people who have limited grants of  
24 employment authorization.

25           Talking about that September 1 special rule,

1 I think that is the most inhumane, nonsensical provision  
2 ever adopted by the Immigration Service.

3 Everyone has until May 4th, 1988 to file  
4 your legalization application but, in effect, you have a  
5 different rule for individuals who had the misfortune of  
6 seeking employment in the United States after November 6.

7 Individuals have to expedite the processing  
8 of their application and they had to file by September 1.  
9 That rule never made any sense.

10 I argued for the longest time that there  
11 ought to be a change, modification, and none was  
12 forthcoming.

13 It did trigger a great many dismissals on the  
14 part of employers. I got lots of calls from employers and,  
15 of course, I had to advise them pursuant to the regulations.

16 Pursuant to the regulations you could not  
17 continue to employ someone after September 1 so I felt that  
18 in having to give that advice to recommend that employees  
19 who had not presented work authorizations be given a leave  
20 of absence, suspension or something until they could present  
21 proof of work authorization.

22 In many instances individuals just did not  
23 have sufficient documentation to be able to file their  
24 applications or they lacked the money for ~~filling~~ filing fees or  
25 to pay for organizations that were charging them minimal

1 amounts of money or attorneys if they had complicated  
2 cases.

3 In some instances people were unsure whether  
4 they even qualified for amnesty because of the many  
5 provisions in the bill for which we still do not have  
6 answers for, such as individuals who have left the country  
7 and re-entered with tourist visas.

8 At present the Immigration is saying that  
9 these individuals are not qualified so people who found  
10 themselves in that predicament naturally did not want to  
11 file their application until there was something  
12 definitive from the Immigration Service.

13 What happened, they found themselves without a  
14 job come September 1.

15 Another area which triggers a lot of  
16 discrimination on the part of employers is their need to  
17 examine documents of job applicants to determine if they  
18 reasonably appear to be genuine on their face.

19 The law provides that an employer only has a  
20 good faith defense against knowingly hiring unauthorized  
21 aliens if the documents he or she views reasonably appear  
22 to be genuine on their face.

23 It is a very subjective determination, and  
24 an employer has to make a determination of genuineness.

25 On the one hand you hear the Immigration

1 Service saying we don't expect employers to be -- to  
2 authenticate the validity of documents. That is what they  
3 say, one the one hand, but then, on the other hand, you  
4 have the very Statute itself which says that the documents  
5 must be reasonably genuine.

6 I can't tell you how many phone calls I have  
7 daily from employers who are reviewing different types of  
8 immigration documents that are never explained in the  
9 I-9 or the Employer Handbook. They have no idea whether  
10 this document is genuine or not.

11 Luckily they are in a position to afford the  
12 advice of legal counsel and they can call me and they can  
13 get my opinion.

14 They can't call the Immigration Service because  
15 the Immigration Service -- they just cannot get through to  
16 them to get these answers so I am able to advise them on  
17 the authenticity of certain types of documents.

18 For every call that I get where I set an  
19 employer straight on his ability to be able to hire someone,  
20 I can imagine there are hundreds of employers out there who  
21 just make judgment calls on their own without the advice  
22 of an attorney.

23 It really takes an immigration -- an attorney  
24 specializing in immigration to be able to give them this  
25 advice, not their corporate counsel, because we immigration

1 practitioners daily see the different types of documents  
2 which Immigration issues to people filing applications and  
3 they differ according to the region where you file the  
4 application and the type of application that you file.

5 Another area of the law which I take exception  
6 to is one of the -- is an area dealing with a grandfather  
7 clause. We all know that employer can continue to employ  
8 someone whom he hired before the effective date, before the  
9 November 7 date, except there are some exceptions to this  
10 general rule.

11 These exceptions were carved out by the  
12 Immigration Service in their regulations. They are not in  
13 the bill. They are not in the Statute.

14 It is my contention that the Immigration Service  
15 lacks statutory authority to cause these exceptions. One  
16 particular one that is the most problematic is the  
17 provision of having to deal with an individual whom you  
18 employ before November 6 but whom thereafter the  
19 Immigration Service fines and buses out of this country,  
20 gives them voluntary departure.

21 When that individual comes back to the United  
22 States, he has to be viewed by the employer as a new hire  
23 and an employer would be incurring a penalty for  
24 continuing the employment of that type of individual.

25 The net effect of this means that in certain



1 companies when you may have a large amount of individuals  
2 who entered the United States after '82 who are ineligible  
3 for amnesty, if the Immigration Service did one of its  
4 factory sweeps in a company of that type, they would  
5 literally wipe out the entire work force and the employer  
6 could not continue to employ any of those individuals.

7           The grandfather clause was not a loophole.  
8 Congress specifically thought about this provision very  
9 carefully.

10           They said that it was meant as something in  
11 favor of the employer, to gradually allow him to adjust to  
12 the new labor market conditions and to not penalize him for  
13 prior hiring practices.

14           Immigration, of its own accord, had decided to  
15 provide for this exception to the grandfather clause.

16           Everything I see that is starting to happen is  
17 in the area of INS enforcement of this new bill. We hear  
18 there hasn't been too much so far, though the little  
19 enforcement I have heard about I am very concerned about  
20 because it seems as if the Immigration agents are not  
21 following the strict provisions of the law in conducting  
22 their enforcement.

23           For example, I got one call from an employer  
24 who told me that an Immigration agent had called him to give  
25 him some education information and the employer said, "Well,

1 no, thank you. I have a lot of educational information  
2 regarding amnesty already."

3 The agent kept insisting that he wanted to  
4 come by and drop off this amnesty literature.

5 The employer kept saying, "No, thank you."

6 Finally the employer said, "Well, is there  
7 something else you would like from me?"

8 He said, "Well, yes. While I am at your  
9 business, I would like to review all your personnel files  
10 for everyone that you hired after November 6. I would  
11 like to talk to the last six people that you hired and I  
12 would like to conduct an on-site visit throughout your  
13 plant and interview your workers."

14 Now the only thing which the INS has the  
15 authority to obtain without a warrant is the I-9. Yet in  
16 this instance the agent was asking to review entire  
17 personnel files, was asking, in effect, to conduct a raid  
18 of the facility by walking through the plant and  
19 interviewing employees with the only purpose of determining  
20 their immigration status and arresting them if they were  
21 in the country illegally.

22 The enforcement that I have seen has been  
23 mixed with illegal and legal activity, combining a visit to  
24 review I-9 files, plus a walk through the premises to talk  
25 to employees without advising employers that they have the

1 right to do one but not the other, unless they get a search  
2 warrant or the employer's consent.

3 Now let me talk just a few minutes about the  
4 amnesty provisions because in addition to advising  
5 employers, our law firm does process a good number of  
6 legalization applications on behalf of employers who are  
7 concerned about their work force and they do want to help  
8 legalize people.

9 There is a lot of uncertainty about some of  
10 the provisions. I mentioned earlier the problem with  
11 individuals who have left the country and returned with a  
12 tourist visa and received entry documents called an  
13 I94.

14 Immigration has said basically that it is  
15 okay to have left the country and re-entered illegally  
16 crossing the border but if you try to re-enter with some  
17 dignity and enter in an inspected fashion, that is not okay  
18 and that penalizes you.

19 I have some specific examples of individuals  
20 where this really is going to be a great hardship for them  
21 if this disqualifies them from legalizing their status.

22 One is an instance of an 82-year-old Argentina  
23 woman who had lived here for almost ten years with her  
24 daughter and she wanted to go back home to Argentina to  
25 visit her sister who was dying.

1 Well, that woman could not re-enter the  
2 country and be smuggled through a coyote and with all the  
3 problems that one faces at the border.

4 She re-entered coming through LAX Airport  
5 with a tourist visa. That entry is now disqualifying her  
6 from legalizing her status.

7 Another very hardship case involved a woman  
8 who had been living here for about 12 years, has U.S. born  
9 children here, and she needed some surgery so she went to  
10 Mexico to get the surgery, specifically because she could  
11 afford the medical costs over there and she did not want to  
12 become a public charge here and use the County hospitals  
13 for this type of operation.

14 She left the country, got that surgery and  
15 returned with a tourist visa. That now is disqualifying her,  
16 also, from legalizing her status.

17 Another issue related to exits from the country  
18 has to do with the amount of time that the Immigration  
19 Service allows one to have left the country since January 1,  
20 1982. The regulation states that you could not have left  
21 the country for more than 45 days unless there are exigent  
22 reasons involved.

23 This means that an individual who lived here,  
24 let's say, for ten years decided he wanted to go home, had  
25 accumulated all of his vacation time and wanted to make it

1 a worthwhile trip and be gone for 60 days and just have good  
2 time, go to his sister's party or whatever.

3 That individual, if he admits the true reason  
4 for his departure from the country, that it was just for  
5 pleasure, he is disqualified.

6 Someone at that wedding party had to be  
7 gravely ill in order to qualify him for amnesty so that  
8 there is some exigent reason involved in that absence of  
9 more than 45 days.

10 That is another area which I think is really  
11 nonsensical and is going to be a big hardship for a lot of  
12 Hispanics.

13 That is just a few of the observations that  
14 I have made in practicing immigration law, representing  
15 employers and representing legalization applicants.

16 I would be happy to answer any of your  
17 questions.

18 CHAIRPERSON HERNANDEZ: Thank you, Ms. Gonzalez.

19 The seminars that you have participated in,  
20 are they seminars that you yourself have put together or  
21 are they seminars that were conducted in conjunction with  
22 the INS?

23 MS. GONZALEZ: Well, they are seminars that are given  
24 by trade associations, employer associations.

25 I am asked to be the guest speaker. Oftentimes

1 they also invite a representative from the Immigration  
2 Service and the two of us talk about the law.

3 CHAIRPERSON HERNANDEZ: So it doesn't necessarily have  
4 anything to do with the INS outreach into the corporate  
5 community or the business community?

6 MS. GONZALEZ: Well, they take credit, also, because  
7 they do appear at many of these seminars.

8 CHAIRPERSON HERNANDEZ: Now the September 1st  
9 deadline, I guess in my own mind I need a little  
10 clarification on this.

11 Is this the rule that was implemented by the  
12 INS or is it a part of the law?

13 MS. GONZALEZ: It is a rule implemented by the  
14 Immigration Service as a result of some litigation.  
15 They passed a special rule giving employment authorization  
16 to individuals, even before they filed their amnesty  
17 applications, but only giving employment authorization until  
18 September 1st.

19 CHAIRPERSON HERNANDEZ: Speaking to a representative  
20 from the INS this morning, he had indicated somewhat that  
21 the position of the INS was to help rescue employees from  
22 employer abuse.

23 Would you like to comment on that?

24 He was concerned that they were being taken  
25 advantage of and that through the amnesty they were

1 being afforded the opportunity to legalize so that they  
2 no longer would have to tolerate abuse by employers.

3 MS. GONZALEZ: That may be their perspective. I  
4 really haven't seen evidence of that.

5 That hasn't been the attitude of the employers  
6 that I work with. They are eager to help their employees  
7 legalize their status.

8 CHAIRPERSON HERNANDEZ: John, any questions?

9 MR. DULLES: Just very quickly, number one, I want to  
10 commend you for your statement and I agree with you that  
11 the September 1st date is senseless.

12 It is inconsistent and it seems to be contrary  
13 to the content of the amnesty provisions of the law.

14 The other thing that really concerns me is  
15 that you have just, while sitting here for 20 or 30 minutes,  
16 indicated, at least what you started by talking about,  
17 at least 20 cases of discrimination and then mentioned  
18 several other categories.

19 Yet we heard from the District Director from  
20 EEOC that they have received ten cases that might be, not  
21 are but that might be, related to discrimination based on  
22 the new law.

23 Yet that is the only employment discrimination  
24 enforcement agency in Southern California that is handling  
25 that and the office of Special Counsel for the Department of

1 Justice has not even announced or publicized its existence.

2 There is a gap between the reality of  
3 discrimination and the resources and the relief that is  
4 being afforded.

5 MS. GONZALEZ: Right.

6 MR. DULLES: I guess that is just a statement of  
7 some frustration and some concern.

8 Would you share that and what needs to be done  
9 to get the word out so that people's individual civil  
10 rights could be protected?

11 MS. GONZALEZ: I think the communication to the  
12 Hispanic community is very important because many  
13 individuals have a very fatalistic, passive attitude about  
14 being subjected to discrimination. They take it without  
15 complaining.

16 The woman that I spoke to that can document  
17 these 20 cases of discrimination happened to ask her clients  
18 "What is happening to you? Why are you coming to me?  
19 What is it that you need?"

20 These were individuals who were being denied  
21 employment because the employer was insisting on preferred  
22 types of documents and they were going to her as an  
23 immigration attorney to help them get the proof that the  
24 employer was asking and without questioning whether the  
25 employer had the right to ask for it.



1 I think oftentimes the person is not aware of  
2 their rights. There has been very little communication to  
3 the public at large regarding the fact that employers  
4 cannot insist on preferred documents.

5 I tell employers, "Look, you are looking at a  
6 lawsuit but it is probably not going to be from the  
7 Hispanic who is unaware of his rights. It is probably  
8 going to be from the Anglo applicant who doesn't have his  
9 birth certificate but has a driver's license and has the  
10 Social Security card and he is being told he is being denied  
11 employment."

12 Now what will probably happen is the employer  
13 in that instance will back down and will accept the  
14 driver's license and Social Security card but will not back  
15 down with the Hispanic.

16 The employer will continue to insist on the  
17 preferred document because he is making a subjective  
18 determination that he is brown, and, therefore, has a  
19 problem.

20 MR. DULLES: There may be thousands or even millions  
21 of silent victims.

22 MS. GONZALEZ: Sure.

23 MR. DULLES: That will fall through the cracks once  
24 again.

25 CHAIRPERSON HERNANDEZ: Thank you very much. You have

1 certainly given us a lot of good information.

2 We appreciate your taking the time.

3 MS. GONZALEZ: Thank you for the invitation.

4 CHAIRPERSON HERNANDEZ: We are now going to take a  
5 ten-minute break.

6 (Whereupon, a recess was taken.)

7 CHAIRPERSON HERNANDEZ: Our next speaker is the  
8 Honorable George Indelicato.

9 Mr. Indelicato is a retired immigration jurist  
10 who is now assisting Catholic Charities of Los Angeles  
11 in handling cases of people seeking legalization through  
12 Los Angeles County.

13 Mr. Indelicato, welcome.

14 MR. INDELICATO: Thank you very much. I appreciate  
15 your invitation.

16 The last time I was in this little complex,  
17 let's see, what do you call it?

18 CHAIRPERSON HERNANDEZ: Centro Maravilla.

19 MR. INDELICATO: Centro Maravilla, I addressed a group  
20 of disabled people. When I accepted the invitation, they  
21 told me there would be about 20 people here. I came here  
22 and the place was loaded with disabled people in their  
23 wheelchairs.

24 I am telling you it was heartrending, and I  
25 will tell you why it was heartrending because when the

1 Congress passed this law, they gave little or no  
2 consideration to disabled people who became disabled here.

3 They have made an awful lot of effort and  
4 they are making an awful lot of effort to rehabilitate  
5 themselves.

6 They have to get some help from the City,  
7 County or State and they have all this problem that is  
8 written into this amnesty law, legalization law, as I  
9 rather like to call it.

10 As a result, these people we are talking about,  
11 whether they should even apply because, number one, if  
12 you read the law itself, it really doesn't say anything  
13 about waivers.

14 The only thing I can say, and give a pat on the  
15 back maybe to the Immigration Service, is despite the fact  
16 that it doesn't call for any kind of a waiver on this  
17 public charge for humanitarian purposes, aof family unity  
18 and public interest, they have a section in the Statute  
19 that you can file for a waiver.

20 Now I don't know how they are going to act on  
21 them. I mean they are very magnanimous, like giving  
22 somebody 30 days who has other family members that are  
23 eligible for amnesty and they are not.

24 I didn't think myself, and I have a lot of  
25 respect for Mr. Gustafson who I have worked with

1 Immigration Service as a judge and I think he is a pretty  
2 fair guy.

3           You can't completely blame him but you got  
4 to blame INS and Mr. Nelson for taking so much time on  
5 this question because every time our person goes down to  
6 San Pedro, at least once a week, they keep talking about  
7 family unity and they keep talking about that we will get  
8 notice from the central office and it never comes

9           I am going to try to be as systematic as I  
10 can. I followed a very nice person in Josie Gonzalez.  
11 She appeared before me a number of times.

12           She and I talked to a group of car wash people  
13 employers, some time ago, and I was very impressed with  
14 her knowledge of this law concerning employer sanctions.

15           I beg to say that I think she is more  
16 qualified than I to talk on the subject but I have read  
17 a lot of this.

18           I have my feelings about this law and its  
19 constitutionality for that matter but this is something  
20 that time will tell. I am sure there is going to be  
21 reports to the Congress.

22           They may very well decide that the  
23 implementation of this law has not been effective or will  
24 not be effective and they may change it or even take it  
25 out -- take it out of existence.

1 I don't know what is going to happen but  
2 whether that happens or not will depend on the input that  
3 comes from the general public because if the input is from  
4 the Immigration Service, then forget it because they will  
5 have a glowing report in there and it will show how  
6 wonderful everything has been going.

7 Now just to mention a few things that were  
8 mentioned earlier, and one was the grandfather clause for  
9 current employees. Now that section of the law says that  
10 this particular section concerning employer's sanctions  
11 shall not apply to continuing employment of an alien who  
12 was hired before the date of the enactment and another  
13 section says that it should not apply to the hiring or  
14 recruiting or referring of an individual for employment  
15 which has occurred before the date of the enactment.

16 Now what you find in the Handbook of  
17 Instructions to the employer?

18 The Handbook for the instructions at the very  
19 beginning says you do not need to complete form I-9 for  
20 persons hired before November 7, 1986.

21 However, there is a question later in the  
22 instructions and it says in answer to a question they ask  
23 concerning this, do you need to fire someone who was in  
24 your employ before November 7 and they said, "No, you  
25 don't have to."

1                   No, just a plain no.

2                   They says, "However, if you choose to complete  
3 I-9's for these employees, you should do so for all of your  
4 current employees hired before November 7, 1987."

5                   To me maybe it is my judicial training. That  
6 is an implication that they have indicated there is an  
7 implication to them that it is perfectly proper to fill the  
8 I-9's.

9                   I think that is unfair. I think it is a  
10 gratuitous statement and should never be in these  
11 instructions.

12                   It is contrary to the Congressional intent  
13 of the grandfathering of these employees. The answer should  
14 have been the Congressional intent is to continue the  
15 employment of those employees without inquiry as to their  
16 legal status.

17                   You should not verify status or note I-9's  
18 for current employees hired before November 7, 1987, but  
19 they didn't do that.

20                   They left that hint that you can go ahead and  
21 do it and you couple that with the fact that they didn't  
22 give any instruction until some time after June or July,  
23 long after the effective date.

24                   Now these employers are not all wrong. They  
25 just haven't had the instruction and they are thinking in

1 terms of how they are going to protect themselves.

2 I am not reading completely from my text but  
3 I was looking at about harboring of aliens. I am not  
4 sure personally -- I am not sure that these people that  
5 make this decision are completely wrong because it is a very  
6 loose Statute about harboring aliens and suppose they do  
7 know that the person is illegal and so forth.

8 How do we know that some time in the future  
9 someone is not going to issue a challenge to that and say  
10 they are harboring aliens?

11 I say that advisably because I have seen a  
12 lot of things happening in my day because in my case not  
13 only have I been an immigration judge in the court but I  
14 worked for the Immigration Service as their appellate  
15 trial attorney.

16 I also worked at the Board of Immigration  
17 Appeals as a staff attorney so I have had 18 years and I  
18 have had a number of experiences with the Immigration  
19 Services.

20 Despite what they may have said this morning  
21 and how generous they all are, they seem to have failed to  
22 understand that it was the intention of Congress to be  
23 generous and they weren't generous at all from the very  
24 outset in these particular proceedings.

25 They weren't even going to advertise their

1 Federal regulations until a court in Sacramento told them  
2 that they had to do it and then because -- what they would  
3 have done is what they did at the end is to give you these  
4 interim regulations which they call final.

5 I know that a lot of people put in comments  
6 but they talk about trying to make it easy for people.

7 How easy did they make it when the very first  
8 thing they did was say that you had to have the original  
9 documents and you had to provide a copy and that took them  
10 a long time.

11 I am not sure that they have erased it out  
12 of it except that in some areas, like Los Angeles, they  
13 immediately changed it and said to send the copies in.  
14 You could show the originals at the time.

15 Now how easy are they making it for these  
16 aliens to file?

17 They should be able to file without a lawyer,  
18 without a counselor, without anybody. They should be  
19 able to file the application under the penalties of perjury  
20 and come in and produce the documents.

21 To have a copy, it has to be certified. They  
22 never changed the regulations as to certification.

23 The only ones that can certify a document are  
24 attorneys. I am an attorney and all that but if you look  
25 at the regulations, the only ones that can certify a



1 document is an attorney, not a notary public but an attorney,  
2 and it hasn't been changed.

3 I know that they have relaxed it so that now  
4 a lot of people can make a statement including a number of  
5 documents but for a long period of time I did it myself in  
6 my law office. I punched and punched and punched,  
7 individual, individual documentation.

8 This is the group that is going to make it so  
9 easy for everyone. It took them four or five months to  
10 come to the conclusion that perhaps they ought to make it  
11 easy for them.

12 Now I want to skip to the area that I think is  
13 most important that I think I am more knowledgeable on and  
14 it has to do with some of the regulations on amnesty.

15 Now they say that if a person is a  
16 non-immigrant and his status expires by passage of time  
17 before November 1st, 1982, the party is eligible. Well,  
18 that is a simple matter but they say anyone else, the  
19 unlawful status must be known to the government as of  
20 January 1st, 1982.

21 They interpreted that to mean that it is the  
22 INS as the government, although if you go right through  
23 the entire Statute itself, when they want to name the  
24 Attorney General, they mention the Attorney General or they  
25 mention other factors, INS.

1                   If they say the government, I am sure they  
2 must have meant the government. This is the Congress in  
3 their legislation.

4                   Now why should they be so loose an organization  
5 that wasn't even enforcing the immigration laws?

6                   I am not going to blame them completely. I  
7 think there is enough blame to go around to the Congress  
8 and everyone else that they didn't enforce the immigration  
9 laws.

10                  People came to this country, and I have heard  
11 that there was 8 million to 12 million here and those 8 to  
12 12 million that were here couldn't possibly be here not in  
13 violation of the immigration laws.

14                  Everyone that came here is a non-immigrant  
15 visitor who remained? Anyone that came in is a EWI?

16                  How could they have survived if they didn't  
17 have employment?

18                  Now there seems to be some obligation on the  
19 part of this Immigration Service. I know some say that  
20 they shouldn't -- they "should have known" instead of  
21 "know."

22                  I say they should have known whether these  
23 certain people were in violation and if they weren't  
24 enforcing their laws and their own regulations, they should  
25 not hold it against the person that is applying.

1                   Now I can give you some examples that would  
2 immediately make it known to somebody in the government  
3 that there are the status like filing an income tax return.  
4 That clearly shows that the non-immigrant student or  
5 whatever has not complied with the status by working or  
6 EWI or whatever.

7                   Then there were schools. The schools are  
8 required by regulation and other instructions to notify  
9 the Immigration Service when a student was not pursuing  
10 his course of study.

11                   Now that wasn't enforced too well. If you go  
12 to one of these colleges and you ask them were you sent a  
13 letter, you know, that you are out of status, they won't  
14 say anything.

15                   I got a feeling that a lot of them never  
16 sent a notice to the INS but whose fault is that?

17                   If there is nothing in the files of the INS  
18 or anywhere else, it is because the schools who were under  
19 the obligation to do this did not and the Immigration  
20 Service never enforced that particular rule and said, "Look,  
21 if you don't follow our procedures, you are no longer  
22 going to be taking students that come from other countries  
23 because that is part of the thing."

24                   They keep insisting that they shouldn't be  
25 generous in that interpretation of that particular section.

1 They have gone a little part of the way but they haven't  
2 gone enough.

3 Now they had another section in there that  
4 has to do with custody. Anyone in the custody of the  
5 Service or apprehended after November 6 and prior to  
6 June 1st, that is, SAWS and applying to legislation,  
7 provides that any alien apprehended by the Service or  
8 subject to an Order to Show Cause issued on or after  
9 November 6 and prior to May 5th, 1987, and ending June 3rd,  
10 1987, they indicated that these people are not eligible  
11 unless they file within that period of time.

12 I challenge them. What statutory language and  
13 legislative history is the basis for this position?

14 This is something they just dug out of the air.  
15 That is not the case. It is not in the law because that  
16 is what they have done.

17 Now the broad thing that is bothering me,  
18 in enacting IRCA, the Congress could not have intended to  
19 change the meaning ascribed to certain statutory language  
20 used in the Immigration Law over the years and interpreted  
21 by the Board of Immigration Appeals and the Courts.

22 The meaning of the terminology used in IRCA  
23 should to a great extent be the meaning given by the  
24 Board of Immigration Appeals and Courts to this language  
25 in the great body of Immigration law and other Federal laws,

1 except where in IRCA exception is clearly intended by the  
2 language of the Statute and the legislative history of  
3 IRCA.

4           Now such language as "brief, casual and  
5 innocent," "misdemeanor," "felony," "residing continuously,"  
6 "physical presence," "public charge," "family unity," and  
7 many other terms and concepts should not be interpreted  
8 differently by the IRCA regulations except where specifically  
9 indicated in the new law.

10           They haven't done that. They have treated it  
11 like this is a new body of law that when the Immigration  
12 Service -- when the Congress passed this law, they didn't  
13 know about the Immigration law and all these court decisions  
14 on all of these terms and they are giving a lot of these  
15 terms their own what they feel the meaning should be.

16           Now "brief, casual and innocent" has never  
17 been interpreted to cover only emergency or humanitarian  
18 purposes.

19           "Brief and casual" should never be limited to  
20 trips due to serious family obligations. The IRCA  
21 regulations indicates these terms should refer to trips  
22 made because of urgency but they should not refer -- these  
23 trips should be brief and casual regardless of the  
24 purpose, as long as the alien intended to maintain residence  
25 in the United States.

1 "Misdemeanor" and "felony" and other  
2 considerations, these terms haven't changed. They have  
3 been interpreted by the Board of Immigration Appeals, by  
4 the Courts.

5 Expungements, a vacation of convictions for  
6 crimes, exemptions for juvenile offenses and other similar  
7 concepts should not have been left out of the IRCA  
8 regulations.

9 It appears that as time passes the INS will have  
10 to address these concepts. They have already addressed one  
11 version of it in its expungements but they keep saying  
12 they are going to do it.

13 Now these regulations should have been in  
14 place at the very, very beginning.

15 "Residing continuously" has always exempted  
16 absences from the United States where there was clear  
17 evidence of intention to maintain residence in the United  
18 States.

19 Some examples are the interpretation the  
20 Courts have given under the Registry provisions and  
21 Suspension of Deportation provisions.

22 There is a statutory support -- where is it --  
23 these are just inquiries that I am going to ask you. You  
24 just think about it.

25 I know Josie has talked about this one.

1 Where is the statutory support for the regulation precluding  
2 an alien from eligibility when re-entry with a fraudulently  
3 obtained non-immigrant visa after January 1, 1982?

4 There is nothing in the Statute that says  
5 that.

6 Where is the statutory support for precluding  
7 eligibility to an alien who leaves the United States after  
8 May 1st, 1987, with the intention to return and resume his  
9 unlawful residence because he did not get advance parole  
10 from the INS and then for not more than 30 days for  
11 legitimate urgency or humanitarian purposes?

12 Why did they pick that date and say after that  
13 date if you are out, you got to have an urgency?

14 I mean I don't quite understand where they get  
15 this particular basis for the support.

16 There is the question for the absence of over  
17 45 days and they say for due to emergent reasons and could  
18 not be accomplished within the time period.

19 Where do they get that idea? How did any  
20 individual that was living here unlawfully in the United  
21 States ever get the idea that some day some agency is going  
22 to say, "Look, if you are out of the United States for  
23 46 days and they pass a law, you are not going to be  
24 considered eligible for temporary residence.

25 They did not want to use the very broad

1 case-by-case analysis and handle it on a case-by-case basis  
2 to see if there was an abandonment of the residence.

3 Did they leave a job here which they intended  
4 to return? Do they have children here?

5 All those are very important.

6 They want to be arbitrary and set a thing of  
7 46 days you are out. You went on a vacation and you are  
8 having trouble trying to say why you remained an another  
9 extra week.

10 Believe me, have you ever tried to file one  
11 of those waivers or statements?

12 You have a hell of a time trying to prove  
13 an urgent reason because you decided to stay another week  
14 at your father or mother's whom you didn't see for three or  
15 four years. It is crazy.

16 Now the big question that Catholic Charities  
17 is interested in and that is the prevention of separation  
18 of the family and fostering family unity.

19 Now that is of grave concern to the Catholic  
20 Church.

21 Archbishop Mahony has addressed this matter  
22 with the INS. It arises when some members of a family are  
23 eligible for SAW legalization and some are not.

24 However, it is understood right from the  
25 beginning that IRCA in a Statute doesn't grant temporary



1 status to everybody, even if they are in a family unit.

2           However, there is enough reference in the  
3 Statute about family unity. They mention it quite  
4 frequently in the Statute and even the Immigration Service  
5 has mentioned it in its regulations.

6           Also, over many years there have been  
7 regulations relating to or granting voluntary departure  
8 for people in increments on a case-by-case basis.

9           Now it is my contention that the regulations  
10 in Immigration Service have recognized this concept for  
11 many years. The Statute recognizes family unity.

12           It would not be improper on the part of the  
13 Immigration Service in this legalization Statute to put a  
14 regulation in there addressing this issue and granting the  
15 referral authorization and work authorization to ineligible  
16 family members as long as the status is available to the  
17 other family members.

18           Now this would provide a fair resolution where  
19 everyone would be treated uniformly and equally without  
20 discrimination.

21           To let this be handled on a case-to-case basis  
22 is for to allow a District Director to grant it in one case  
23 and deny it in another and, you know, and I know, the  
24 District Director does not handle every case that comes  
25 before him.

1                   One particular fellow will deny it in one case  
2 and another will grant it in another and there is another  
3 factor, too.

4                   Some will say that we have a fine District  
5 Director in this particular area and he has said he will  
6 take care of it.

7                   Next week Washington will call up somebody else  
8 and move him somewhere else and then you will have a  
9 District Director that says, well, these aliens, they are  
10 not eligible. I don't know why we shouldn't enforce the  
11 deportation provisions so we think it is wrong.

12                   We think it is interfering with the family  
13 unity and something ought to be done.

14                   INS has had even information sent to them  
15 about actual cases showing how the families have been broken  
16 up and no reaction at all has come back.

17                   Now as far as I am concerned, there are many  
18 other misconceptions in IRCA that should actually be  
19 corrected. I am not going to address them.

20                   It would take an awful lot of time and I will  
21 tell you, I could go section by section and compare them  
22 with the regulations and I could find plenty to talk about  
23 for the rest of the afternoon.

24                   If you have any questions that you think I  
25 can answer for you, I would be happy to do so.

1           CHAIRPERSON HERNANDEZ: Thank you very much,  
2 Mr. Indelicato, especially for sharing your experience  
3 with us. You certainly obviously are a highly regarded  
4 expert in this area.

5           I think for purposes of the Committee, if you  
6 could more or less give us an insight as to what the  
7 procedure is for legalization, the types of requirements  
8 that undocumented people are asked to provide for  
9 consideration of legalization.

10          MR. INDELICATO: Well, they are pretty strict in their  
11 consideration. In fact, I was down to Irvine when they  
12 called the QDE's there not too many months ago and I was  
13 surprised to see that the legalization offices all had a  
14 different concept as to what documentation was necessary.

15          Some of them actually said that if you supply  
16 a prepared tax return that wasn't certified, then it is not  
17 worth anything.

18          They completely ignored the application that you  
19 signed under the penalties of perjury. They completely  
20 ignored the fact that that should be given some weight  
21 and its consistency with the rest of the documents that you  
22 present should be given some weight.

23          If a person is able to indicate all the places  
24 he has worked at, all the places he has been employed, he  
25 comes in with a landlord letter that is saying he has been

1 living in that place all of the time since January 1st,  
2 '82, he gives two letters, why should he at that particular  
3 point have to come in with two or three or four documents  
4 for each one of those years?

5 He has proved his case. He has gotten things  
6 under oath by employers that they can go and see the  
7 records, landlords, all that stuff but they want additional  
8 documentation.

9 Now of recent vintage they have told us,  
10 particularly in work authorization, to come in with the  
11 diminimus and just tell them to come in without, you know.  
12 Just say to bring it in at the time of the interview and  
13 we have been doing it.

14 I pray at night. I pray at night that when  
15 the boom is lowered that now that they are talking about  
16 two or three percent or one percent that are denied, that  
17 it doesn't turn out that it is 50 percent and that everybody  
18 will then have to try to redocument and go to an awful lot  
19 of trouble on it.

20 Really it bothers me because they haven't set  
21 up a real system telling you exactly what documents they  
22 will accept as a minimum, only in a general way, so you  
23 really can't answer that.

24 I will give you that answer. You call me back  
25 about six months from now and I will tell you. I will tell

1 you what their action is.

2 At this moment may be that tells you that they  
3 are generous, one doesn't really know because there hasn't  
4 been any decisions made from the region at all, one or  
5 two.

6 Right now they can get on television and say,  
7 "We have been generous."

8 There is a fellow that was out there and, boy,  
9 they took his picture and he said, "Gee, I am so happy.  
10 I get my work authorization," but I hope that four months  
11 from now they don't find something wrong and then deny it.

12 That is about all I can tell you.

13 They have a list of documents in the  
14 regulations that they can present but they haven't given  
15 us really too much of a standard to follow.

16 CHAIRPERSON HERNANDEZ: There has been indications that  
17 there is significant backlog at Catholic Charities in trying  
18 to process.

19 What are you doing to try to alleviate that?

20 MR. INDELICATO: Let me tell you something. You know,  
21 I don't like to take the blame no more than the Immigration  
22 Service likes to take the blame.

23 The Immigration Service in all their  
24 discussions, and you probably heard them here, they have  
25 never taken the blame about being inconsiderate and not

1 coming up with the plan early in making the necessary  
2 changes and waiting until the eleventh hour of May 1st  
3 before you got some explanations.

4 In fact, I was before a group in which I  
5 misinterpreted because I was using the other regulations  
6 because they came out May 1st and I didn't get a copy of  
7 the regulations until May 5th so they have a lot to be  
8 blamed for.

9 This business of doing things piecemeal  
10 keep changing as they go along, which they are going to do,  
11 it is a terrible indictment of the whole system.

12 What about all these changes? I asked them  
13 this: What about these changes that they have made? How  
14 many are not going to know about these changes come May 4th,  
15 '88 when some of these problems are resolved by litigation  
16 or otherwise and the time has run out?

17 Have they made a provision in the regulations  
18 to permit them to file?

19 The answer is no, they have not, so when they  
20 start changing the interpretation. From one day to the other  
21 and saying that you need this and then you don't need this,  
22 they are hurting the entire group that is applying because  
23 they are all entitled to know, not QDE, not Josie Gonzalez,  
24 but all the people out there that are looking for it to  
25 apply for legalization should know what the changes are.

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What is it?

Just a question of going down there and having them tell me. You know, we just have made a change. We have now recognized expungements.

Some people probably are not coming in because of that but we did have a problem because of that. We had a problem because we had to train a lot of people, people that did not have legal background and they are coming along now.

We are moving them along and so forth. I am sorry to say that an awful lot of people probably were discouraged in the process.

We have had a lot of no shows. I am not sure that we have 316,000 prospective applicants now because of what has happened but we are making all kinds of moves to help them out.

In fact, right now we are into making plans to have special sessions to help them to document their case before they even go to the site so they know what documents they need, how they should set them up, what items -- make sure they fill out that blue form we give them which they weren't filling out.

They would come down and it is not their fault. They are not that sophisticated. They come down and they don't have the blue form with the information filled out.

1 They didn't have their documentation arranged.

2 Those are the things that have delayed it  
3 and it just -- I am incensed when they make it a national  
4 situation where they say the QDE's are responsible.

5 "They promised us a certain number and they  
6 didn't produce."

7 I think maybe they ought to share some of the  
8 blame with the QDE's and everybody else.

9 CHAIRPERSON HERNANDEZ: John, do you have any  
10 questions?

11 MR. DULLES: No, thank you.

12 CHAIRPERSON HERNANDEZ: Thank you. It has been  
13 extremely informative and certainly we will continue to  
14 follow the process through and perhaps at some point even  
15 ask you to come back with us.

16 MR. INDELICATO: Well, at some point in time if your  
17 Commission, your Advisory Committee, wishes to call upon  
18 me and I can provide you with any information to be helpful,  
19 I will be glad to do so.

20 CHAIRPERSON HERNANDEZ: Our next speaker is  
21 Mr. Jose Pacheco.

22 Mr. Pacheco is the Regional Vice President  
23 for the League of United Latin American Citizens and will  
24 discuss the position recently taken by this national  
25 organization related to the new Immigration Reform Act.



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Welcome, Mr. Pacheco.

MR. PACHECO: Thank you, Madam. Good evening.

I am going to sound repetitious of what the former speakers but I am going to try to do the best job I can for past experience.

I gave you some statements that we put together.

As you know, my name is Jose Pacheco and I am the National Vice-President for the Far-West of the League of the United Latin American Citizens. The Far-West composes geographically the states of Arizona, Nevada, California, Idaho, Hawaii and the trust territories.

The Far-West region of LULAC is very strongly and heavily represented by a population that is very severely impacted by the Immigration Reform and Control Act of 1986.

I make reference to the large population in respect to Hispanics, Asians, Middle Easterners and so many others that have found the Southwest so attractive.

The comment that I am going to make is something that happened to us in Bellflower. We have LULAC counsel that we are helping the immigrants and the aliens, illegal aliens, to try to get the documentation necessary so they can present to the INS.

It happened that these people came to us -- about seven illegal aliens asking for to go. They opened

1 an office in Bellflower; okay?

2 They opened an INS office in Bellflower so  
3 we are close to the INS office.

4 So these people came to the Counsel and  
5 asked us to go over there and asked for those  
6 applications.

7 I took five people with me and I went to the  
8 office. There were two people right in the front desk and  
9 I asked them to please give us some applications.

10 They asked me, "How many you need?"

11 I asked the people that I took with me how  
12 many did they need, you know. They need one application  
13 for a child and for each person, one application, so this  
14 person told me -- he says, "I need seven. My wife, myself  
15 and five children."

16 I asked the lady, "Will you give me seven for  
17 this person?"

18 She says, "No, I can only give you one."

19 I said, "One? What do you mean one?"

20 "Yes, only one application per person."

21 I said, "This man has a wife and five  
22 children so he needs seven applications total."

23 She gives me a big argument. I didn't want to  
24 argue with the person.

25 I called the supervisor. The supervisor

1 came over and told me -- he says, "Yes."

2 He told the lady, "You have to give the  
3 applications that they need because each person has to  
4 fill one application."

5 See, this is the problems that we encounter  
6 every day.

7 A great number of LULAC constituents are  
8 small and minority business headed by women that utilize  
9 this population as majority of work force.

10 The INS must standardize procedures and apply  
11 to the rules equally throughout his offices and his agency.

12 This happened to us every time that we take  
13 some people to take the papers back to the agents, each  
14 agent definitely asked for different papers so not all  
15 the agents are -- they are not uniform is what I am trying  
16 to say.

17 Okay. The INS must provide adequate training  
18 to its Federal agents, even to the degree of delaying the  
19 implementation of the Act.

20 The lack of standard procedures erase any  
21 hope for the Immigration Reform and Control Act of 1986.

22 A deficiency of the Immigration Reform and  
23 Control Act of 1986, IRCA, is that it did not recognize  
24 the tremendous confusion that it is creating in the work  
25 force and their communities. Employers are still not

1 familiar with the Immigration Reform and Control Act of  
2 1986, IRCA, and are dismissing people from their jobs  
3 because they don't want to be in violation of the law,  
4 not recognizing that by not understanding this law and  
5 dismissing people, not only do they create a tremendous  
6 hardship on those that are dismissed but, in fact, they  
7 are in violation of the law because they are indiscriminately  
8 depriving human beings of the right to a fair and decent  
9 way of life.

10 We found that the INS<sup>e</sup> office has been mailing  
11 interviews to the wrong addresses. There is three people,  
12 three families in Bellflower, that we have an INS office  
13 in Bellflower. They send the cards to be interviewed and  
14 they were mailed at the wrong address.

15 It happened that a friend of these people  
16 got the card so they took them back there.

17 Now we have an office in Bellflower but these  
18 people, they live in Bellflower, they were supposed to take  
19 those cards to L.A. Immigration Office, the INS office in  
20 L.A.

21 In other words, what we are saying there is  
22 people in Bellflower going to the L.A. office. There are  
23 people in L.A. going to the Bellflower office so there  
24 is not a uniform system.

25 They are not working in a system. I don't

1 know what the problem is.

2           Okay. People are sending -- there is people  
3 in Huntington Park that are closer to L.A. Nevertheless,  
4 they receive a notice to go to the Buena Park INS office.  
5 Instead of going to L.A., they are going to Buena Park  
6 office.

7           Then there is another problem that we have.  
8 The amnesty program started in May, 1987 and continued to  
9 May, 1988.

10           If this is true, why would sanctions be given  
11 prior to the end of the program?

12           Some people are having problems in locating  
13 documents. Therefore, they could not apply for the  
14 September deadline date to obtain a work permit or work  
15 authorization card.

16           Some of the people, some of the employers,  
17 ask this kind of question and we don't have any answer, you  
18 know. If you give the people to May '88, why we give  
19 the employers just to September?

20           They are going to start sanctions for this  
21 employer so we don't understand that implementation of  
22 this program.

23           Like the Judge say, we don't know what the  
24 percentage will actually qualify because of the bulk of  
25 the problem will arise at the end of the six-month period

1 when the person is approved or denied his or her temporary  
2 residence card.

3           This unfair and unjust law has created a  
4 new class of people in this country. This is the displaced  
5 illegal alien worker who now must find a way to improve  
6 his way of life and his family and return to the country  
7 of origin.

8           We have a lot of confusion in the community  
9 because of the separation of the families. Some families  
10 feel that because the wife came later and the children  
11 came later, they cannot qualify so, therefore, they have  
12 to take these children.

13           They have been here two, three years. They  
14 have to take these children out of the school and take all  
15 the family back to Mexico where they come from.

16           You know, in most cases the children of  
17 these individuals have never known any other way of life  
18 or country other than where they currently reside here in  
19 the United States.

20           The forced separation of these families is  
21 cruel and unjust. Common decency would mandate that we  
22 do all in our power to provide the assistance necessary  
23 in re-establishing these families.

24           We should be ashamed for allowing such a  
25 vicious law to get on the books with so little thought to

1 the human tragedy.

2 That law should be changed now.

3 This is some other comments that I have for  
4 you. If you have any questions, we have been involved in  
5 this for the past six months in the communities of Bell,  
6 Huntington Park, Hawaiian Gardens and Bellflower.

7 We have some other counsels of LULAC doing  
8 some volunteer work in helping these people. We have some  
9 cases where some of these illegal aliens they pay a  
10 thousand dollars, even fifteen hundred dollars just to get  
11 those papers filled with an attorney.

12 We are trying to get this information that we  
13 have some services available at no cost to these people but  
14 the INS is not recognizing this problem and every time we  
15 take somebody to the INS office to get papers through,  
16 they always change different things.

17 In other words, you go through an agency today  
18 and then you go tomorrow to another one and it is completely  
19 different. It is not uniform.

20 They don't have any standard procedures to  
21 follow up and how did you train people in two weeks?

22 The office in Bellflower opened in two weeks.  
23 They had trained for two weeks new people on these offices.  
24 They train them for two weeks and they are already set to  
25 do business.

1 I don't see how you can really do a good job  
2 on this kind of a training, period.

3 Do you have any questions?

4 CHAIRPERSON HERNANDEZ: Yes, I do, Mr. Pacheco.  
5 Thank you very much.

6 How many of these employees of the Immigration  
7 and Naturalization Service in this Bellflower office are  
8 bilingual?

9 MR. PACHECO: I think there is only two.

10 CHAIRPERSON HERNANDEZ: Two?

11 MR. PACHECO: Yes.

12 CHAIRPERSON HERNANDEZ: Out of a staff of approximately  
13 how many?

14 MR. PACHECO: Staff of about 22 people.

15 CHAIRPERSON HERNANDEZ: Two? Have you ever asked  
16 why?

17 MR. PACHECO: Yes. They said they don't have any --  
18 they advertise in the papers, in the local papers, but I  
19 never saw that advertising.

20 They told me that reason was because there  
21 was not enough bilingual people apply for those jobs.

22 I say 78 percent of the agents in Bellflower --  
23 78, no. I take that back.

24 There is only two Spanish-speaking people,  
25 a lady and a man, and the other ones are from Back East.



1                   They are not even locally.

2           CHAIRPERSON HERNANDEZ:  They are not local?

3           MR. PACHECO:  No.

4           CHAIRPERSON HERNANDEZ:  So they have no understanding  
5 of the local community whatsoever?

6           MR. PACHECO:  They don't have anything.  They have  
7 never been in that community.  They don't know the problems  
8 of that community.

9                   Therefore, they are not familiarized with  
10 the problems that we have over there.

11           CHAIRPERSON HERNANDEZ:  So in your dealings with  
12 them, you don't find them to be very sensitive to the  
13 people who are coming in?

14           MR. PACHECO:  No.  They are there to do a job.

15                   In fact, sometimes they are very discourteous  
16 to the public.  And if they don't bring an interpreter,  
17 they won't even have one, you know.

18                   If the people that are busy, the bilingual  
19 are busy, then they just say to wait for the lady to  
20 finish.  Sometimes they wait for about an hour, hour and  
21 a half, before they can go and have interview.

22           CHAIRPERSON HERNANDEZ:  It has been determined that  
23 the significant number of people that are going to be  
24 applying for amnesty are Spanish speaking so that it seems  
25 a little odd that they would not have --

1           MR. PACHECO: Well, we send a letter to the Director  
2 and asking why, especially in that area because we have  
3 Compton, Paramount and Bellflower that is predominantly  
4 Hispanic, you know.

5                     I think we have about 42 percent in that area,  
6 Compton, Paramount and Bellflower.

7                     There is nothing but illegal aliens there.  
8 They are concentrated in that area centrally, that area.

9                     We have a lot of Filipino people working in  
10 the INS. I found that out over there in Bellflower. We  
11 have close to -- I think we have about 22. I would say  
12 close to 17 Filipino workers that work for the INS,  
13 temporary workers.

14           CHAIRPERSON HERNANDEZ: Processing?

15           MR. PACHECO: Processing.

16           CHAIRPERSON HERNANDEZ: I just have an observation  
17 to your comment regarding the children, and I think it is  
18 one that has been expressed many, many times.

19                     Here you have children that don't know any  
20 other country who are learning the history of the United  
21 States, who are reciting the Pledge of Allegiance every  
22 day, who are familiarizing themselves with the Constitution  
23 of this country.

24                     They are all of a sudden finding out that they  
25 are undocumented.

1 MR. PACHECO: That they have to go.

2 CHAIRPERSON HERNANDEZ: And having to deal with that.

3 Certainly there seems to be -- there needs to be some sort

4 of consideration because for all intents and purposes,

5 in their minds, they are our citizens of tomorrow.

6 MR. PACHECO: They are, right.

7 CHAIRPERSON HERNANDEZ: Mr. Pacheco, thank you very

8 much. We sincerely appreciate your coming here.

9 I am sorry, John. Did you have any questions?

10 MR. DULLES: No.

11 MR. PACHECO: Thank you for your time. I appreciate

12 it.

13 CHAIRPERSON HERNANDEZ: Our next speaker is

14 Mr. Jay Fong. Mr. Fong is an attorney with the Asian

15 Pacific Legal Center in Los Angeles.

16 He will discuss the problems faced by the

17 Asian-American community in seeking legalization and

18 amnesty under the new Immigration Reform Act.

19 Welcome, Mr. Fong.

20 MR. FONG: Thank you, Ms. Hernandez.

21 Before I begin my formal remarks, I would

22 like to point out that we heard that we were going to be

23 asked to come here to address you only this Tuesday. As

24 a result, the comments that I will be making, although

25 they are accurate to the best of our knowledge, were

1 hastily prepared and I hope you will bear with us.

2           Secondly, this is my first time addressing  
3 an organization such as this one so I hope you will bear  
4 with me.

5           The Asian Pacific American Legal Center of  
6 Southern California is the only organization in Southern  
7 California which provides legal education, individual  
8 case representation, and assistance to communities or groups  
9 with an emphasis on the rapidly growing Asian and Pacific  
10 Islander communities of Southern California.

11           The agency, a not-for-profit organization,  
12 is equipped to provide assistance in several AP languages.

13           The passage in 1986 of the Immigration Reform  
14 and Control Act of 1986 created an opportunity for a large  
15 number of undocumented aliens to legalize their status  
16 in the United States. To meet this need, the APALC,  
17 combined its legal and linguistic resources with the  
18 outreach network of and the trust placed in the First United  
19 Methodist Church of Los Angeles to form the Downtown  
20 Legalization Project.

21           The Project provides low-cost legalization  
22 counseling and application processing assistance to  
23 individuals and community organizations.

24           The Project is prepared to assist clients in  
25 Cantonese, Mandarin, Japanese, Korean, Tagalog, Vietnamese,

1 Thai, Spanish, Portugese, French, German and, of course,  
2 English.

3           Since its opening in June, 1987, the Project  
4 has interviewed or processed over 1,200 individuals.  
5 Over 75 percent of the Project's clients have been of  
6 Hispanic origin. The remaining 25 percent have been of  
7 Asian or Pacific Island origin.

8           I would point out at this point that the  
9 staff is fairly small, the result being that different  
10 people, for example, I myself, and part of the Hispanic,  
11 Japanese, Chinese and English component of the center itself,  
12 that several people there speak four or five languages and  
13 everyone is called on to do their share whenever somebody  
14 comes in who needs language assistance.

15           We have three points that we would like to  
16 raise. First of all, information about an access to  
17 legalization.

18           Although the Immigration Reform and Control  
19 Act, IRCA, requires the U.S. Immigration and Naturalization  
20 Service to do educational outreach regarding legalization,  
21 Congress omitted any requirement that outreach be done in  
22 languages other than English.

23           Assuming that one is trying to reach an alien  
24 population for whom English is likely to be a foreign  
25 language, the use of English outreach efforts is of limited

1 utility, to say the least.

2 Asian Pacific community leaders estimate that  
3 there are about 150,000 undocumented Asian Pacifics in the  
4 Greater Los Angeles Area. Of that number about 30,000 are  
5 believed to be legalization eligible.

6 Now the effect of the availability of  
7 information can be illustrated by the numbers of interviews  
8 conducted by the INS' Western Region.

9 The Western Region, consisting of Arizona,  
10 California, Guam, Hawaii and Nevada is INS' busiest  
11 legalization region, accounting for more than 50 percent  
12 of the nation's legalization applications.

13 As of 31 July, 1987, the Western Region had  
14 187,575 interviews conducted. Of those interviews,  
15 60.8 percent were persons of Hispanic origin and only  
16 3.5 percent were people from Asian Pacific origin.

17 Unlike the Hispanic community, which can be  
18 reached through the use of one language, Spanish, the AP  
19 community can only be reached through the use of no fewer  
20 than eight languages.

21 Whereas there are two Spanish language daily  
22 newspapers serving the Greater Los Angeles Area, in contrast  
23 there are nine Chinese newspapers, two Japanese newspapers,  
24 two Filipino newspapers and 11 Korean periodicals.

25 At present, we are aware of no periodicals

1 published in Southern California in Cambodian, Tongan  
2 or Samoan.

3           Unless and until the Immigration and  
4 Naturalization Service expands its efforts to reach out to  
5 the Asian Pacific communities, many Asian Pacifics will  
6 remain ignorant of the immigration benefit that Congress  
7 has made available to them or they will stay fearful of the  
8 INS' bona fides and refuse to come forward to apply.

9           Some people say that this is not a civil rights  
10 issue. However, in the same way that, "Where there is no  
11 remedy, there is no right," it is ludicrous to say a benefit  
12 is being offered if no one knows about it.

13           The second point that we would like to raise  
14 is that although Asian Pacific leaders have estimated that  
15 there may be as many as 150,000 undocumented Asian Pacifics  
16 in the Greater Los Angeles Area, we believe that two-thirds  
17 of that number or 120,000, do not qualify for legalization,  
18 for they were in legal status as of the bench mark date of  
19 1 January, 1982 or arrived thereafter.

20           Asian-Pacific countries do not share a border  
21 with the United States. As a result, 90 percent of all  
22 Asian Pacifics arrive with some sort of legitimate visa,  
23 making their presence in the United States legal.

24           For reasons that are not entirely clear,  
25 Asian Pacifics tend to extend and re-extend their visas,

1 thus maintaining legal status.

2           It is unknown how many Asian Pacifics had  
3 legal status on 1 January, 1982, but the Project encounters  
4 a large number of Asian Pacifics who do not qualify for  
5 legalization solely because these individuals attempted  
6 compliance with U.S. Immigration laws.

7           In effect, Congress is rewarding those who  
8 broke the law and overstayed their visas by giving these  
9 individuals an immigration benefit, legalization.

10           Those who attempted to obey the law and keep  
11 their status current find that this benefit is unavailable  
12 to them.

13           This is arguably disparate treatment of  
14 similarly situated persons. If the persons are not  
15 similarly situated, it is arguable that the equities for  
16 granting the legalization benefit should be with those who  
17 attempted to comply with our nation's laws, and not with  
18 those who broke those laws.

19           The third point we would like to raise is that  
20 there is disparate treatment of Post 1-1-82 re-entry.

21           IRCA requires that a legalization applicant  
22 must be in illegal status since 1 January, 1982.

23           Theoretically any break in illegal status  
24 renders the applicant statutorily ineligible for  
25 legalization.



1                   However, an alien who was illegal on 1 January,  
2 1982, left the country briefly for, say, Mexico and who  
3 returned with a Border Crossing Card is deemed by INS  
4 to still be eligible for legalization.

5                   The Border Crossing Card permits the Mexican-  
6 citizen-bearer to be in the United States legally for a  
7 number of days.

8                   This is regardless of whether they left,  
9 whether they came back and were illegal before. It doesn't  
10 matter.

11                   If they come in with that Border Crossing  
12 Card for a number of days, they are legal.

13                   Nonetheless, INS has held that those who  
14 depart and re-enter the United States with Border Crossing  
15 Cards, and incidentally Border Crossing Cards are only  
16 available to nationals of Canada and Mexico, those who  
17 depart and re-enter with Border Crossing Cards are  
18 eligible for legalization, despite the break in illegal  
19 status.

20                   This is not the case for Asian Pacifics.  
21 There is no Border Crossing Card arrangement for countries  
22 which do not share a contiguous border with the United  
23 States, which happens to be the rest of the world, except  
24 for Mexico and Canada.

25                   Asian Pacifics who leave the United States,

1 however briefly, and return with a B-2 Visitor's Visa,  
2 which is also called a tourist visa, these people are  
3 ineligible for legalization.

4 We are not aware of any sensible, legal  
5 rationale for this distinction and preference for one set  
6 of nationals over others.

7 On its face, this appears to discriminate  
8 against all citizens of countries not sharing a border with  
9 the United States, in other words, a discrimination based  
10 on national origin.

11 INS is aware of this inequity but they have not  
12 yet attempted to resolve it. They should be encouraged to  
13 do so.

14 We have asked on numerous occasions for them  
15 to clarify the matter. They have not yet done so. They  
16 should be encouraged to do so as well.

17 Finally, we have three recommendations. First,  
18 INS should be encouraged to intensify its efforts to reach  
19 out to and educate the Asian Pacific community, in the  
20 native language of each community.

21 I do want to make a note here that the INS  
22 has contacted the Asian Pacific Legal Center, of which I  
23 have the honor to represent today, and they have made some  
24 attempts to reach out to us, asking our assistance to reach  
25 out to the Asian Pacific community.

1           INS has recognized that they do not have the  
2 resources to do this and are asking those of us in the  
3 community to help them.

4           In our view, although it is admirable, it  
5 is too little, too late. The program is almost half over  
6 now.

7           We recognize that the INS may not have the  
8 language capacity to do such outreach. They should seek  
9 assistance of community leaders like Asian Pacific Legal  
10 Center so that an educational and advertising plan can be  
11 drafted.

12           Further, because of the large number of Asian  
13 Pacific languages, INS should increase its advertising  
14 funding with respect to the Asian Pacific media.

15           Our second recommendation is that Congress must  
16 be encouraged to rectify the absurd way in which IRCA  
17 rewards those who broke the law by being illegally in this  
18 country and denies a valuable benefit to those who attempted  
19 to comply with our laws.

20           One suggestion for this might be to make  
21 legalization-eligible any alien whose presence in the United  
22 States would be illegal but for the extensions of stay,  
23 of their visa.

24           That is to say, if an alien had a legal visa  
25 that would have expired prior to 1 January, 1982, but the

1 alien extended that visa, that alien should qualify for  
2 legalization.

3 We do recognize that this would probably  
4 require a change in the law and obviously an act of  
5 Congress.

6 Third, and finally, INS should be directed to  
7 permit world-wide re-entry, not simply re-entry from  
8 contiguous territories.

9 To do otherwise would discriminate against  
10 similarly situated persons on the basis of national origin.

11 That concludes my formal comments at this  
12 point.

13 I do want to point out that at the Legal  
14 Center, I handle cases of individuals the way paralegals  
15 do. I handle a large number of immigrants, both Japanese  
16 and Hispanic right now, a lot of Tongans and Samoans as  
17 well.

18 In addition, at the Legal Center one of the  
19 things I do is assist them in reacting to national policy,  
20 as well as forming the policy of the Asian Pacific Legal  
21 Center itself.

22 Finally, I represent the Legal Center at the  
23 QDE meetings of the INS so I see the process of legalization  
24 in terms of what happens to individuals from all three  
25 sides, both from the trenches and from the higher level

1 where policy is made.

2 I think that in terms of my perspective, if  
3 you have questions about the way the program is existing,  
4 not just individuals or hurting individuals as opposed to  
5 just one case, what type of things we are seeing in  
6 general, I would be more than happy to address those  
7 issues as well as any others.

8 CHAIRPERSON HERNANDEZ: Thank you very much, Mr. Fong.

9 You know, this whole legalization question  
10 and potential immigration law that was later enacted as the  
11 Immigration Law, in effect, has been discussed for years and  
12 years.

13 Has the Asian Pacific American community been  
14 involved in the immigration talks and discussions prior  
15 to the enactment of the law?

16 MR. FONG: Not nearly as much as we should have been.

17 Prior to the enactment of IRCA -- let me back  
18 up.

19 IRCA was primarily enacted to put some  
20 regulations on employers. As you know, before the enactment  
21 of IRCA, it was perfectly legal to hire an undocumented  
22 alien.

23 After November 6, 1986, it was no longer  
24 possible.

25 In order to get that restriction put on

1 employers, Congress bargained and the Democrats got the  
2 legalization program.

3 That is a thumbnail sketch of how legalization  
4 came into being but it was primarily to control our  
5 borders, mostly from Canada and obviously from Mexico.

6 Asian Pacifics were not thought of as a problem  
7 per se, although there are obviously illegal Asian and  
8 Pacific Islanders, but really the issue was to close the  
9 Mexican border.

10 Therefore, we really were not consulted the  
11 way we feel we ought to have been to the extent that  
12 obviously a legalization benefit is going to be extended to  
13 some, primarily Hispanics.

14 To the extent that Asians were going to be  
15 affected by it, we do think that Congress should have made  
16 more of an effort to contact Asian Pacific leaders.

17 They did not.

18 One comment is that in the draft of IRCA, it  
19 was going to be a section there where it said you had to  
20 educate and outreach native language. Congress took that  
21 out.

22 Therefore, my comment that there is no  
23 requirement at all that they reach out in any language  
24 other than English because there is no such requirement at  
25 the present time.

1                   We do feel that they should have made more  
2 effort to contact those of us who have some alliance in the  
3 Asian community. Unfortunately, they did not.

4                   CHAIRPERSON HERNANDEZ: Have you been involved in the  
5 processing of undocumented individuals from May 1st?

6                   MR. FONG: About June 1st.

7                   CHAIRPERSON HERNANDEZ: June 1st?

8                   MR. FONG: Yes, I have been processing applicants,  
9 as well as handling public relations for the Center but,  
10 yes, I do process applicants.

11                  CHAIRPERSON HERNANDEZ: Why was there a lag from  
12 May 1st to June 1st?

13                  MR. FONG: There was a problem with funding. We  
14 did have a few cases that went exclusively through the  
15 Asian Pacific Legal Center.

16                  As I mentioned earlier, the Downtown  
17 Legalization Project is a joint effort of the First United  
18 Methodist Church and the Asian Pacific Legal Center.

19                  At the time the Asian Pacific Legal Center  
20 did handle as many cases as occurred but, of course, it  
21 has a case load of its own.

22                  What it did was it went into business, if you  
23 will, with the First United Methodist Church, which can  
24 provide funding and staffing, to form the Legalization  
25 Project of which I am a member, to do exclusively amnesty-

1 related legalization work.

2 That is when we basically -- the Center started  
3 around the beginning of June and had its official opening  
4 shortly thereafter.

5 That is why the lag was there.

6 CHAIRPERSON HERNANDEZ: So are you the only center  
7 providing the service to your community?

8 MR. FONG: To Asians, definitely.

9 CHAIRPERSON HERNANDEZ: In the Los Angeles area?

10 MR. FONG: In the Los Angeles area.

11 There are a few other organizations. One that  
12 comes to mind is the Korean Federation. They are a very  
13 small organization.

14 There are no attorneys on staff. Although  
15 they do process a number of applications, it is not even  
16 to the number that we have.

17 I don't pretend that we process a large number.  
18 We are a very, very small staff and they are even smaller  
19 than we are.

20 CHAIRPERSON HERNANDEZ: Are there any other  
21 organizations that you are aware of in the State of  
22 California that primarily deal with the Asian Pacific  
23 American community?

24 MR. FONG: I am aware of the Asian Law Project in  
25 San Francisco. It is hearsay but I do understand that they



1 are processing legalization applications.

2 There is also here in Los Angeles APLDEF,  
3 Asian Pacific Legal Defense and Education Fund.

4 I do not believe they are processing  
5 applications, although I do think they are providing  
6 information to those who ask about it.

7 Again, most centers do not have attorneys.  
8 What happens is that, for example, organizations like  
9 Catholic Charities and others which do not have a large  
10 number, if any, of attorneys on staff, if they get a very  
11 difficult case, they tell them that they can't handle them.

12 The result is that these people end up going  
13 to attorneys who may charge as much as a thousand, two  
14 thousand or more dollars.

15 I have heard some real horror stories. I  
16 don't pretend that is common but I have heard horror  
17 stories or they come to us because they hear by word of  
18 mouth that there happen to be several attorneys on staff who  
19 speak English, Japanese, Chinese, Spanish, et cetera.

20 They do come to us so the result is that we  
21 often get burdened with very, very difficult cases as  
22 opposed to the more standard case where all you need is a few  
23 documents for each year, along with your 1040's and you  
24 are fine.

25 We do see a lot of very difficult cases which

1 accounts for the relatively low numbers that we have.

2 CHAIRPERSON HERNANDEZ: Do you know if Catholic  
3 Charities has processed a significant number of these  
4 150,000 potential undocumented individuals in the Greater  
5 Los Angeles Area?

6 MR. FONG: Of the Asians?

7 CHAIRPERSON HERNANDEZ: Yes.

8 MR. FONG: We do not believe so.

9 We believe that they have perhaps processed  
10 some of the Samoans. There seems to be a large number of  
11 Catholic Samoans.

12 For a variety of reasons, we handle -- although  
13 there are a lot of Catholic Koreans as well, they did not  
14 end up with Catholic Charities.

15 Because of our network, they ended up with us.  
16 It is kind of spotty.

17 It depends by national group and the way word  
18 of mouth spreads.

19 It is hard to predict the way that would  
20 work. Now, Catholic Charities has basically not processed  
21 most people that have come through our center or other  
22 Asians, not that I am aware of.

23 CHAIRPERSON HERNANDEZ: 150,000 is a significant  
24 number.

25 I am just concerned as to why there has not

1 been more of an outreach by the Asian community to try to  
2 reach these individuals to help them through the  
3 legalization process and just depended on your organization.

4 At least you are there.

5 MR. FONG: We were very concerned about that, to be  
6 sure, because of the Statute and the way the Statute is  
7 put together, all 150,000, and, of course, that is an  
8 estimate, all 150,000 Asians who are undocumented will not  
9 qualify.

10 Based on what we know of the law, we think  
11 about 30,000 of those but even then there have only been  
12 another 10,000 applicants so far.

13 Where are the other 20,000?

14 For a while there about a month ago in the  
15 media there was a lot of talk on the part of Mr. Ezell and  
16 Mr. Gustafson of the INS indicating that there should be  
17 more Asian applicants.

18 The instructions to the legalization forms are  
19 not in any other language other than Spanish and English.

20 At that point, right around the time that  
21 there were those press conferences with Mr. Gustafson and  
22 Mr. Ezell, they contacted us, our office -- actually they  
23 contacted me and said would our organization be willing to  
24 translate into Chinese, Japanese, Tongan, Filipino and a  
25 variety of other languages the instructions to the

1 application form.

2 We agreed but, of course, we, a not-for-profit  
3 organization, absorbed the cost of those translations.

4 Most translations run for something very long  
5 like that about \$500.

6 We did not print them. INS said that they  
7 would print them, which was very kind of them, but we  
8 absorbed the cost of that.

9 CHAIRPERSON HERNANDEZ: But they have a public  
10 relations budget.

11 Why should a not-for-profit organization be  
12 asked to impose themselves to that kind of expense?

13 MR. FONG: I don't know the answer to that.

14 I do know that when I dealt with the public  
15 relations people and outreach people at INS, most of whom  
16 are really very good and I should be clear about that, they  
17 are trying but they indicated that they do not like -- first  
18 of all, we had one of two things we said to them.

19 If you wanted to -- "We won't charge you for  
20 doing these translations but please put at the bottom of  
21 the form translated by -- translation provided by the  
22 courtesy of Asian Pacific American Legal Center of Southern  
23 California."

24 "No, we don't want to make it look like INS  
25 is advertising somebody."

1                   We said, "Fine. We understand that."

2                   That is sort of a concern all the time of the  
3 government. I understand that.

4                   We said, "Fine. We would like some sort of  
5 compensation."

6                   They offered us \$50 per translation and we  
7 did several for them.

8                   The result was we said, "Fine, never mind.  
9 The \$50 isn't worthwhile. We were glad to provide them  
10 for you," which we did merely because we thought the need  
11 was there.

12                   Those translations are now being used mostly  
13 obviously in San Francisco and Los Angeles, as opposed to  
14 Fresno and elsewhere where there are not as many Asians  
15 but they are being used.

16                   They are, I understand, being fac'd over to  
17 New York, Boston and Chicago where there are other Asian  
18 centers so they can be used there.

19                   I am a little concerned about that. They did  
20 seem to wait an awfully long time to determine whether or  
21 not they needed to reach out to the Asian community.

22                   When they finally realized that not enough  
23 Asians were coming forward, they made it sound as if the  
24 community organizations were at fault, that somehow we are  
25 responsible for doing the outreach that Congress says they

1 must do.

2 We are disturbed by that. To be sure, they  
3 are trying now. They have met with us.

4 We have a fairly good working relationship  
5 with Messrs. Gustafson, Mr. King, who is the Director for  
6 the legalization program here in the Region, as well as  
7 some of the other outreach people.

8 We do have a fairly good working relationship  
9 with them. They understand our concerns.

10 We understand that they obviously have their  
11 job to do but we do feel they could do more.

12 CHAIRPERSON HERNANDEZ: At what level did you make  
13 this arrangement for translation?

14 It just seems to me so blatant.

15 MR. FONG: The Deputy Outreach Specialist for the  
16 Western Region, her name is Dierdra Donavon, who is a  
17 very fine woman, by the way, ~~is below~~ obviously Messrs. Ezell  
18 and Gustafson and King but she contacted me initially,  
19 introduced herself and indicated that INS wanted to have  
20 translations made.

21 Did we know where they could be done or could  
22 we do them?

23 It was at that point around about a month and  
24 a half ago that the wheel, the ball began rolling, and I  
25 started working with her and with them.

1                   Once we got going, it was fine but again  
2 it is sort of a question of too little, too late.

3                   As a matter of fact, let me just mention  
4 something that the gentleman who testified prior to me  
5 mentioned. At the Hollywood office, there are only a  
6 handful of people who appear to speak Spanish.

7                   I have been there with clients of mine and I  
8 have had to translate on a number of occasions because I  
9 do speak Spanish.

10                  Of course, I would then translate for my  
11 clients because the interviewer did not speak Spanish.

12                  Now the Hollywood office is located at Wilshire  
13 and Union. I don't know how familiar you are with  
14 Los Angeles but that is right in the middle of the  
15 Hispanic area of Los Angeles and what is not Hispanic is  
16 Korean.

17                  There is one Korean-speaking person there but,  
18 of course, not every Korean client is assigned to her. It  
19 is done by almost by lot so there is a difficulty with  
20 language capability there.

21                  One thing that we should want to comment and  
22 actually praise INS for was that the Hollywood office was  
23 not going to be there when the Immigration and Legalization  
24 Offices were put together. There was not going to be one.

25                  There was going to be one in East L.A., one

1 in Van Nuys, one in Huntington Park.

2 There was not going to be one for Hollywood.

3 Our organization spoke with Mr. Gustafson  
4 and convinced him, and he was really very open to the idea.

5 We said, "Listen, there is a large ASian  
6 community there, Korean on the end end, Chinatown further  
7 up here near City Hall.

8 "That office would be the most convenient to  
9 them as opposed to East L.A. or Huntington Park."

10 The result was that Mr. Gustafson agreed,  
11 sold the idea to Washington, and now there is a Hollywood  
12 office which serves the largest part of the Asian community.

13 For that we are very grateful but again we do  
14 feel that more needs to be done.

15 CHAIRPERSON HERNANDEZ: Phil, do you have any  
16 questions?

17 MR. MONTEZ: You are saying that there was a  
18 10 1/2 million dollar contract given to a private public  
19 relations and marketing firm and you were not part of that  
20 at all?

21 MR. FONG: That is the Justice Group. The Justice  
22 Group, which works with La Agencia, which is a Hispanic --  
23 specializes in Hispanic publications and Hispanic media  
24 and the Justice Group, which works generally with media  
25 work, they were given the contract nationally by INS to do



1 the outreach.

2           They did engage a consultant by the name of  
3 Lynne Choy Uyeda, who is an Asian American, and she has  
4 done some work with them but their budget has been directed  
5 primarily towards Hispanics, not that I think that that is  
6 inappropriate because certainly the largest body of  
7 undocumented is Hispanics.

8           The kind of advertising that has been coming  
9 out for the Asian community though has truly been  
10 horrendous. The print has been very small. They have  
11 tried to compact a half page ad into a quarter of a page  
12 to save money, variety of things like that.

13           We were really very concerned about that  
14 because no one is going to read something that is just  
15 down here, especially the Chinese language which you use  
16 characters. If those things aren't clear, you are out of  
17 luck.

18           Yes, a large amount of money was given to  
19 Justice Group to do the kind of advertising in outreach,  
20 media outreach would be required.

21           Not enough has gone toward the Asian Pacific  
22 outreach.

23           My last comment with respect to the Justice  
24 Group is that I have not been particularly impressed with  
25 anyone that I have met from that organization. The

1 representatives that they have sent to meet me and to the  
2 QDE meetings with INS have not known anything about what  
3 was going on.

4 Their stock answers were if the question was  
5 prospective -- "What will you do?" -- the answer was,  
6 "It is under consideration now."

7 If the question was retroactive or retrospective  
8 in view, that is to say asking about the past -- "What  
9 did you do about" -- they would say, "I don't know."

10 Those are the two answers they have.

11 I recognize that when you send people who  
12 are not high enough in the heirarchy that they may not have  
13 some answers but if they are going to deal with leaders of  
14 the community and with INS, they really ought to have a  
15 better command of their facts and don't seem to.

16 MR. MONTEZ: There seemed to be a great deal of  
17 dissatisfaction, even amongst the work they are supposed to  
18 be doing for the Hispanic community.

19 MR. FONG: That is my understanding.

20 MR. MONTEZ: That I think I have seen one ad.

21 CHAIRPERSON HERNANDEZ: I don't think I have seen any.

22 MR. MONTEZ: Or heard one on the radio but it was,  
23 and then they attribute it to INS.

24 It would be interesting, I guess, to ask them  
25 some questions.

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Are they stationed in California?

MR. FONG: They are, and if you would like, I can get an address for you or a phone number.

MR. MONTEZ: I would appreciate it.

MR. FONG: Certainly.

MR. MONTEZ: Just so we could contact and get some idea how the money is being spread out.

CHAIRPERSON HERNANDEZ: Is that it?

Mr. Fong, thank you very much for being with us and adding certainly a very important dimension to this whole question of immigration reform and control.

MR. FONG: Thank you for having me.

CHAIRPERSON HERNANDEZ: Thank you for being here.

The focus of today's proceedings has been on the Immigration Reform and Control Act of 1986.

As a first step in the Advisory Committee's study, today we have heard from public and private groups and organizations as well as individuals knowledgeable of the study area.

We will review the transcript of this meeting, meet and talk with additional individuals and groups and then will submit our findings and recommendations to the Commission in Washington D.C. and to our State leaders for their consideration.

The Advisory Committee would like to thank

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all of those who have participated here today.

This meeting is adjourned.

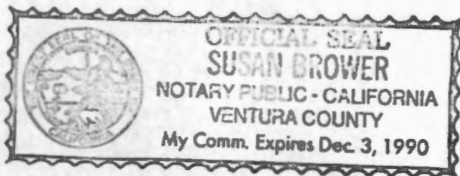
(Whereupon, the meeting was concluded  
at 4:45 p.m.)

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REPORTER'S CERTIFICATE

I, SUSAN BROWER, CSR No. 1678, a certified shorthand reporter and notary public in and for the State of California, do hereby certify the foregoing 236 pages comprise a true, complete and accurate transcript of the proceedings held in the within-entitled matter.



*Susan Brower*  
\_\_\_\_\_  
Official Reporter