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4 ARIZONA ADVISORY COMMITTEE
5 UNITED STATES COMMISSION ON CIVIL RIGHTS
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8 TRANSCRIPT OF PROCEEDINGS
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10 FORUM ON IMMIGRATION REFORM

11 September 15, 1988

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AFTERNOON SESSION

(Pursuant to the recess last-above noted, the proceedings were reconvened at 1:20 o'clock p.m. as follows:)

DR. WHITE: Ladies and gentlemen, if you'll take your seats, we'd like to begin the afternoon hearing.

Now, by way of introduction--although perhaps most of you were here this morning, but just for the record--let me once again introduce the Members of the Committee.

My name is John White. I'm Chairman of the Committee. And I'm going from my right here.

We have Senator Manual Pena of Phoenix, a member of the Arizona State Legislature. Next to him is Dr. Morrison Warren, Professor Emeritus, Arizona State University.

Then we have next to me Mrs. Shirley Whitlock of Mesa, Arizona. And next to her, Mr. Richard Zazueta of Scottsdale.

MR. ZAZUETA; Correction, Mr. Chairman. Richard Zazueta from Phoenix.

DR. WHITE: I'm sorry. Didn't you live in Scottsdale?

1
2 MR. ZAZUETA: No, it's a Phoenix address.

3 DR. WHITE: I'm sorry. I beg your pardon,
4 Phoenix.

5 Now, once again, I reiterate that we do have a
6 schedule. Witnesses were asked to confine themselves to a
7 presentation of eight to ten minutes to be followed by the
8 questions of the Committee, since we do have people
9 scheduled, people that have taken off from work. They made
10 arrangements to be here at a certain time, and we would
11 appreciate it if you would try to adhere to that schedule.
12 And if necessary, I'm sure we'll call time.

13 If any member of the Committee wishes to ask for a
14 unanimous consent to be granted, of course, that will be
15 entertained.

16 And another point that perhaps should be
17 mentioned, we had some discussion of the use of the Spanish
18 language which I have consulted with the Regional Director
19 Mr. Montez regarding the policy of the Commission in this
20 regard.

21 The hearing is being transcribed, as you can see,
22 we have a court reporter, transcribing verbatim a report of
23 the proceedings.

24 The Commission regulation requires that this
25 transcript be in the English language. However, it is

1 possible to have people speak in Spanish or another language
2 as long as we have an official interpreter. It's not a
3 question of someone speaking Spanish it has to be an
4 official record.

5 The Regional Director Mr. Montez, informed me that
6 he did not have enough money to employ a translator for the
7 full day. However, we do have a Spanish translator who is
8 supposed to be here about 3:00 o'clock. We are not sure.

9 Therefore, I would announce that if anybody wishes
10 to address the Committee in the Spanish language he may do
11 so.

12 MR. ZAZUETA: Mr. Chairman, could I make a comment
13 on the time limit? I would suggest that for the purpose of
14 getting the full statement from the witness, to give them a
15 three-minute warning so that they can summarize.

16 DR. WHITE: That seems to me to be a reasonable
17 request, and I'll be happy to do that. So, I will set
18 eight to ten minutes.

19 So, we'll say ten minutes maximum, so that I will
20 give a three-minute warning at the end of seven minutes, and
21 we'll ask you to complete your remarks, if you can, in the
22 additional three minutes.

23 I will announce that the next scheduled speaker,
24 Mr. DeLisle, has not been able to appear so far and,
25 therefore, we will continue with the rest of the scheduled

1 witnesses.

2 And the first scheduled witness is Mr. Frank
3 Siciliano, who is here.

4 Mr. Siciliano, would you take a chair.

5 Mr. Siciliano is the Assistant Chief Legalization
6 Officer of the Immigration and Naturalization Service here
7 in Phoenix, Arizona.

8 Mr. Siciliano, we welcome you to this hearing;
9 and you may proceed.

10 MR. SICILIANO: Apparently, I'm supposed to be
11 giving you a perspective as of the Immigration and
12 Naturalization Service and its role.

13 Obviously, we have the most important part, since
14 we are the people that are administering the regulations and
15 rules as promulgated by Congress.

16 Just to give you a little bit of background, IRCA
17 came into existence in November of 1986 by virtue of the
18 President signing it into law. Now, as of May 1987 we began
19 processing the first people who were coming to our offices.

20 And in the United States we have approximately 107
21 legalization services to handle the number of people who are
22 going to apply, and are going to apply in our own office in
23 Phoenix.

24 We opened our doors on May 5th, and we didn't have
25 a record number of people immediately. But, slowly but

1 surely we have begun to build toward the closing of the
2 legalization part of it. The legalization ended on the 4th
3 of May 1988, this year.

4 To date with our Phoenix office alone you are
5 considering approximately 18 thousand people who have
6 applied, that's legalization only. And you have 18 thousand
7 who are on the second program, which is the Special
8 Agricultural Worker's Program which came into being June 1,
9 1987, and will run for a period of six months closing on
10 November 7, 1988.

11 This year we are presently in the SAW part of the
12 IRCA law for the entire State of Arizona. To date we have
13 81 thousand applicants for both Special Agriculture Workers
14 and legalization.

15 What we are primarily concerned with right now
16 though is Phase II. And Phase II for all intensive purposes
17 will begin on November 7th of this year. This is the
18 portion of the law where people will be allowed to become
19 permanent residence by virtue of filing an application for
20 permanent residence.

21 What people are enjoying is temporary residence
22 status. So permanent people will become immigrants to the
23 United States and immigrate to the United States. Five
24 years after they become an immigrant they can become a
25 citizen if they apply.

1 And also during the same period of time, while
2 they are a permanent residence they can submit petitions for
3 those who are members of the family who did not qualify in
4 terms of children or spouse.

5 Once a person becomes a citizen, of course, the
6 number of people they can petition for widens enormously.
7 But, at this certain time, they can petition for those who
8 are immediate relatives in terms of spouse and unmarried
9 children.

10 I'll stop at that point and entertain any
11 questions that may be available or desirable at this time.

12 DR. WHITE: Thank you, sir. Does any member have
13 a question? Senator Pena.

14 SENATOR PENA: Is that the conclusion of your
15 testimony?

16 MR. SICILIANO: So far that is basically up to
17 Phase II.

18 Phase II is covered by other people. But if you
19 would like me to touch other areas of Phase II it might give
20 you insight of any other features.

21 Phase II basically, is going to be when people
22 become permanent residence after you have been a temporary
23 residence for a minimum of eighteen months. On the first
24 day of the nineteenth month you are eligible to apply for
25 permanent resident status.

1 In other words, you must have resided in the
2 United States since the time that you entered in 1980 prior
3 to 1982, January 1, 1982. Not having had any breaks, not
4 having a long break of absence, for that matter, been
5 outside of the United States since you became a temporary
6 residence.

7 MR. WHITE: You have three more minutes.

8 MR. SICILIANO: So basically, Phase II is the part
9 where we have people who are going to become permanent, who
10 will learn to read, write and speak English and have
11 knowledge of American history or government, attend a course
12 of study minimum of one hundred hours, minimum of 30 hours
13 of that, at that time, you are issued a certificate that you
14 have attended and that you are satisfactorily progressing
15 and you have knowledge of American history or government and
16 be tested about this knowledge.

17 Any way you cut it, the Immigration and
18 Naturalization Service has been very liberal in terms of
19 wanting people to become permanent residence. And they have
20 made it ready to the point where if you had one year of
21 school in the United States, that would satisfy. If you
22 have graduated from a school in the United States that would
23 satisfy. If you have a GED, that would satisfy. Or if you
24 are under the age of 16, or 65 years of age or older, then
25 you are exempt from most of the requirements.

1 I'll stop at that point.

2 DR. WHITE: Any other questions?

3 DR. WARREN: One question. When I see the word
4 pervasive, and by seeing how the I.N.S. views this whole
5 phenomena and how you interpret events within it, I would
6 like to ask of you from I.N.S. perspective, what are the big
7 issues? And how are you approaching those? You gave us
8 information about the input.

9 MR. SICILIANO: Basically we are governed by
10 regulations. I'll give you an extreme example. If Congress
11 said that everyone who walks into your legalization office
12 has to have on green shoes to qualify, if you don't come in
13 with green shoes, you didn't qualify.

14 So basically, we are governed by the law alone.
15 The basis of the whole thing is the law.

16 DR. WARREN: Are the structures in place, where
17 you feed back to the source?

18 MR. SICILIANO: Yes, very definitely. In most
19 cases the feedback that the central office and the regional
20 office have received, have brought about changes, and
21 virtually every change that has taken place in the program
22 that began in 1987 has increased the number of people that
23 are eligible for Special Agriculture Workers.

24 If anyone could in fact trace all the steps that
25 have taken place, you will find that back when the law was

1 signed into effect we indicated that you had to be in the
2 United States back in November of 1986. Subsequently, it
3 was moved up to May.

4 Recently, until it doesn't matter when you came
5 in -- Not that you came in but it doesn't matter when you
6 entered into the United States, as long as you reside an
7 extensive period of time.

8 Also, at the beginning a person had to have
9 started living here illegally, initially, left the United
10 States and re-entered illegally. As long as you had initial
11 time in the United States prior to 1982, January 1, 1982, it
12 was legal even if you re-entered illegally.

13 Every change was a matter of feedback from the
14 office that had encountered the people and their problems
15 back to the regional office and central office.

16 DR. WARREN: From the inception?

17 MR. SICILIANO: Yes, for the greatest number of
18 people who qualify.

19 It serves no purpose to have a rule and regulation
20 if it doesn't benefit the greatest number of people. And
21 that is what they are doing, they are trying to make sure
22 that people qualify, to help as best as possible.

23 DR. WARREN: Would you classify yourself as an
24 advocate?

25 MR. SICILIANO: When a person comes to our office

1 and we find that they are ineligible we seek every possible
2 avenue that they could use, in order to become eligible.
3 From recommending submission of waiver, or possibly we have
4 people that come into our office that apply under the
5 legalization program and they have been deported for a
6 period of time.

7 If you were deported between 1982 and when you
8 applied for the application and if you worked in agriculture
9 and you are deported, all you would need is a waiver of this
10 deportation. So we are looking for ways that people can
11 qualify.

12 DR. WHITE: Any other questions?

13 MRS. WHITLOCK: What percentage of the people in
14 your department or departments are themselves hispanics, so
15 that they understand the language or perhaps run into those
16 kinds of problems themselves?

17 MR. SICILIANO Well, most people lean toward
18 helping people. And we at our office alone have twelve
19 people, I would say, possibly a third of them are hispanics.
20 And we have at least a minimum of four native spanish
21 speakers and about three additional people who speak spanish
22 the way I do, which is basically through experience. So we
23 have a lot of people who can communicate and people who are
24 culturally aware of the problems that these people face. We
25 have one person that could feel very much what they are

1 going through.

2 MRS. WHITLOCK: What percentage of the people will
3 be denied? And what is the major reason?

4 MR. SICILIANO: Let's do it from a positive point
5 of view. In excess of 90 percent of all the applications
6 have been approved or are approved. There is only a small
7 percent that are denied.

8 MRS. WHITLOCK: What are the reasons?

9 MR. SICILIANO: In most cases a reason for denial
10 would be statutorily ineligible. Let's say since the law
11 states that you had to be here prior to January 2, 1982 and
12 if you entered after January 2, 1982 you would be
13 statutorily ineligible. Or if you committed a felony it
14 would make you statutorily ineligible. Those are the
15 things that make it ineligible. Or if you didn't have
16 adequate time in the United States.

17 DR. WHITE: Any other questions?

18 MR. ZAZUETA: You mentioned that in the beginning
19 there were very few people that came in. And from the other
20 witnesses we received information that there wasn't enough
21 public information, enough public relations that went out.
22 People didn't know about the program. They were confused.
23 Some confusion was mentioned.

24 What were these reasons? Why was information not
25 going out?

1 MR. SICILIANO: The Immigration and Naturalization
2 Service contracted with a group called Justice Group for the
3 purpose of advertising. If you had the possibility of
4 qualifying you applied with the Justice Group. Apparently,
5 they didn't do to fantastic a job. As soon as we realized
6 that this advertising was inadequate, our office went out of
7 their way to make sure that people were aware of it.
8 Everything from going to places, where hispanics and people
9 who would be eligible to stay in the United States would be
10 found. Ranging from grocery stores to Spanish language
11 newspapers, to the Spanish Broadcasting System.

12 I've been on television I don't know how many
13 times. I've been on open forums where people can ask
14 questions. We made our office telephone number available.
15 My supervisor goes bananas any time someone calls. If you
16 want to ask a question, I'll be happy to answer it. We put
17 ourselves in a position where we are available. Mr. Ezell
18 (phonetic) has made himself accessible to any media or
19 public, or for answering questions or explaining what is
20 going on.

21 MR. ZAZUETA: If a potential qualified temporary
22 residence did not get the word because of the advertising
23 being inadequate and missed the deadline will that person be
24 deported?

25 MR. SICILIANO: If you are found not to have been

1 qualified or didn't submit your application in the future
2 you are subject to deportation. That would be the rules and
3 regulations that exist. It's kind of hard to exist in a
4 vacuum and not hear of the fact that programs exist. There
5 was a concerted effort in the last years a permanent effort
6 that people were aware that in fact you could qualify for
7 legalization.

8 DR. WHITE: Any other questions?

9 SENATOR PENA: Yes, sir.

10 DR. WHITE: Senator Pena.

11 SENATOR PENA: Thank you, Mr. White.

12 What is the rationale for that requirement, that
13 knowledge of the English language is necessary, that
14 knowledge of American History is necessary for permanent
15 residence not as a citizen but as an alien with permanent
16 residence, and how does it differ from the QDE System?

17 MR. SICILIANO: The QDE system is very different.
18 This is a person that is coming into the United States and
19 has to wait back out of the United States for a VISA, people
20 who are now legal.

21 SENATOR PENA: You didn't answer my question. The
22 QDE system people are not required to know English?

23 MR. SICILIANO: True, but QDE people have someone
24 petitioning, they are waiting patiently for the issuance of
25 a VISA to enter the United States legally. To circumvent

1 the law and enter the United States and work here while
2 other people wait patiently outside of the United States.
3 That shouldn't be the issue in point.

4 The fact that these people are going to be
5 living in the United States, they should become aware of the
6 system of government under which they exist and the
7 rulings and regulations that govern them as individuals in
8 the United States. And the best way to be fully aware of
9 what is going on in the United States is to at least
10 function minimally to survive.

11 English is all we are looking for. We are looking
12 for a person that when they drive down the street and they
13 come upon a one-way street, that he is going to comprehend
14 that; and if the right-hand lane is closed, that he knows
15 what this means. That he doesn't run a red light at the
16 point where he hits someone. That he comprehends that. We
17 are not looking for great knowledge of English.

18 And to take only 30 hours of a possible 100-hour
19 course, that is not anything to impose an ultra burden on
20 anyone. What we are aiming for is to have ESL, American
21 history and government just to whet their appetite.

22 Think of yourself, how much can you get out of 30
23 hours in a 100-hour course of another country? It may whet
24 your interest, no more.

25 For a lot of these people, most all the people

1 don't stop at this certain point but, rather, they go on
2 because they found that what they have learned becomes
3 beneficial and they are willing to function. A lot of basic
4 things you take for granted.

5 If you have visited foreign countries other than
6 Mexico where signs are in another language you are lost. Or
7 have you read signs at an airport that you couldn't
8 comprehend?

9 If you have had a basic knowledge of a language
10 you would be able to function if you knew how to look up the
11 word or basically know what it means.

12 We are not trying to impose English on anyone. We
13 are trying to get people to function more fully in the
14 United States and learn the English language, which is
15 primarily what is being used in the United States.

16 SENATOR PENA: What's the rationale? Why isn't it
17 used in the QDE system? These people are coming from all
18 parts of the world and don't know anything, no English. They
19 have applied as you saw over the years to allow to come into
20 this country. They wouldn't know what a stop sign is.
21 They don't know what a left signal is. But yet there is a
22 requirement that says these people have to know that.

23 Is that part of a law or a regulation?

24 MR. SICILIANO: I believe it's the law itself.

25 SENATOR PENA: The law itself says it's part of

1 the regulation that has been interpreted? I.N.S. decided
2 upon themselves?

3 MR. SICILIANO: The intent of Congress very often
4 is to have people get into the main stream of society rather
5 than be a part of society. The attempt is for one to get
6 out of the shadow and get into the main stream of society.

7 SENATOR PENA: It's impossible to have these
8 people get into the main stream of society. It doesn't
9 make sense. If Congress would have wanted that to occur,
10 which is different than the QDE system then they would have
11 funded, they would have provided sufficient funding to
12 provide some sort of schooling for those people who can not
13 afford it.

14 MR. SICILIANO: I'm going to correct you there.
15 The select funds that are available in all the states of the
16 United States have been impacted by people who become
17 legalized. This is money that is available to public
18 health institutions for people.

19 SENATOR PENA: We had testimony this morning, that
20 says that the funding is not there, that it is inadequate.
21 And who's using it, where did the money go to?

22 MR. SICILIANO: Primarily, it gets invested
23 through the state which goes to specific entities that would
24 be teaching the English that would have to apply.
25 Obviously, you are going into an area that I'm not

1 competent.

2 Basically, what we know is the Immigration Law and
3 how it is to be applied and what benefits are to be derived.
4 And a great number is through a great number of people
5 through the laws that exist from the Immigration and
6 Naturalization Service.

7 SENATOR PENA: In your opinion is the intent of
8 the Congressional Act your interpretation of providing that
9 it is necessary to know English and to know American
10 History?

11 Who the hell cares about the Gettysburg Address?
12 Who cares about the Thirteen Colonies? Is the
13 interpretation of I.N.S. in line with what Congress
14 intended?

15 MR. SICILIANO: As far as I know, it is. But
16 basically, think about it. If you think of knowledge for
17 knowledge sake, it's no value. But, if you being the
18 prospective who has contributed, if people who are here now
19 coming to the United States can contribute to a great deal,
20 the people have to be aware that they are part of a society.

21 And again, if you get into the main stream of
22 society, you'll do something positive.

23 SENATOR PENA: Generally when you want to become a
24 citizen, that is absolutely necessary, you want to become a
25 citizen. Then you have to know some American History.

1 MR. SICILIANO: I'll draw the line here. If a
2 person is a legalization applicant and has resided prior to
3 January 1982, the intent of most people is to reside here
4 permanently and indefinitely. Ultimately, they will want to
5 become citizens in order to derive from society.

6 The worker, the Special Agriculture Worker, does
7 not have to learn English, does not have to pass a test in
8 English, does not have to learn American history and
9 government.

10 They enter the United States for a period of time,
11 even as the point that a Special Agriculture Worker did not
12 have to maintain his residence in the United States. He can
13 be outside of the United States 365 days a year, come to
14 work and use the priority to, quote, "have a residence".
15 Occasionally, he can reside outside of the United States and
16 come back and forth across the border.

17 So, there is a difference for the people who have
18 intended to be here permanently to any country permanently
19 more than likely you would like to take part of the system.

20 In order to function in the system you have to
21 function as opposed to Special Agriculture Workers. There
22 is no definite need for him to learn English unless they
23 have the desire. That's credit to the individuals when they
24 know what is going on and can function fully.

25 SENATOR PENA: How is the test?

1 MR. SICILIANO: The test to be honest with you, we
2 don't know what is administered. We only can say that there
3 is a series of textbooks that have been provided. These are
4 the basis, this would be the basis of the course of study,
5 and the individuals who are teaching the course use that as
6 a base. You can modify it, you can do what you please with
7 it. As long as it covers a basic area of American History
8 to the colonial to the present time.

9 DR. WHITE: Any further questions? If not, Mr.
10 Siciliano, we thank you for your testimony.

11 Our next scheduled witness is Wendy Hammon. Is
12 she here?

13 MR. MONTEZ: Mr. Chairman, she just stepped out
14 for a moment. I'm sure she'll return.

15 * * *

16
17 DR. WHITE: Well, perhaps we could go on with the
18 next witness, and then come back and pick her up.

19 MR. MONTEZ: I have just been corrected by a
20 higher authority. I'm sorry, sir. I stand corrected.

21 DR. WHITE: Okay, thank you for the correction.
22 Is Hermilo Gloria here?

23 MR. GLORIA: Yes.

24 DR. WHITE: Very good.
25

1 Mr. Gloria, if you would like to come forward,
we'll hear you while we're waiting for Wendy Hammon.

2 MR. GLORIA: Thank you.

3 DR. WHITE: Hermilo Gloria is District Director of
4 the Equal Employment Opportunity Commission and will address
5 us on the subject of: Implications for Title VII and IRCA.

6 Mr. Gloria, welcome. And you may proceed.

7 MR. HERMILO GLORIA: Thank you very much,
8 Mr. Chairman. My testimony will be very brief.

9 Basically, the Equal Employment Opportunity
10 Commission which I represent -- And, by the way, our
11 jurisdiction for my office covers Arizona, Utah, and
12 New Mexico.

13 We are empowered by Congress to enforce Title VII
14 of the 1964 Civil Rights Act, and the implication for IRCA
15 is basically that, to a degree, we're at odds with the
16 Immigration Reform and Control Act, because IRCA contains
17 one provision that potentially conflicts with Title VII.

18 Although IRCA prohibits discrimination based on
19 citizenship status, it also states that it is not an unfair
20 immigration-related employment practice to prefer to hire
21 recruits or prefer an individual who is a citizen or
22 national of the United States over an alien, if two
23 individuals are equally qualified.

24 Our guidelines on discrimination based on national
25

1 origin provide very clearly that where citizenship
2 requirements have the purpose or effect of discriminating
3 against an individual on the basis of national origin, they
4 are prohibited by Title VII.

5 So, again, an employer could under IRCA prefer an
6 equally qualified citizen over an alien, yet that employer's
7 actions might violate Title VII and a complaint could be
8 filed against the employer.

9 Now, let me set the record straight. We are
10 working very closely with Immigration. We have a memorandum
11 of understanding, and the jurisdictional areas of the
12 special counsel under I.N.S. and our areas are fairly
13 clearly defined.

14 But, the laws themselves are in conflict, because
15 ours are based on the premise that anybody who works in this
16 country under our employment laws is subject to be free of
17 discriminatory practices of any nature; and our definitions
18 of national origin discrimination are fairly broad.

19 We define national origin discrimination as the
20 denial of equal employment opportunity because of an
21 individual's, or his or her ancestors', place of origin or
22 because an individual has the physical, cultural or
23 linguistic characteristics of a national origin group.

24 And in many cases, the complaints that we have
25 received -- And, by the way, we have only received eight

1 complaints in my two offices, four in Albuquerque and four
2 here. The complaints are closed.

3 Now, most of them have been based on the issue of
4 national origin discrimination where an employer made the
5 allegation that they could not hire that person because they
6 effectively were not citizens and, effectively, they were
7 Hispanic or Mexican or of Mexican origin.

8 In most cases, we have referred some of these
9 cases to the Immigration Service for informational purposes.
10 But, in general, we have not seen very many complaints
11 coming to our offices, which is a valid point to make.

12 It may be that the general public doesn't realize
13 that Title VII has much broader coverage, because not only
14 is there a difference in our approach, but the scope of our
15 coverage for national origin discrimination in employment is
16 very broad. We cover all terms and conditions of
17 employment, whereas the Immigration Act essentially covers
18 hiring and, to a degree, discharge.

19 DR. WHITE: You have three more minutes.

20 MR. GLORIA: Okay.

21 So, basically, that's the area of overlap and the
22 area of potential conflict. But, like I stated, we have
23 worked very closely.

24 Today with me, accompanying me, is my deputy,
25 Dr. Edward Valenzuela, who has been very active in the

1 various committees around the Phoenix area. He's worked
2 with Senator DeConcini's committee. We have worked with the
3 Friendly House to establish a forum for people to bring
4 complaints to us.

5 But, be aware, we are still enforcing our statute,
6 and the Commission made it very clear that we are to enforce
7 employment discrimination based on national origin.

8 DR. WHITE: Thank you, sir.

9 Any questions from the Committee?

10 MR. ZAZUETA: Mr. Chairman, Dr. Valenzuela has
11 been working very closely with the Subcommittee on
12 Immigration and has prepared a report for the record, and
13 I'd like to pass that out at this time.

14 MR. GLORIA: Included in that report are documents
15 that I was referring to, positions of the Commission and
16 some guidelines that we have developed internally for our
17 office to make sure that our staff fully understands the law
18 and acts appropriately when a complainant comes to our
19 office.

20 MR. ZAZUETA: And I might add that he's done a
21 very outstanding job, Dr. Valenzuela has, on this report
22 and on other issues.

23 One of the questions that I'd like to ask of the
24 witness is: This morning's testimony by a lawyer said that
25 there was subtle discrimination in the law or a conservative

1 approach to hiring non-Hispanics. What could EEOC do about
2 this?

3 MR. GLORIA: Well, basically, since we operate
4 principally on charges coming to us, we have attempted to
5 educate the applicants under the IRCA to the effect that
6 they should be aware that the law protects them even if
7 they're not citizens.

8 I think that the fairly recent decision which
9 says that the Fair Labor Standards Act extends to
10 undocumented aliens is the same position that the Commission
11 has taken. We say Title VII covers any employee in this
12 country, regardless of what their status is. So, I would
13 invite them to come in and file a charge.

14 Subtle discrimination would be hard to prove,
15 obviously, because it would be in the eyes of the beholder
16 and a question of credibility and testimonial evidence
17 rather than a very overt act, which has occurred,
18 apparently, in some other areas where people were turned
19 away if they didn't have a green card, you know, basically
20 before even the law was passed.

21 So, there is a major gap in trying to prove subtle
22 discrimination, as opposed to trying to prove something that
23 was very overt or deliberate. But, again, we would take the
24 charge.

25 Obviously, if the employer had less than fifteen

1 employees, that charge would go to the special counsel of
2 the I.N.S., as appropriate under the Act.

3 DR. WHITE: Any further questions?

4 If not, Mr. Gloria, we thank you for your
5 testimony.

6 MR. GLORIA: You're quite welcome.

7 DR. WHITE: Now, has Wendy Hammon come in?

8 Wendy Hammon is Executive Staff Assistant with the
9 Arizona Department of Administration and is here to talk
10 about what is listed as SLIAG, and that's been referred to
11 before.

12 I believe that's State Legalization Impact
13 Assistance Grant. Is that correct?

14 MS. HAMMON: Correct.

15 DR. WHITE: Fine.

16 We welcome you, and you may proceed.

17 MS. WENDY HAMMON: Okay. Before I begin, I have a
18 message from Governor Mofford for you, which is to extend to
19 you her regrets at not being able to be here today. She has
20 many demands on her time, and often would like to be one
21 place when the demands put her someplace else.

22 She does hope that my being here as her
23 representative will be able to provide you with the
24 information that you need.

25 DR. WHITE: All right.

1 MS. HAMMON: In a discussion of SLIAG, then -- And
2 I will try, to the extent possible, to stay away from
3 acronyms, because they can be very confusing.

4 But the State Legalization Impact Assistance Grant
5 stems from the Immigration Reform and Control Act of 1986.
6 And what it is, basically, is an acknowledgement by Congress
7 that this legalization process does not come without a cost.

8 What they have done, then, is to appropriate
9 \$1 billion a year to be distributed based on an allocation
10 formula to the states who apply for assistance, funding
11 assistance.

12 The grant itself has, of course, many rules and
13 regulations, which change almost daily, but the current
14 rules that we are operating under break the grant into four
15 major categories of expenditure reimbursement.

16 The first one would be that of public health, and
17 in public health there are some constraints that must be
18 followed.

19 First of all, those that receive reimbursement
20 from this grant must receive funding from state or local
21 government.

22 The second thing is that the services provided
23 must be generally available to needy individuals residing
24 within the state, and the third is that the services
25 provided must be public health services.

1 The second area of reimbursement capability is
2 public assistance, which also has its constraints, and the
3 programs must be programs that provide cash, medical or
4 other assistance designed to meet basic subsistence needs or
5 health needs of individuals.

6 This service also must be generally available to
7 needy individuals, and again the entities receiving the
8 funding must receive money from state and local governments.

9 The third area of funding is that of education,
10 and the allowable services include instruction in basic
11 skills to enable adults to function effectively in society,
12 which would include the ability to speak, read and write the
13 English language, instruction leading to the equivalent of a
14 certificate of graduation from a school providing secondary
15 education, equivalent to a GED.

16 Also, instruction for adults with limited English
17 proficiency, instruction in citizenship skills, and
18 ancillary services. The ancillary services today have been
19 defined as day care and transportation to and from the class
20 sites.

21 Reimbursement occurs in different ways, depending
22 on what segment. The fourth segment, of course, is
23 administrative costs. But as far as the reimbursement, it
24 varies from area to area.

25 Under public health it's strictly on a formula

1 basis, which is the number of ELAs in a given service
2 population applied against the budget for that particular
3 service.

4 Under public assistance it gets a little more
5 difficult. You have two options there. You either need to
6 provide for a statistically valid sampling of the case load
7 or you must be able to track the expenses to the individual
8 ELA concerned.

9 Education, on the other hand, breaks into two main
10 categories, those that are referred to as K through 12 or,
11 basically, your children's education and those that are in
12 the adult category.

13 The K through 12 is somewhat limiting, in that
14 there must be either 500 students in the school district --
15 And under the children's education, the funding can only go
16 to local educational agencies, which would, in most cases,
17 be school districts.

18 There must be either 500 children in the school
19 district or the school district must be able to demonstrate
20 that three percent of its student population are in fact
21 ELAs. And this is the students themselves, not their
22 parents.

23 Also for the children, the children cannot have
24 been in an academic setting for more than three academic
25 years. The adults also have the three-year academic

1 requirement; but the 500, three percent does not exist.

2 Also, under the adult education is the first time
3 in the grant where the state can deviate from reimbursement
4 of state and local governments. Because there is an
5 acknowledgement that there are not adequate adult services
6 in existence, it is possible for the state educational
7 entity or our Arizona Department of Education to contract
8 with private employers to provide this service to the ELAs.

9 There is, in the education area, a requirement for
10 tracking. They must again be able to document that the
11 individuals that are receiving the services are approved
12 ELAs, and they must maintain records along with the other
13 areas.

14 We have recently been notified that our account
15 stage has been established. We will begin to draw funding
16 against this account funding next month, October the 19th.

17 For the fiscal year 1988, the state has been
18 approved for \$18.1 million of the \$1 billion budget. I do
19 have documents as to how we plan to allocate this money, and
20 I'll entertain any questions you may have on that.

21 Of course, with any federal grant, all of the
22 entities participating in this grant are subject to audit,
23 and the grant is under the federal single-audit act. So, we
24 will be conducting the annual audits.

25 I know this is sort of a brief presentation of

1 what SLIAG is about. But I don't know your backgrounds, and
2 so I don't know exactly how detailed to get. So, at this
3 point, if there are any questions, I would be happy to
4 answer them.

5 DR. WHITE: Very good. Thank you.

6 Any questions?

7 SENATOR PENA: Mr. Chairman?

8 DR. WHITE: Yes. Senator?

9 SENATOR PENA: That 18.1 million, did the state
10 have to come up with matching funds?

11 MS. HAMMON: No, there is no state matching
12 requirement for this money.

13 And, in fact, this money may be used as state
14 match against other federal grants, if there are grants that
15 are appropriate.

16 SENATOR PENA: You stated that local government in
17 the areas of public health and education have to come up
18 with some matching funds?

19 MS. HAMMON: No, they are eligible to receive
20 funds under this grant, but they do not have to come up with
21 matching funds.

22 SENATOR PENA: Talk about the allocation of funds.

23 MS. HAMMON: Okay.

24 The federal allocation formula to this state is
25 based on three main components: the documented expenditures

1 of the state for a given fiscal year, the estimated
2 expenditures for the forthcoming year, and the number of
3 ELAs that reside in the state. For 1988, as I said, that
4 resulted in Arizona receiving \$18.1 million.

5 As far as how we're going to subdivide that money
6 amongst the different programs that are participating at
7 this point in time -- Because these figures I give you now,
8 again, are based on estimated expenses. We haven't
9 documented expenditures, which may change.

10 But at this point in time, under the three main
11 categories, the estimated expenditures for the public health
12 area will result in a little over 700,000 or 3.83 percent of
13 the grant monies going to public health.

14 In public assistance we're looking at close to
15 \$3.6 million or 21.29 percent of the grant monies.
16 Education, at this point, will have the largest portion with
17 almost \$12.7 million or close to 75 percent of the grant.

18 And then the remaining \$1 million will be split
19 amongst the different participants for administrative
20 services.

21 SENATOR PENA: Okay. The adult education, must
22 you be a nonprofit organization to qualify for reimbursement
23 from that grant?

24 MS. HAMMON: Yes, they must be nonprofit
25 organizations.

1 In fact, at this point in time, our Arizona
2 Department of Education has transmitted to anyone who is
3 interested a request for funding.

4 It's basically -- We have been calling it a
5 request for proposal, although it isn't truly the correct
6 terminology to use. But it is a document they have put
7 together that lays out in writing for the people what they
8 will have to do, what requirements are going to be placed
9 upon them to participate in the program, and how to make
10 application to the Department of Education for funding under
11 this money.

12 Since the grant is a reimbursement grant, our
13 state legislature, being concerned about getting this
14 program up and running, has provided the Department of
15 Education with an appropriation to expedite getting the
16 program going.

17 So, they do have state money available to get the
18 education program up and running, and then that will be
19 reimbursed. The expenditures out of that money will be
20 reimbursed to the state by the grant.

21 SENATOR PENA: Thank you.

22 DR. WHITE: Any further questions?

23 If not, we thank you for your presentation.

24 Our next scheduled witness, speaking on IRCA and
25 Family Unity, is Father Tony Sotelo--and, Mr. Zazueta, I

1 will apologize in advance for my Spanish pronunciation--of
2 the Iglesia Del Inmaculado, Corazon de Maria.

3 Not too bad, is it?

4 MR. ZAZUETA: You don't have to apologize to me.

5 DR. WHITE: Father Sotelo, we welcome you. And
6 you may proceed.

7 FATHER TONY SOTELO: Thank you.

8 The contact that I have had with the Immigration
9 Reform and Control Act has been indirectly through the
10 people that come to the Parish of Sacred Heart of Corazon de
11 Maria. And there's only a few points here, but one of them
12 is that:

13 When I come in contact with them as to marriages
14 and baptisms, I always bring up the point: are you getting
15 your papers organized? And almost always I get 100 percent
16 yes, but with it comes this other thing that some are giving
17 up or some are afraid.

18 I ask them why, and it's sad to say this -- And I
19 really can't prove it, but I do believe them. They have no
20 reason to lie about this. But it is a very common one, and
21 it really makes me sad. But it is that they are treated
22 without courtesy and harshly and ridiculed, especially when
23 their English is not very good.

24 That is really hard to take, because there's no
25 reason for it, especially if their documents are not

1 complete. Some of them don't write either English or
2 Spanish very well at all.

3 There's one office in particular that I get
4 complaints about. There's one man they single out that they
5 try to avoid. Of course, you really can't do it. And one
6 of them told me: He threw the paper at me like that
7 (indicating). Of course, that gets around. And that just
8 terrifies people and humiliates them.

9 And that's maybe not saying that the law in itself
10 there is something wrong with it, although some say there
11 is, but that's not the point. It's the way some people are
12 administering it or the clerks or whatever their position
13 is. But that is all too common.

14 And I encourage them to go back. I say: Report
15 that guy. Go back. Do something. And they say: Oh, it's
16 easy for you to say, because you have a collar. You're a
17 priest. But for us, they just ignore us.

18 Some of them say: What we do is that we just put
19 up with it. We just put up with it. But that is something
20 very sad.

21 The other one is: Somehow people must be taught
22 or convinced that English, it is possible to learn it. A
23 lot of people, they just have a hangup on learning English,
24 just like some have a hangup on mathematics. They say: Math
25 is not my bag at all. Science is not my bag. I like

1 history. In math I can just barely add. Two and two is
2 five.

3 And in this one, the 'same thing. They just get
4 kind of scared, especially if they're big classes, and more
5 so if they are people who are in their fifties or forties.
6 Somehow it's harder for their ear to be attuned to English.
7 And it's just a human element which I think we just cannot
8 ignore.

9 Also, for some it's very difficult to understand
10 the papers. And to get help, sometimes the help isn't too
11 much help. I really don't know how to treat that. But it
12 is difficult for them just to think that way, the way the
13 documents are made.

14 I'm going through some myself with a priest, and I
15 have enough trouble myself. I look at it myself--and I have
16 read English since I was seven years old--and it's still
17 difficult for me. I can feel for those people.

18 But I do feel that the worse thing is the
19 discourtesy. Supervisors who handle that -- I don't know
20 who is supposed to be in charge of that.

21 It is something that happens in parishes, too, the
22 priest treats you bad or something. If so, the guy should
23 be reported, whoever it is. That's not the way you're
24 supposed to treat people.

25 And that should apply in this matter, too, because

1 those people are the ones that are opening, when they look
2 at it, or closing the doors to many people.

3 And one last thing is: They have a big fear of
4 their families being split. They hear aqui aca--that is,
5 here and there--Peter had to go back to Culiacan or whatever
6 it is, going here and going there. It really confuses them.
7 I think there should have been a heck of a lot more
8 education in this matter.

9 And I grant that sometimes the word is out: Come
10 and get educated. But people don't go. That's part of the
11 ballgame. But I think that the people who are more educated
12 should have less excuse and make a better effort to educate
13 other people that do not have the background and the
14 discipline that it takes to keep up and to fix their papers
15 and so forth.

16 That's about all I have to say.

17 DR. WHITE: Thank you, Father.

18 Any questions?

19 SENATOR PENA: Yes.

20 DR. WHITE: Senator?

21 SENATOR PENA: These people that are mistreated
22 and ridiculed, is it I.N.S. or the qualified agents?

23 FATHER SOTELO: I would think it would be the
24 people -- I guess you call them the clerks, the ones that go
25 into the processing.

1 SENATOR PENA: At I.N.S.?

2 FATHER SOTELO: Yeah. When you go into the office
3 like the one on Seventh Avenue, like you go right into the
4 office and you have to talk to somebody there and be
5 processed, that one.

6 SENATOR PENA: Have any complaints been made to
7 that office that you know of?

8 FATHER SOTELO: I told them I would do it, but
9 they were afraid. They said no, no, because we don't want
10 anything to happen to our papers.

11 I said: I'd be glad to go over there. I'll go
12 with you and tell that guy to treat you better. They say:
13 No, no, no. That's all we need!

14 SENATOR PENA: I can understand that that would be
15 a hard thing to overcome for people. I mean, word does get
16 around.

17 FATHER SOTELO: See, I can sympathize. When I
18 went to Peru over a year and half ago, I had to fix my
19 papers to get in as a resident, as a missionary. And just
20 knowing that I was North American with some people don't go
21 over, and the way I was treated was something else.

22 I just controled myself, but I was treated very,
23 very shabbily. And then I got a bright idea. I said, I
24 know what these guys are afraid of.

25 So, the church bishop happened to be the brother

1 of the prime minister of Peru at that time. I said okay,
2 and I mentioned that: I'm having dinner with the archbishop
3 tonight. He's the brother of the prime minister. They knew
4 that right away. So, right away everything changed. He was
5 sweet and nice to me. That's what they have to do.

6 SENATOR PENA: Do you have any kind of
7 recommendation how we can blow the whistle on these folks?

8 FATHER SOTELO: On Seventh Avenue they should
9 clean house or something or say hey, if you have a fight at
10 home, don't take it out on the people there.

11 SENATOR PENA: We had testimony just recently--I
12 don't know if you heard it or not--I.N.S. people saying that
13 they bend over backwards, their approach is positive; we're
14 here to help people.

15 FATHER SOTELO: Fine. I wish I could hear that
16 from them, but that's not what I've heard. I'm not saying
17 they're lying, but I'm saying this does exist.

18 SENATOR PENA: I believe that, because I have
19 heard it, too. People have told me the same thing.

20 FATHER SOTELO: They tell me because they know and
21 they trust me. They just want to vent their feelings. They
22 just want to cry and shake with fear or anger. And then
23 they go out and they say thank you for this, Father. That's
24 as far as it goes.

25 SENATOR PENA: I wish we had a way of blowing the

1 whistle on these folks, because that needs to be
2 straightened out.

3 FATHER SOTELO: I think it should be more public,
4 and then it would get around. I'm not saying everybody. I
5 don't know how many. But I do hear it on a regular basis.

6 DR. WHITE: Any other questions?

7 Mrs. Whitlock.

8 MRS. WHITLOCK: Have you thought of perhaps a
9 self-help voluntary group within your church or your sphere
10 of influence to help these people fill out their papers, or
11 do you have something like that?

12 FATHER SOTELO: We have social services for that.

13 MRS. WHITLOCK: Good.

14 FATHER SOTELO: We have Theresa Rivera.

15 MRS. WHITLOCK: You have enough that you can refer
16 your people to your own resources.

17 FATHER SOTELO: Yes, but some of them have already
18 gone somewhere else. And even through there, they
19 eventually do have to go to the I.N.S. office.

20 MRS. WHITLOCK: Right. Okay, thank you.

21 DR. WHITE: I have just been advised, Father, by
22 our Regional Director that if you would care to file a
23 complaint, the regional office will look into it.

24 Mr. Montez, the Regional Director, is here. And
25 if you'd like to confer with him about that, he'd be very

1 happy to be of whatever help he can.

2 FATHER SOTELO: Thank you very much.

3 DR. WHITE: Thank you, sir.

4 Was there another question?

5 MR. ZAZUETA: Father, I just want to tell you that
6 you did a nice job in a very humane way, and I think that
7 this fear has been a big element in getting the people to go
8 to school and go to get qualified and eligible. Thank you
9 very much.

10 FATHER SOTELO: Thank you.

11 DR. WHITE: Our next witness is Francisca Cavazos.
12 Is she here?

13 Francisca Cavazos is from the Maricopa County
14 Organizing Project in Phoenix and is here to speak on the
15 subject of: Legalization, Phase I Application.

16 Welcome, and you may proceed.

17 * * *

18
19 MS. FRANCISCA CAVAZOS: Thank you.

20 What I'd like to point out in the 15 short minutes
21 that we are given is to basically give you an idea as to
22 what the experience has been for immigrants going through
23 this Phase I legalization.

24 But before I do that, I think it's important to
25 explain that the legalization process, after the Immigration

1 Reform and Control Act of 1986, was signed by President
2 Reagan in November 1986. It allowed for two different very
3 distinguished programs. One was for what we call general
4 amnesty and that was for any individual who could prove that
5 they had been living in this country as an undocumented just
6 before January 1, 1982. And that had a certain set of
7 regulations for those individuals.

8 And the other was a program for Special
9 Agriculture Workers which was called the Special
10 Agricultural Worker's Program, otherwise known as SAW.

11 I think it is important to point out that as
12 immigrant advocates in the community that we feel that there
13 was a serious problem here. Because we feel that Congress
14 erred in giving the jobs to the Immigration Naturalization
15 Service, because there is an attitude that is associated
16 with the department that historically has had the job of
17 detaining, arresting, harassing, and deporting undocumented
18 workers for some years.

19 And then suddenly, as a result of a new piece of
20 legislature, has to act as a friend of those individuals. I
21 think that is a very difficult task to do in such a short
22 period of time.

23 The period in which these undocumented workers
24 were given to actually legalize was a very short period in
25 my estimation. That period was one year from May 1987 to

1 May 1988, for those individuals who did general amnesty.
2 And for Special Agriculture Workers, we are still going
3 through that period now that was May 1987 until November 30,
4 1988.

5 As Vice-Mayor Mary Rose Wilcox indicated earlier
6 the Educational Campaign conducted by the Immigration
7 Program was too little too late and not enough. A lot of the
8 Educational Campaign was conducted in English, which I think
9 was an insult to the Spanish speaking community in the State
10 of Arizona. Very little was done up until March of 1988.
11 We begin to see some massive educational efforts both on the
12 radio on the television and the newspapers, public forums
13 and the like. So that the immigrant community was confused
14 about this law, as well as organizations, Qualified
15 Designated Entity, and the other organizations that were
16 assisting in the legal process.

17 And we need to include employers because many
18 employers are still confused about this law and don't know
19 what is going on.

20 We will have testimony about employers. Many
21 former employers or current employers feared because of not
22 paying taxes, feared that they may somehow be prosecuted
23 and, therefore, many times feared in giving this
24 documentation to those current or former employees who were
25 in the process of legalizing their status in this country.

1 I think the lack of there being any regulations to force
2 employers to comply with these requests, I think indicates
3 that the numbers were as low as they were on May 4th when
4 the legalization program ended for the general amnesty
5 provisions of the law.

6 We did make an effort in the State of Arizona.
7 Such efforts were made by the Representative Armando Ruiz, a
8 bill that was passed by the House. It failed with the
9 Senate because of lack of time because of Governor Mecham's
10 trial. But if it would have passed it would have come a bit
11 late and only help workers who are in the process. That
12 would have called for employers to give documentation to
13 current or former employees.

14 There has been, as a result of all this massive
15 confusion, there has been an increase in discrimination,
16 unnecessary firing. It's a real catch 22 situation, to
17 those who were legalizing. Many of them were fired from
18 their jobs and had no money and could not apply for
19 legalization. It was costly to apply. Many workers
20 experienced deteriorating work conditions, denial of
21 benefits and, of course, for women there was an increase in
22 sexual harassment. And those are the problems that result
23 with regard to employment.

24 Also, with regard to employer sanctions. There
25 was a lot of confusion on this bill called for employer

1 sanctions. And there was a six-month educational period
2 that was provided by I.N.S. for employers from November 1986
3 through May 1987. Employers were to have been provided with
4 enough education about what it was. They were to take
5 effect in June 1986. There were changes made that allowed
6 them to go through September 1987, that's when employees
7 were no longer legally undocumented workers.

8 The fines did not start until June 1988 for non-
9 agricultural employers and for non-agriculture employers
10 they can still hire workers who are in the process of
11 legalizing and not legalized yet. And those sanctions would
12 not come until December 1988. So if you think of all these
13 dates you can understand why employees are confused as a
14 result of IRCA.

15 There have been, to my knowledge, 25 national
16 class-action law suits. One that was organized in the State
17 of Arizona Romero vs. I.N.S. in which Special Agriculture
18 Workers were charging that when they were being detained
19 they were not being provided with any information on the
20 Immigration Bill. They were not allowed to call their
21 attorney, they were not allowed the right to live or to stay
22 in this country and were actually encouraged to take a
23 voluntary departure.

24 And there might be some immigration testimony
25 later regarding that.

1 There were many many changes in the regulation
2 during this one year to one and a half years to become
3 legalized. Immigrants were very confused because
4 particularly for agriculture workers.

5 The Department of Labor was charged with defining
6 what agriculture employment was. In the beginning they said
7 that cotton did not qualify and that sugar cane did not
8 qualify. We don't experience that in Arizona, but certainly
9 in states like Florida and the Virginias. Packing shed
10 workers was not considered -- working at the packing shed
11 was not considered agriculture. And so anyway those workers
12 could not apply.

13 That was the information that they were receiving
14 from QDE, and from I.N.S. themselves as well as attorneys.

15 There was a change in the regulation to include
16 packing shed workers, sugar cane, and cotton workers. Right
17 now, at least to my knowledge, there has been no change on
18 Jojoba workers. This is once again another example of the
19 massive confusion.

20 One more important point for immigrant woman.
21 There was a change in the interpretations by the I.N.S. with
22 regard to AFDC immigrant undocumented woman that have a
23 child that is born in this country, that child has a right
24 to welfare. And if I utilize those benefits for my children
25 and then 1986 comes along and this bill is passed, I

1 therefore, have the opportunity perhaps to become legalized.
2 I was told that I did not qualify because I had utilized
3 what are called public benefits. That was the interpretation
4 by the I.N.S. That was changed about midway through the
5 program.

6 And so my fear is that some undocumented woman did
7 not come forth, because earlier on they were told by
8 everyone that they would not receive legalization because
9 they had been a burden to the government.

10 One problem that we are seeing now, for those
11 immigrants who do apply and are denied legalization is that
12 they are only given a 30-day period to appeal and an appeal
13 can only be done by attorneys. And, therefore, as an
14 immigrant you must move very quickly and have contact of
15 where to go and who to see and who fills out your appeal
16 paperwork for immigrants across the state, once again the
17 cost was too high. An applicant must pay \$185 for the
18 application itself. Families had to account for \$420 in
19 addition to the medical exam the finger prints and
20 photographs. For many people having to pay actually pay for
21 the work documents, I've heard figures as high as \$600 from
22 employees, from former employees who did work here in this
23 country.

24 The fear is that some families did not conform,
25 because in a given family you could have a situation where

1 some members qualified while others did not. While that was
2 never clear from I.N.S. and history has it that immigrants -
3 - some members of some families did not come forth and
4 apply, basically, what we hear from immigrants is that
5 treatment by adjudicators, which is what Father Tony Sotelo
6 was alluding to, is very bad. Farm workers themselves
7 have come to our office and told us that they have been told
8 by adjudicators that their documentation is not appropriate,
9 that their employment letters do not seem to be appropriate.
10 They are told: "Come on, why don't you tell us that you
11 bought this letter." And we feel that this is not
12 appropriate for I.N.S. to be doing. And that is occurring
13 in some instances.

14 DR. WHITE: Three more minutes.

15 MS. CAVAZOS: Thank you, Doctor.

16 I have one more important point about the farm
17 workers. As I said earlier they have until November 30, to
18 apply for legalization.

19 In fall of 1987 there was an operation done in
20 Florida called Operation Cucumber where a large number of
21 employers bought their letters of employment to become
22 legalized. In that case, the judge who heard that lawsuit
23 actually threw out the charge for lack of evidence.

24 And what it did is that this case received a lot
25 of attention throughout the country, and it placed a lot of

1 fear on farm workers who could not obtain their actual work
2 documents from their employers.

3 Farm workers by and large are very migratory in
4 nature. They could be here today gone tomorrow. Many of
5 them are paid in cash and have a difficult time obtaining
6 legalization through the massive, publicity that was
7 received on this case, and to some farm workers that is an
8 injustice. They are charged with fraud when they actually
9 worked in agriculture to qualify for legalization.

10 As far as we can see, in the media right now, I
11 have not seen any current educational campaigns to inform
12 farm workers that their legal program, the educational
13 program, does not expire until November 1988. So, I think
14 that that sort of indicates that possibly there is not that
15 much attention given to farm workers as there was to many
16 city programs.

17 That basically includes my testimony. If there
18 are any questions?

19 DR. WHITE: Any questions from the Committee?

20 SENATOR PENA: Yes.

21 DR. WHITE: Senator Pena.

22 SENATOR PENA: You mentioned, except sugar cane,
23 cotton, and the packing sheds, is that part of the act or is
24 it an interpretation by I.N.S.?

25 MS. CAVAZOS: Well, actually Congress passed the

1 law and then gave the job to the Immigration Naturalization
2 Service to draft the regulation. But in terms of
3 Agriculture Workers that was given to the Department of
4 Labor and they decided that cotton -- any farm worker who
5 worked in the packing shed in an agricultural product or
6 sugar cane work did not qualify. How that was determined, I
7 have no idea. When for example workers who worked in
8 christmas trees qualified. So that's where lawsuits --
9 there was a lawsuit that was brought out challenging sugar
10 cane and challenging cotton.

11 To my knowledge, at this point, cotton workers are
12 encouraged to apply and sugar cane workers in the East Coast
13 are encouraged to apply.

14 The problem is that there may be some farm workers
15 who were told that they didn't qualify, and therefore, might
16 have returned back to the country. How do you track those
17 people down? I think that is a difficult task.

18 SENATOR PENA: What about the use of an attorney
19 in that case?

20 MS. CAVAZOS: I would think that that's probably
21 part of the process of actually drafting the regulation for
22 first and second phase legalization which in part is done by
23 the Immigration and Naturalization Service.

24 SENATOR PENA: In your opinion attorneys are not
25 necessary in every case, would you agree with that in an

1 appeals case? An individual who is appealing rejection of
2 an application? You stated that an attorney was necessary.

3 MS. CAVAZOS: An attorney is necessary to fill out
4 the actual appeal and represent the worker before that
5 appeal process in any hearing that may be conducted.

6 SENATOR PENA: And the hearing is not in a court
7 of law they are before the I.N.S.?

8 MS. CAVAZOS: My understanding is that they are
9 before an Immigration Hearing Judge.

10 SENATOR PENA: In your opinion is a lawyer
11 absolutely necessary?

12 MS. CAVAZOS: Yes. I have been told that an
13 attorney is necessary. And I actually was a part of one
14 through the Arizona Immigration Steering Committee here in
15 the City of Phoenix. We actually conducted an appeal
16 workshop, where an attorney from Tucson was present and
17 actually provided the information to us, and basically
18 saying that as community workers you can assist in doing
19 some of the preliminary work. But an attorney must do the
20 legal work to actually represent the worker before an
21 appeals process.

22 SENATOR PENA: Any freebies out there?

23 MS. CAVAZOS: I would think that there are some
24 attorneys in the City of Phoenix that are willing to do some
25 pro bono work, but it will cost money to some extent to do

1 that.

2 MR. ZAZUETA: You mentioned that in the changes
3 that were made by I.N.S. it confused the people quite a bit?

4 MS. CAVAZOS: Correct. And I.N.S. mentioned that
5 they want to make the changes to correct the wrongs, but all
6 in all the victim is the person that got the wrong
7 information or got confused.

8 MR. ZAZUETA: And do you think anything can be
9 done about that, to get information? In the first case it
10 was stated that it was inadequate information that went out
11 and a lot of people didn't get the word.

12 What do you think can be done about all this
13 confusion and misinformation and changes and things like
14 that?

15 MS. CAVAZOS: Well, you know, fortunately, there
16 was an effort made to extend the deadline. I think that the
17 only thing, as Mr. Bracamonte stated earlier in his
18 testimony, the only effort that can be made at this moment
19 is to actually extend the deadline. And in my opinion, in
20 hearing, and in my experience in working with farm workers
21 and immigrants, a one year period to apply was not enough,
22 and the cost was very high.

23 Many organizations at the last minute were doing
24 fund raisers to ensure that everyone that believed were
25 qualified came forward and had the money to apply. And

1 there were some loans that were given out to immigrants that
2 didn't have the money.

3 I believe the only effort is to actually extend
4 the deadline. Because, yes, there are a lot of people who
5 have been left out of this process because of massive
6 confusion and fear.

7 Basically, inadequate information that they
8 received all along. It was very chaotic for QDE
9 institutions, for attorneys, and for immigrants to keep up
10 to date with all the changes in the laws and regulations
11 and verifications.

12 And the experience was different region to region
13 because of the discriminating powers within the I.N.S.
14 districts across the country.

15 So in short, the only thing that could be done is
16 actually extend the legalization time period.

17 DR. WHITE: Any further questions?

18 MS. CAVAZOS: Thank you.

19 DR. WHITE: Thank you for your testimony.

20 Mr. Paul Arter is from the Wesley community Center
21 in Phoenix Arizona, and he is going to speak to us regarding
22 Phase II and the requirements of Phase II in regards to
23 language, civics and public charge.

24 MR. PAUL ARTER: Thank you, Mr. Chairman.

25 In opening, I would like to say that it's been my

1 experience in dealing with the immigrant community
2 especially with the Mexican and hispanic community that
3 everybody knew about this law. It has been the topic of
4 discussion since it first passed.

5 The important question to raise would be to the
6 quality of information that has circulated regarding this
7 law. As they have been alluding to there was so much
8 changes in regulation that there was litigation. The
9 Immigrant Naturalization Service on the national level tried
10 to make what I felt among the most narrow
11 interpretations of the law that they felt they could get
12 away with. And through litigation also through some
13 concessions on the part of the Immigration and
14 Naturalization Service changes were made.

15 Misinformation which circulated was tremendous
16 both among applicant immigrants as well as employers.

17 Our office receives daily phone calls from
18 employers asking questions about the law and procedures.
19 And I have to make sure that I give them accurate
20 information.

21 The other thing that came up also is the fact that
22 employer sanctions came into effect well before the
23 deadline.

24 I spoke with a gentlemen yesterday who came into
25 our office who wanted to know -- because he finally raised

1 his \$185 and wanted to know if there was anything we could
2 do for him. The people that were out of work -- one of your
3 entities was to help people rescue their jobs so employers
4 could continue to employ them so that they can earn the
5 money required by the government. And to date there are a
6 lot of misconceptions on the part of employers.

7 Another question that I would like to address is
8 sex discrimination. Fifteen questions of likelihood to
9 become a public charge in it's final interpretation has been
10 applied fairly deliberately.

11 However, that was a third interpretation regarding
12 that part of law officially promulgated by the Immigration
13 Service. The people who initially had been told, especially
14 woman. I think the question of public charge even as
15 defined in a liberal way puts an unfair bias against woman
16 because of the vast majority. I have clients that I have
17 seen, three that I can think of, single heads of families
18 tend to be woman. The homemakers are not quick to find
19 employment without the needs of public assistance. We have
20 been told that it is likely to become a public charge, will
21 not be waived for the second phase. And this again is open
22 to the questions between the two and a half, how that will
23 be interpreted who will be excluded, and who will be
24 included if we have to wait for litigation and last minute
25 guidelines. A lot of people will be left out on that.

1 There was a woman that I can recall where I looked
2 at her case she had a fairly long history as a single mother
3 relying on the government. And I told her that she would be
4 denied. She left the office in tears, and I was especially
5 sad to see her leave. It is interpreted in a way that
6 possibly this woman might have been in her condition waived.
7 I don't know how many cases this would happen with regards
8 to Phase II.

9 I think we are extremely fortunate that the
10 estimates as far as the number of undocumented workers in
11 the United States are well below the initial projection that
12 we were given by the Immigration and Naturalization Service
13 as they lobbied for passage of the bill.

14 We used to hear figures as high as 4 million , 6
15 million as high 1.8 million illegal residents in the United
16 States supposedly taking jobs from other people. We have
17 been fortunate at the close of the application period of May
18 5th that some 4. million had applied. Out of those, our
19 experience, I believe close to two thirds of those were
20 under section 245-A those legalized people who will be
21 required to meet the English requirement and the United
22 States Civic requirement at the time of application given
23 that the government resources both public and private are
24 available. I believe we will fall short of the needs.

25 I think that some people will be left out of the

1 final process when their temporary residence expires. They
2 may revert again because of lack of services in completing
3 the final phase of their own legalization.

4 NALEO, the National Association of Latino and
5 Elected Appointed Officials pointed to studies saying that
6 77 percent of immigrants who have come into the country in
7 the last 6 years have no English, reading and writing
8 ability. That's a big task if we -- I'm not sure what the
9 national status are exactly, but even in the Phoenix
10 district 18 thousand of those people, 77 percent of those
11 are in need of some sort of instruction.

12 There needs to be a tremendous amount of energy
13 put into them, so that they could comply with the law. They
14 may find permanent residence and will not conform.

15 We have aided more than 2 thousand people between
16 both programs to submit applications for legalization. Out
17 of those approximately 70 percent of those were legalized
18 applicants. We do not have the funds even for those to
19 enroll, each of those, in english class or U.S. Civic class.
20 And I may be correct on this, less than a quarter of all the
21 applications filed were filed through a qualified designated
22 entity such as ourselves. That would indicate that assuming
23 if we have as many as 15 to 17 hundred people in need of
24 those services, there is just another 3 percent that we did
25 not have any contact with, who have applied and were legal

1 services.

2 I'm also concerned that the gap as was the case in
3 the first phase between legitimate, responsible and
4 reputable services such as those provided by qualified
5 entities. And attorneys or even responsible citizens, fell
6 short of the demand for service and the gap was filled by
7 individuals in some cases as I indicated. The less
8 informed in some cases came into our agency, have come into
9 our office after they had filed papers which were filed
10 wrong. They were qualified but they missed their
11 opportunity because of that. An I'm concerned that on the
12 Second Phase, a gap between responsible and adequate
13 educational services or legal representation or tests and
14 the tremendous demand that will anticipate will again profit
15 with fly-by-night profiteers.

16 DR. WHITE: I thank you for your testimony. Any
17 questions from any of you Committee Members? Senator Pena.

18 SENATOR PENA: Yes, sir.

19 To your knowledge are there any waivers available
20 for woman who have been qualified on the basis that they use
21 government services?

22 MR. ARTER: Well, sir, as I said the fine
23 interpretation given for the first phase of temporary
24 residence was to me a fair one, it wasn't made until the
25 last four months of the application period. And in most

1 cases, that I'm aware of, did apply to women or welfare
2 recipients and did ask for a waiver of that condition.

3 I have no knowledge of any cases where it wasn't
4 granted. My concern is that on the second phase there is no
5 provision on the waiver of that decision.

6 SENATOR PENA: Has Wesley Community Center applied
7 for funds from the Department of Administration?

8 MR. ARTER: Yes. We have an application for a
9 contract through the State Department of Education for some
10 of those federal funds to aid in English classes and civic
11 classes.

12 DR. WHITE: Any other questions?

13 Sir, we thank you for your testimony.

14 Our next scheduled witness is Mr. Frank
15 Messina. Is he here?

16 * * *

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18
19 MR. MONTEZ: We're a little bit ahead of schedule,
20 Mr. Chairman. He wasn't scheduled until 3:00 o'clock. So,
21 if he's not here --

22 DR. WHITE: He is here.

23 MR. MONTEZ: Oh, he is?

24 DR. WHITE: Yes.

25 MR. MONTEZ: I just wanted to suggest perhaps we

1 wait and take a break.

2 DR. WHITE: Well, we have a break scheduled at
3 3:45.

4 Mr. Messana?

5 Mr. Messana is with Steve's Mexican Food in
6 Phoenix, and he is here to discuss: A Business Perspective.

7 So, Mr. Messana, welcome. And you may proceed.

8 MR. FRANK MESSANA: Thank you.

9 Basically, why I'm here today is to discuss how
10 the new laws are affecting businessmen like myself. We are
11 in the restaurant business.

12 Even though we, in an overall perspective, agree
13 with the laws and understand what is trying to be
14 accomplished here, the burden that has been put on
15 businessmen like myself is very time consuming. You can put
16 forth your best effort, and which we have tried to do, and
17 yet it doesn't seem to please the powers that be.

18 I speak of a specific instance. We were just one
19 of the businesses that were raided by the Immigration
20 Service in July, and I had an employee that was working for
21 me that Immigration did take out because he didn't have his
22 proper papers with him.

23 At that point in time, Immigration took this
24 gentleman to wherever they take their detainees. And he at
25 that point convinced them that he was qualified for amnesty

1 under the program but had not filed for his papers yet, at
2 which time they released him.

3 A week later he had his papers filed, and he's now
4 currently working for me again.

5 In the meantime, I am finding a lot of publicity
6 has happened, negative publicity for us, because we happened
7 to fall into that. It was a publicity thing so that they
8 can get the word out that they're going to start enforcing
9 the law, and we happened to be one of the four that happened
10 to be put on TV.

11 We are in agreement. And as general manager of
12 this restaurant, I am in charge of daily operations; and so
13 it is up to me to institute these programs such as filling
14 out the I-9 forms.

15 I interview everybody that is hired, and one of my
16 first questions that I ask any of my employees is: do they
17 have their proper forms?

18 Now, there are fees required, obviously, to file
19 for these papers, work authorization or whatnot, and a lot
20 of people that come to me for these types of jobs,
21 dishwashers, busboys, don't have the money available to them
22 right up front.

23 My policy at the restaurant is we hire a lot of
24 people through referrals from people that already work for
25 me, because I can pretty much get the idea if the people

1 coming to me are going to be qualified or not.

2 In this particular instance, I gave this gentleman
3 a leeway of time to earn some money to file his papers. In
4 between that time, Immigration raided us and took him out of
5 their.

6 The problem I'm seeing with the program is not so
7 much that I'm against what they're trying to do and making
8 sure everything is legal and okay to work in this country.
9 It's just when all my records were subpoenaed by I.N.S., it
10 seemed like there was a double standard there. And I had a
11 hard time dealing with that.

12 This gentleman was able to go back and convince
13 them verbally that he qualified for amnesty, and that was
14 good enough for I.N.S.

15 But yet when this gentleman was able to convince
16 me through interviews I have had with people he knew, and
17 directly with me, and he convinced me that he was qualified
18 and would get the paperwork and I told that to I.N.S., that
19 wasn't good enough for them.

20 My problem is I have to sit down and fill out all
21 these papers. I was unaware of the exact laws at this time
22 and the amount of time for keeping all these papers in my
23 files.

24 The educational visit that I.N.S. provides
25 employers did come late. Immigration even admitted that to

1 me, to ourselves. And I assume it's coming late to a lot of
2 employers, because I'm sure they don't have enough agents to
3 go and make all these visits.

4 And the visits I guess are there and are designed
5 to answer any questions, to make sure everybody understands
6 it.

7 Well, I was raided about two weeks after my
8 educational visit. And it was something that I didn't
9 understand, like I said. You're supposed to keep the I-9
10 forms in our files for three years after the employee leaves
11 employment. I was unaware of that.

12 As my employees were leaving up to that point, I
13 was cleaning my files. So, I didn't have I-9 forms to
14 present I.N.S. for that after this raid. So, I was fined
15 for that, also.

16 It was late in coming. But it is something that
17 if you don't really watch your step, it can really, really
18 get you into trouble.

19 And it is our policy not to hire people that are
20 illegal and not qualified to be in this country. But yet I
21 am being fined, we feel very heavy, for something that we're
22 trying to deal with and trying to proceed through these
23 laws.

24 But yet small mistakes can really get you in
25 trouble, and small businessmen like myself cannot afford

1 this kind of thing. We have \$1500 worth of fines hanging
2 over our heads right now, and not to mention our reputation,
3 which I don't particularly like, considering it is false.

4 And the laws seem to be okay. But like I said, my
5 biggest problem is I feel like it's a double standard for
6 I.N.S. I feel like I.N.S., in my particular instance, made
7 us to be an example, which I am not really thrilled with.

8 I just would think that there would be a little
9 bit easier way to implement these so it's not so much of a
10 burden on a small businessperson with all the paperwork, the
11 filing systems and whatnot that has to come about now.

12 And, here again, I'd like to emphasize that I am
13 in agreement with the law. I just don't think that right
14 now it is running smoothly; and I think that I.N.S. is
15 coming down hard when they, themselves, admit that they're
16 running behind on educating the public.

17 I mean, even the I-9 forms were delayed in getting
18 out, and that was very heavily published. They weren't even
19 available for a long period of time after the law was
20 implemented.

21 So, it's making it tough. I guess, basically,
22 that's all. It is just a burden, is what I'm basically here
23 to say. And it's not something that I'm trying to get out
24 of the responsibilities or I'm advocating let's change it so
25 we don't have to do that.

1 I'm saying that right now people are going
2 through a hard time in adjusting to it and understanding
3 what is going on. And I.N.S., I would hope, would
4 understand that. That's basically all I have to say.

5 DR. WHITE: Thank you.

6 Any questions from the Committee?

7 SENATOR PENA: Yes.

8 DR. WHITE: Senator?

9 SENATOR PENA: Because of the Act, do you ask all
10 employees, applicants, for papers?

11 MR. MESSANA: Yes, I do, sir.

12 SENATOR PENA: A guy who says I'm a citizen but I
13 don't have papers, how does he prove that to you?

14 MR. MESSANA: Well, first of all, like I said,
15 one of my policies--and I find it works real well for me--is
16 that we try to hire within our ranks.

17 Basically, when I have people working for me, they
18 will recommend somebody, a friend or a relative that is here
19 that needs a job.

20 And our organization is very lucky, because I have
21 a lot of people working for me that have been with us for
22 years. And so they have become very close and trustworthy,
23 and I can pretty much rely on them telling me: this
24 gentleman is not going to be qualified, or this gentleman is
25 qualified. They'll tell me straight up front.

1 This particular gentleman that came to me did not
2 have his papers. But through interviewing him and the
3 people that knew him, it was just a matter of he didn't have
4 the money to file for his papers. I told him I would hire
5 him to allow him to earn some money so that he could file.

6 If I'm not mistaken, there is a three-day time
7 period that you have to get those papers filled out. Well,
8 I gave him more time. And I am guilty of that. I gave him
9 more time than I should have according to I.N.S., and the
10 place was raided prior to that.

11 But, like I said, my biggest problem is that the
12 publicity came out saying that I am knowingly hiring illegal
13 aliens, and that is false. I mean, that is just a false
14 statement.

15 I'm not knowingly hiring illegal aliens, because I
16 don't do that. And for I.N.S. to come out and make that
17 kind of a statement I think is very unfair. Very unfair.

18 SENATOR PENA: And when I.N.S. came into your
19 restaurant, did they ask all your employees for proof of
20 citizenship or papers?

21 MR. MESSANA: When they came in: First of all,
22 they brought eight agents. They got up on top of the roof
23 of the restaurant, they covered all doors to the alleyways,
24 and they covered every single exit from the restaurant.

25 They came in, flashed their identification to my

1 father, who happened to be working the cash register at the
2 time, and asked him to be allowed to go into the kitchen.
3 My father said: Be my guest. We have no problems with
4 that.

5 They were looking for all the doors, and all the
6 interior doors or exit doors that are not visible from out
7 in the front where the managers can keep track are kept
8 padlocked from the inside. So, there was nobody escaped
9 through back.

10 I imagine they came in like it was a major bust.
11 They made a splash of it. They went into the kitchen and
12 did ask everybody, and this particular gentleman did not
13 have his papers.

14 And when they left, they said: We're just going
15 to go down and check him out; there's nothing to be worried
16 about. It's no big deal.

17 And they did release him that evening, by the way,
18 like I said. This gentleman was released.

19 SENATOR PENA: Do you hire any citizens?

20 MR. MESSANA: All the time.

21 SENATOR PENA: How do they prove that to I.N.S.?

22 MR. MESSANA: Well, the I-9 forms have different
23 categories. There's birth certificates, driver's licenses,
24 original Social Security cards, naturalization forms.
25 There's a lot of things that you can have.

1 In Category A -- And I can't remember off the top
2 of my head all the papers allowed in Category A. But if
3 they present you one document out of Category A, that is
4 acceptable to I.N.S.

5 If they don't have a document out of Category A,
6 then they need to present you two documents out of
7 Category B, which one would be a driver's license. Another
8 one would be a Social Security card. And you have to have
9 both of those, not just one or the other. Or work
10 authorization forms issued by I.N.S. are acceptable.

11 You have to fill it out on everybody. I just
12 hired my sister. Now, my father has owned this restaurant
13 for 38 years. I just hired my sister two weeks ago. And I
14 know she's a citizen, but I have to have forms on her as
15 well.

16 SENATOR PENA: What you're saying is every
17 business in this state, in this country, has to keep that
18 form on all employees.

19 MR. MESSANA: It is my understanding that
20 everybody hired after I think it's November 6, 1986, you
21 have to have a form filled out on them. And it must be kept
22 in your files.

23 And after the employee leaves employment, you must
24 keep this on file three years afterwards, for three full
25 years, no matter if they're there or not.

1 Now, that is one of the main points that I
2 misunderstood as far as keeping it in my files for three
3 years, because when I had my employees leave, I threw out my
4 paperwork.

5 As a matter of fact, when the I-9 forms became
6 available to us after the big delay, I had an employee
7 meeting with every one of my employees and sat them down and
8 I went through step by step with every single person working
9 for me and we filled all the paperwork out.

10 Well, I had made a nice file, and I put it away.
11 But then as people had left my employ, I discarded their
12 I-9s.

13 Well, because of this last incident, I.N.S.
14 subpoenaed all of my employee records, payroll records and
15 whatnot, and came across I guess 13 employees that were no
16 longer with me that I did not have I-9 forms on.

17 Out of the 13 or 14 that they found, they picked
18 one out of that group and fined me \$100 on for not having an
19 I-9 form on him, for not keeping it in my file. So -- .

20 SENATOR PENA: If an applicant comes into your
21 place of business and you ask him all these questions and
22 you want proof that he's a citizen and he says he refuses to
23 show you the proof, stating that it violates his civil
24 rights, is that a reason for not employing him?

25 MR. MESSANA: If I had to make the decision: I

1 know I.N.S. would come in and say this gentleman is working
2 for you; you don't have I-9 forms on him, and they would
3 fine me. So, I would not be able to hire that gentleman,
4 because I cannot go with the fines.

5 Unfortunately, I can't make that appeal to I.N.S.,
6 saying this is a violation of his civil rights, because that
7 doesn't come within their reasoning.

8 I mean, you either have the form or you don't have
9 the form. And if you don't have the form, you're in
10 violation of their laws right now.

11 And you want to cooperate with them. But, you
12 know, they can come in and make a sweeping motion as to hey,
13 you're in violation of this. And then the burden is up to
14 you to prove that you are innocent here.

15 And that's exactly where I'm standing right now.
16 I have an appeal pending with them to go in front of their
17 director. And I don't know how that will turn out, because
18 I don't know if they're now going to really look at my
19 particular case or if it's just a matter of going through
20 the procedures.

21 But when they come in, you're guilty. And now it
22 is up to you. You have an opportunity here to appeal that
23 to prove yourself that hey, we made a mistake, which I think
24 is quite the reverse as to what I believe the U.S. was built
25 on.

1 I mean, I want to work with them, and they've even
2 praised me for trying to get along and cooperate with them.
3 They even praised me for keeping my files in the way I do
4 have. But I did goof up with a couple of errors, and I
5 guess they're trying to teach me a lesson.

6 DR. WHITE: Any other questions?

7 If not, sir, I thank you for your testimony.

8 MR. MESSANA: Thank you.

9 DR. WHITE: The Chairman is advised that the
10 remaining witness, Mr. Javier Saucedo of the Arizona Farm
11 Workers, was scheduled for 3:30. He wishes to give his
12 testimony in Spanish, and we do have the official Spanish
13 translator here.

14 So, we will hear that testimony as scheduled at
15 3:30, and we will stand in recess until then.

16 (Whereupon, at 3:05 o'clock p.m., a short recess
17 was taken.
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22 DR. WHITE: I would like to announce that as
23 stated in the agenda at 4:00 p.m. there will be an order for
24 any member of the public to appear and address the
25 committee. We would like to ask, if there is anyone who

1 plans to appear at 4:00 o'clock?

2 Sir, you do?

3 FROM THE FLOOR: Yes.

4 DR. WHITE: All right, would you confer with Mr.
5 Montez about that.

6 All right. Now, we have actually three more
7 witnesses. I believe all who will be farm workers. Where
8 is our translator? Oh, there he is. Are you ready, sir?

9 We have three persons who wish to appear. And the
10 first one listed on the program is Mr. Javier Saucedo.

11 MR. JAVIER SAUCEDO: Yes.

12 DR. WHITE: I will assume that we will proceed
13 with consecutive translation. Mr. Montez. Did he go?
14 Phil, has it been a practice to use consecutive in
15 translation?

16 MR. MONTEZ: Whatever is more convenient for him
17 and the court reporter.

18 Well, I think I left it at his discretion. I'm
19 not a translator, so I don't know what works best for both
20 the panel members and the audience.

21 DR. WHITE; We'll proceed with consecutive.

22 Have you conferred with Mr. Saucedo?

23 INTERPRETER: Yes.

24 DR. WHITE: We will then welcome Mr. Javier
25 Saucedo, and you may proceed.

1 MR. JAVIER SAUCEDO (through the interpreter):

2 Thank you. My name is Javier Saucedo and I am a
3 Union Representative for Arizona Farm Workers Union. I want
4 to speak a little bit about what is happening with the new
5 Immigration Law. Particularly as it relates to farm
6 workers. To begin with I have always considered the
7 Legislation as considered an egotistic manner, particularly
8 in terms of the farm worker with the specific requirements
9 that are put forth for the farm worker to become legalized.

10 The law does not put forward a way to grant legal
11 status to farm workers based on seniority, since it requires
12 that the farm workers have worked between the time period of
13 May 1985 to May 1986. This means that a number of farm
14 workers who had been involved even in the Brazeros Program
15 of many years ago who have been in this country ten or
16 fifteen years who perhaps did not work in agriculture in
17 that particular period, they would not apply to them.

18 Despite having been given so much work to this
19 country for some years they did not have an opportunity to
20 become legal. They had to return to their countries and buy
21 letters or documents, false documents to be able to become
22 legal.

23 When we got into the actual process of
24 legalization, the first months, the contractors and ranch
25 owners they began to fire many people who were not able to

1 prove that they were eligible to become legal or they were
2 in the process of becoming legalized. This means that the
3 immigration authorities did not put forward an adequate
4 program for getting out the information of the new law in
5 terms of informing the employers when they could not, and
6 undocumented workers. And later the Immigration authorities
7 and the people who were responsible for formulating the new
8 law, they never put forward a clause that would require
9 ranchers to turn over necessary documents to those that
10 requested that, that is farm workers, who had worked with
11 them. They knew very well from advance that many of
12 these contractors had been working illegally, that they had
13 been contracting people illegally and they were not going to
14 comply.

15 Neither did they come forth with a clear
16 understanding as to how the documents or letters that they
17 were requesting should be formulated.

18 At the beginning the I.N.S. did not accept check
19 stubs nor written statements. This caused a very difficult
20 time period for the farm workers. Because on the one hand
21 they were not able to gather together all of the
22 documentation that the law required them to come up with.

23 And on the other hand they were not able to obtain
24 jobs or they had no way of getting the necessary documents.

25 Another criticism that we come up with is we don't

1 understand how the I.N.S. has not come up with the I-700 and
2 the I-705 in Spanish and in English.

3 For a long time people didn't understand what it
4 was all about or what it was they were filling out. Why
5 couldn't the government have simply translated those 8 pages
6 if they are asking each of the applicants to require each of
7 the applicants to pay \$185.

8 Since opening the Legalization Office, that is
9 with service provided, there has been a problem of
10 communication between the employers processing these
11 documents and the people that have been applying.

12 Almost no official of the I.N.S. in any of these
13 offices at least in the Phoenix Arizona area spoke Spanish
14 or at least spoke Spanish well.

15 The officials spent their time just handing out
16 their papers or correcting them. So the work had to go to
17 other organizations, turn to other organizations and to pay
18 them money to find out what they had to do. It seems that
19 the I.N.S. had no interest in people becoming legalized. Or
20 it was a door that was only opened just slightly.

21 In the very beginning we saw that the very people
22 that violated the law were the officials of the I.N.S.
23 Many of the officials that worked in the southern area
24 region of the United States considered the law in a very
25 difficult fashion from which it had actually been passed.

1 We have the Romero vs. I.N.S. case. And I'd like
2 to add a personal experience to this: I was arrested last
3 year on September 26th in Blythe. I was forced to remain
4 seated for more than ten hours. During that period of time
5 I was able to listen to many of the interviews that I.N.S.
6 carried out with other people that had been obtained. At
7 that particular time the officials had two different things
8 that they put forth. If the people had with them their
9 proof of work, the I.N.S. officials offered them the option
10 of voluntary departure. That is if they agreed to depart
11 voluntarily, they would have to turn over the proof of
12 having worked to the I.N.S. And they added that if they
13 wanted to appeal their case they would have to wait 3, 4, up
14 to 6 months before a judge would have to hear their case.
15 Obviously, the people preferred to accept the voluntary
16 departure.

17 Another point we hear very much about now is that
18 they require that the farm workers have to speak English or
19 be studying English to be able to pass on the Second Phase
20 of the legalization process. We have to understand that the
21 farm labor is a very exhausting type of work. There are
22 times when the workday goes from sunrise to sunset.

23 When are these people going to be able to study?
24 For one reason or another citizens of this country do not
25 want to work these jobs. And there are very few options for

1 people advancing themselves, for people that are working
2 these jobs. Besides this is an area where the people work
3 and live Spanish it is the prominent language used. There
4 is not even a real opportunity to practice speaking English.
5 If the government is actually interested in all of us
6 speaking English, they should give us the means to do this.
7 Maybe some people will become encouraged to study and
8 actually even learn the language.

9 We have to understand that the majority of farm
10 workers have a very low level of education and they don't
11 even speak their own language real well. So we think it
12 will be a very major obstacle for farm workers to be able to
13 get through this particular phase.

14 The last point is the large number of people that
15 didn't fit into the requirements for the legalization
16 process, but that remain in this country, and it's a large
17 number of people.

18 For us the employment sanctions is a
19 criminalization of the right to work. The right to work is
20 like the right to eat. The right to have life, the right to
21 have a space in this world. If the government continues
22 with this approach to sanctioning the employers and to deny
23 the right to live in dignity, those who came to this country
24 looking for work, they are going to be writing a very black
25 page of history in this country.

1 DR. WHITE: Any more questions? All right, then
2 Mr. Saucedo, we thank you for your testimony.

3 Do we have Enrique Moreno? Is he here? How about
4 -- this is Enrique Moreno?

5 Mr. Moreno, welcome and you may give your
6 testimony.

7 ENRIQUE MORENO (through the interpreter): My name
8 is Enrique Moreno, and I had an experience in March of this
9 year.

10 When I was working in my job the I.N.S. picked me
11 up. They asked me for my papers and I told them that they
12 were being processed. I presented them with the money order
13 check stub that I had used to pay the I.N.S., but they told
14 me that they were going to take me away anyway and they
15 hand-cuffed me and took me away as if I was a criminal.
16 They took my social security card. They told me that I
17 could no longer use it.

18 When they picked me up, they hand-cuffed me with
19 my hands behind my back. And they dragged me quite brutally
20 through a light as it was changing red. I had my car
21 parked on a space where you can turn around and they took
22 off in the I.N.S. vehicle very fast with my hands cuffed
23 behind my back.

24 They continued on going after other people in the
25 area and I was quite upset that they were doing this while I

1 had my hands cuffed behind my back.

2 They took me to the I.N.S. offices for
3 investigation. They asked me how it was that I was going to
4 qualify. And I told them the areas that I worked in and the
5 things that I had done.

6 And they told me that those places didn't exist.
7 I told them that I had worked in the vineyards and I worked
8 in the lemon orchards and they said that those areas didn't
9 exist. And I told them that they had existed.

10 They were questioning me for some time. And as I
11 was about to end my testimony the official offered to
12 release me if I agreed to the voluntary departure. But, of
13 course, I didn't want to sign because even though I didn't
14 have my papers they were in process. It's just that I had
15 not received my papers in the mail. But my papers were
16 already being processed, and I showed them the stub for the
17 money order to prove that again, that I had already applied
18 and done the proper paper work. Finally, they let me go and
19 I was forced to walk from Central Avenue up to 40th Avenue
20 on Grand Avenue. The others that were picked up with me at
21 the same time, they were also questioned, interviewed and
22 interrogated. Most of those people did not have proof of
23 having submitted the application or the other paperwork.
24 Yet it was certain that they had done so, and they too were
25 released later when I was released.

1 When they let me go they left me with no money and
2 I had no way to get home. I was forced to walk. I had no
3 one to turn to. I had my check in hand, but I was not able
4 to cash it until I got to 40th Avenue, when a person picked
5 me up and took me home.

6 I told the investigating officer that was
7 questioning me that it was impossible for me to carry the
8 paperwork on me at all times because with the work that I
9 was doing it was impossible for me to carry the whole pile
10 of paperwork that I had regarding my case. And I told this
11 to the officer that arrested me. I had a very disagreeable
12 experience with those officials.

13 Despite the fact that my papers were already
14 approved by the office of the I.N.S. my appointment for my
15 interview was already -- the date for my appointment was
16 already in the mail. I had just not picked it up yet.
17 After they picked up the other people at work they hand-
18 cuffed them the same way as they hand-cuffed me and they
19 continued on at high speeds chasing after other people.
20 Some of them they were not able to pick up. That's all of
21 my experience, very unfortunate experience that I had with
22 the I.N.S. officials.

23 DR. WHITE: Thank you. And are there any
24 questions of any members of the committee?

25 SENATOR PENA: Mr. Chairman, how do we proceed?

1 Do I pose the question in English?

2 DR. WHITE: Either way you like. If you prefer to
3 speak in Spanish, we will have the interpreter.

4 SENATOR PENA: Is his name Moreno?

5 DR. WHITE: Moreno. He's going to speak in
6 Spanish and you will translate what he says.

7 SENATOR PENA: Mr. Moreno, did you file any
8 charges against those people that treated you so brutal?

9 MR. MORENO: I just spoke with some people from an
10 organization.

11 SENATOR PENA: At the time of your arrest, did you
12 have any family members here in Arizona?

13 MR. MORENO: I lived with a woman.

14 SENATOR PENA: And you qualified for the first
15 Phase of this legislation?

16 MR. MORENO: They had already accepted my
17 paperwork.

18 SENATOR PENA: But you didn't carry with you any
19 of the documents other than the stub, from the money order?

20 MR. MORENO: Unfortunately, I didn't have any of
21 the paperwork with me because it was impossible for me to
22 carry the letter or the documentation with me at all times.

23 SENATOR PENA: And the result of the complaint
24 that you made, what was it?

25 MR. MORENO: It wasn't an official complaint, it

1 was just a discussion that I had with them.

2 SENATOR PENA: That's all.

3 DR. WHITE: Any other questions?

4 MR. ZAZUETA: Are you aware of the fact that you
5 must take classes to study to learn English and to study
6 history?

7 MR. MORENO: That's what they say. That everyone
8 has to take classes to study English.

9 MR. MORENO: But there's a long time to go because
10 I've already received the card that gives me permission to
11 work until 1991. By that time it may be that I have learned
12 it and maybe not.

13 MR. MATT WILSH: Excuse me, Mr. Chairman, just
14 briefly, if I may. The law does not require Special
15 Agriculture Workers to learn or pass the test in English.

16 DR. WHITE: Sir, we can't permit you to testify at
17 this time. If you would like to stay around, we will hear
18 anyone who is here and wishes to be heard. We must proceed.

19 MR. ZAZUETA: Just a point of clarification. The
20 gentlemen is right, Special Agriculture Workers do not have
21 to go through the English and Civic process. I was trying
22 to discern how much information was out there on those
23 topics. I get from other people's statements that there is
24 not enough information to have the people go to the classes.

25 DR. WHITE: Any further questions? If not we wish

1 to thank you, Mr. Moreno, and to excuse him.

2 MR. MORENO: Thank you very much for your
3 attention.

4 DR. WHITE: Do we have Mr. Juan Flores?

5 INTERPRETER: Mr. Chairman, this is Juan Flores.

6 MR. FLORES: Yes. I'm going to try to explain
7 myself in English if I get the opportunity to practice so
8 I'm going to go ahead and if I can ask the interpreter to
9 stay here if I get stuck, he'll help me out.

10 I'm going to be brief because I know everybody is
11 tired and it's late. And I want to close this thing up.

12 There are two points that concern me and my
13 personal experience. First of all is that my wife she
14 worked in agriculture in the time in the period that the law
15 is asking for and this happened in L.A. in Los Angeles.

16 Now she is here in Phoenix with me together to
17 gather the paperwork so she can apply. We had to go all the
18 way to Los Angeles and look for the supervisor or the
19 foreman to ask for the letters and all the appears that they
20 were asking for here. So that's one of the main reasons
21 that she didn't apply.

22 I myself am an applicant and that is one of the
23 points that concerns me. What is going to happen with her?
24 I mean most probably I will get my permanent card and what
25 is going to happen with my wife?

1 I know we have until November that she can apply
2 for this card, but then again, we have to go over there look
3 for the man and most probably we won't find him there.
4 Because, as you all know, they change they vary their working
5 place a lot. So that's one of the first points that I'm
6 concerned with. What is going to happen with all those
7 families that one got the amnesty and the other didn't?
8 What is going to happen? That's one.

9 And the second is that it's real hard right now
10 because there is a real big confusion with employers and
11 everybody just scared they are going to be sanctioned or
12 something like that. I'm having problems because I haven't
13 received my social security card and this happened, I don't
14 know, about two months ago. And I haven't received it yet.
15 And I'm starting to get problems with my boss because he's
16 afraid. And I don't blame him. And that's about it.
17 That's my concerns.

18 DR. WHITE: Thank you, Mr. Flores. Any members of
19 the committee have a question?

20 MRS. WHITLOCK: Did your wife have any other proof
21 that she worked over there, at that time? Did she have
22 check stubs or anything?

23 MR. FLORES: They pay in cash.

24 MRS. WHITLOCK: Does anything else apply in lieu
25 of that if you can't find the man? Could she get 2 or 3

1 witnesses to write letters?

2 MR. MORENO: We could do that but then again we
3 could go somewhere and look for a false -- but then I don't
4 want to risk anything going out of the law. I don't want to
5 risk it. So that's -- I'm trying to get -- what's going to
6 happen is there is going to be further down the line, a
7 reform. If I got my permanent residence I can, you know,
8 sustain my wife here. No problem.

9 DR. WARREN: Do you have young children?

10 MR. FLORES: Yes. As a matter of fact I have a
11 three-year-old girl.

12 DR. WARREN: Were they registered in the state?

13 MR. FLORES: She was born actually in Hermosio.

14 DR. WHITE: Any other questions?

15 I thank you, Mr. Flores.

16 DR. WHITE: We do have one witness who was
17 originally scheduled to testify earlier but was not able to.

18 MR. ENRIQUE OCHOA: I was waiting for Mr. Romo
19 who is the president of the League of United Latin American
20 Council here in the State of Arizona to come forth but he
21 has not come.

22 I would like to say or make a couple of comments
23 that were a concern to LULAC and it is through the
24 experience of LULAC that I want to speak now. I'm the
25 public officer for that organization in the State of

1 Arizona.

2 One of the things that had occurred or at least
3 that had been projected by various organizations is that
4 there was going to be discriminations on behalf of employers
5 that would more than likely effect people that were citizens
6 of the United States, as the general businessman that came
7 and testified. And we got an idea of how that experience
8 came about.

9 However, on various occasions the experiences that
10 we want to highlight, and particularly I want to mention at
11 this time because there are a lot of issues that have been
12 brought forth, but I think there is one issue that needs
13 mention and that is this: At times there are situations
14 where we do worry about discrimination occurring or
15 pertaining to these people. And it was thought that with
16 these regulations and with this law coming into effect an
17 undocumented would not be come to share. Well, I come to
18 share that in fact in many occasions that is not the case.

19 The LULAC meeting had a group of seven people that
20 came forward to seek our help. They didn't know where else
21 to go. What happened to them is that they had worked with a
22 construction company, the WITT Construction Company and they
23 had worked each of them anywhere from 120 to 180 hours and
24 they had not been paid. They kept on complaining about
25 their pay for the work that they had done. They were told

1 that they would be reported to the Immigration
2 Naturalization Service and it would be best for them to wait
3 until they got paid.

4 Of course, they are willing to hold them and allow
5 them to keep working there with the promise that they would
6 be getting paid. What I'm mentioning is that discriminatory
7 effect because of the law. The confusion how it applies to
8 employers and how it applies to people that are
9 undocumented.

10 Obviously, how it applies is not readily available
11 and is not very clear. It is not made clear to the
12 employers, for instance, that the impact that this law can
13 have on them. And more importantly, the undocumented alien
14 is not being informed as to what kind of recourse he has in
15 this situation. As we have employers that hire them and
16 abuse them and treat them in a way that is inhumane.

17 There is one situation of seven people that came
18 before LULAC in the presence of the Mexican Consulate.

19 There was another occasion where they had 28
20 employees that were complaining of another agency that was a
21 landscaping agency that was doing the same thing. I
22 personally received two calls similar to that with smaller
23 groups. One at the very least to make you aware this is
24 happening. And there has to be something done about it.

25 DR. WHITE: Mrs. Whitlock.

1 MRS. WHITLOCK: Are you saying that these
2 employers are purposely exploiting these people because they
3 feel they can get away with it? Or are you saying that the
4 employers themselves, because of the rulings and
5 regulations, are so confusing that they are afraid of paying
6 them right now, because they are afraid they are going to be
7 in trouble if they are holding the pay to when the rules and
8 regulations come down?

9 MR. OCHOA: I think what I'm saying is that the
10 first justification is probably true. The second kind of
11 logic follows on their behalf.

12 It's kind of hard for me to phantom that kind of
13 thing. It's an inhumane period. But I think it's the first
14 part, and the fact that there is also confusion on how it's
15 supposed to be implemented. But, more importantly, the
16 confusion is to the employee even if he be undocumented.
17 What does he do? What happens? And why is he having to
18 subject himself to this kind of inhumane abuse?

19 DR. WHITE: I have two other names of people who
20 have indicated the desire to address the committee.

21 The first one is Mr. Matt Wilsh.

22 You may proceed as the others did. You are
23 allowed ten minutes, sir.

24 MR. MATT WILSH: I work with the social services
25 with Central America refugees with the Valley on Central

1 America here in Phoenix. And I'm also a member of the
2 Arizona Immigration Steering Committee.

3 And what I'd like to talk about today just briefly
4 is the effect of the law especially on Salvadoran and
5 Guatemalan refugees in the area. And I believe that the law
6 exacerbates a climate of injustice and exacerbates violation
7 of the rights of these refugees in our country.

8 And I have three things that I'm using as source
9 material for the most part, that I would be happy to provide
10 for the committee, if you'd like to see it.

11 DR. WHITE: I'd be very happy to have it, sir.

12 MR. WILSH: And that would include a copy of the
13 Orantes-Hernandez decision which stems from a class-action
14 suit filed by some Salvadorans and led to a permanent
15 Injunction. And in this document there is a description of
16 the conditions in El Salvador and also descriptions of the
17 violation of civil rights on the Salvadoran refugees by the
18 I.N.S. And this Injunction is that they should change
19 their practices so that they would not violate their right.

20 The second document that I have is "The Cry for
21 Land" by the Catholic bishops of Guatemalan. And it
22 describes again the disarray situation in Guatemala.

23 And the third item I have is an article from the
24 New York Times which also explores that the main question
25 here that I want to get into is the effect on the law of

1 what may be as many as one million individuals.

2 So the question is what effect does the
3 Immigration Reform and Control Act have on them as far as
4 the reform side of it. That reform says, as you know,
5 anyone who has been here since 1981 is able to apply. Since
6 1981 there has been a lot of violence in these two
7 countries, Guatemala and El Salvador.

8 One Infopress Agency that collected from different
9 newspapers around Central America was part of a study that
10 was done between 1981 and 1985. There was some 400 villages
11 that were destroyed in Guatemala. And the Catholic church
12 in Guatemala refers to one thousand orphans and widows in
13 Guatemala. And we hear a little bit about El Salvador but
14 estimates are that there have been some 6 thousand people
15 killed there in this decade, and the majority since 1981.
16 So a lot of the people, in other words have come after 1981.
17 So they don't fall in that part of the Reform Act.

18 And another part of the Reform and Control Law is
19 agriculture workers. And my experience has been that for
20 Salvadorans, the Salvadorans that I have seen, are mostly
21 urban. And estimates are that in L.A. there may be more
22 than 200 thousand Salvadorans in the city. So the majority
23 don't seem to be going into agriculture work. So they don't
24 fall into that either.

25 As far as Guatemala, I don't have any figures.

1 But from my experience, this summer I worked very directly
2 with 45 different Guatemalans, and of those, two qualified
3 for the SAW program. And they haven't been able to gather
4 enough proof for it.

5 But, anyway, what I'm trying to say is under the
6 Reform part of the law it doesn't really seem to effect or
7 to help it effect, but doesn't help these Guatemalans or
8 Salvadorans.

9 The other side of the law, the control side of it
10 helps one effect of the law and one goal of the law is that
11 I.N.S. has a hope that there will be a self deportation
12 process. That if people aren't able to earn enough money
13 then that would be an incentive to return to their country.

14 With Salvadorans, I talked to a woman with the
15 National Lutheran Agency in Washington this morning and she
16 said that the information she has is that Salvadorans and
17 Guatemalan aren't returning to their country.

18 So the result is that they remain here in poverty,
19 unemployed, poverty. So it's even more desperate for them.
20 So, that part of the control didn't work. Their option,
21 therefore, becomes political asylum

22 And recent figures, the most recent in the New
23 York Times in September 1987 is that 4 percent of
24 Salvadorans have been granted asylum. And the Guatemala
25 I.N.S. studies between 1983 and 1986 said that .9 percent of

1 Guatemalans win. So it's a very small percentage of people.
2 And this is in a country -- Guatemala for example, in this
3 letter by the bishops the Guatemala bishops say: I'll just
4 give a few excerpts. "The situation of dehumanizing poverty
5 suffered by the campesinos who painfully bring forth from
6 Guatemalan soil a daily sustenance for themselves and their
7 families.

8 They refer to the exploitation of campesinos: In
9 our society the campesino is frequently exploited in a
10 ruthless and inhumane way. The campesino continues to be
11 the cheapest and most exploited labor force. They talk
12 about the futile cry of the campesino. Thousands of
13 campesinos have been killed in Guatemala merely for having
14 attempted a change of structure.

15 And as far as Salvadorans go, only 5 percent have
16 won. From a country which -- I'll just give again some
17 excerpts from the Federal Courts that say: People from a
18 wide cross-section of Salvadoran society suffer human rights
19 abuses.

20 And then they give a list: Trade unionists,
21 members of farm worker unions and cooperatives, religious
22 workers, human rights activists, refugee relief workers,
23 members of student or political organizations. And then it
24 goes on to say, just to highlight one other section, they go
25 on and say more about the type of persecution that occurred.

1 But they also go on to say that the Salvadoran Judicial
2 System completely fails to investigate and punish violations
3 of human rights. There has never been a successful
4 prosecution and conviction of any member of the Salvadoran
5 security forces for political violence and human rights
6 abuses against civilians, except where the victims have
7 included U.S. citizens and only then after extensive
8 involvement and intervention by the United States
9 government.

10 My point in all this is just to say that people
11 from Salvador and Guatemala are between a rock and a hard
12 place in the most critical ways.

13 And with the control side of IRCA comes even more
14 border patrol people even more raids witnessed and so forth
15 in a kind of attitude of clearing out and cleaning out the
16 country. Of people who basically with the attitudes that
17 says if people don't qualify for IRCA, then they don't
18 belong in the United States.

19 And it's particular important, we feel that we as
20 a nation realize what conditions are in those countries and
21 what a slim hope we are offering for them when they come to
22 this country. Thank you.

23 DR. WHITE: Any questions of the members of the
24 Committee?

25 Mr. Wilsh, I think most of us are aware that you

1 are unhappy with the situation in Central America. The
2 turmoil that exist there in conflict.

3 I'm curious to know though, that you confine
4 yourself entirely to the shortcomings of the governments in
5 Guatemala and El Salvador.

6 Are you concerned about the activity of the
7 Sandanistas in Nigaragua? Are you familiar with the
8 situation in Managua or is your indignation confined only to
9 those governments that you mentioned?

10 MR. WILSH: Most people that I deal with that we
11 deal with are Salvadorans and Guatemalans. And I'm
12 concerned with Nicaragua as well.

13 The same New York Times article had the number of
14 Nicaragua that had been granted political asylum and it was
15 68 percent this last year. And I think there is more
16 advocates there than there are for Salvadorans and
17 Guatemalans.

18 As I said before, my experience has been with
19 Salvadorans and Guatemalans.

20 DR. WHITE: What is your view of the Sandanistan
21 government?

22 MR. WILSH: Sure. Well, my view of the
23 Sandanistan government, that's a dissertation. I don't know
24 what --

25 DR. WHITE: Well, I won't press you on your

1 knowledge about Central America. But that's up to you.

2 MR. WILSH: I guess the basic thing is we have a
3 concern. I have a concern about human rights in Nigaragua.

4 But I also have a concern about United States
5 policy there, and I think our present policy, whatever falls
6 in the Sandanistans are presently meaningful of dealing with
7 our security questions or human rights issues. This is not
8 the right course and I would be much more in favor of the
9 I.N.S. plan and any solution.

10 DR. WHITE: We thank you for your testimony.

11 We also have one other scheduled witness who has
12 asked to be heard.

13 Mr. Valenzuela, you may proceed.

14 * * *

15
16
17 DR. EDWARD VALENZUELA: Thank you, Mr. Chairman.
18 Thank you for the opportunity.

19 My name has been bantered about several times this
20 morning. My name is Dr. Edward Valenzuela, and I'm the
21 Deputy Director of the Equal Employment Opportunity
22 Commission.

23 However, I'm not going to be speaking representing
24 the agency. The Director, Hermilo Gloria, spoke earlier
25 representing the agency and our role in discrimination.

1 Even though I have been with the federal
2 government for over 22 years, I'd like to speak as a private
3 citizen. And I'll be brief.

4 My experience in the immigration area is somewhat
5 involved. I was a national founder of an organization of
6 Hispanic employees years ago. So, I have been across the
7 country and had opportunities to testify before Congress and
8 had meetings in the White House, meetings with the
9 Secretary of State and some of the other national leaders.

10 I am the co-chairman of the Arizona immigration
11 steering committee, along with Mary Rose Wilcox who spoke
12 earlier.

13 I speak from a perspective somewhat different, I
14 guess, different because I am the son of immigrants. My
15 mother was born in the Arizona Territory before the area
16 became a state. My father came from Mexico. He married her
17 and he left and went back to Mexico. My mother lost her
18 citizenship as a result.

19 They later immigrated, and my mother became
20 naturalized. My father got his papers, also. So, it's a
21 little different perspective that I come from.

22 My concern has been with IRCA not only because of
23 the feelings that I have had both in the agency, with EEOC,
24 and the discrimination portion but, also, the concern for
25 the human rights and legal rights of many of the individuals

1 involved.

2 I have perceived, based on my experience and
3 review and study of the law, that it's a great lost hope for
4 many, many people. There's been probably a false
5 advertisement that many people are going to be coming across
6 the borders and almost automatically become citizens by
7 merely stepping across, signing a few papers, paying a fee,
8 and that's it.

9 Little do they know there are about 25 steps
10 involved in becoming citizens in this country under the IRCA
11 law, and it's very confusing.

12 Just to become a temporary resident requires much
13 work, physical examinations, fingerprinting, AIDS testing,
14 paying the fees, proving that they were not insane
15 individuals, proving that they were not involved in
16 persecution of other people from other countries. So, there
17 are many steps involved in the first phase.

18 The second phase is more disastrous, I fear.
19 There were 50,000 applicants in the legalization process in
20 the state of Arizona. Fifty thousand, I assume that's
21 mixed, both the agricultural workers and nonagricultural
22 workers.

23 And as it's been indicated before and earlier,
24 there's different requirements. The agricultural workers
25 will not have to take the tests in English.

1 Incidentally, the test for English and civics was
2 not passed by the national Commissioner of Immigration,
3 Mr. Nelson. He failed some of the questions in the civics
4 test. So, it gives you some idea of what the applicants are
5 now going to be faced with.

6 Today I heard the representative from the
7 Immigration and Naturalization Service state that there were
8 81,000 applicants to date. I was not aware there were that
9 many more since the May closing date for the legalization
10 period. I assume that the additional ones are for the
11 agricultural workers. The figure that I had was 50,000.

12 And so there are between 50,000 and 81,000
13 applicants in the state for the immigration process that are
14 going to be going into the second phase of permanent
15 residency.

16 If all of those individuals were to apply for
17 classes in English, assuming that all of them couldn't
18 fulfill those requirements personally, there would not be
19 enough classes, even if they're doubled, in the state to
20 fulfill that need to help people fulfill that educational
21 requirement.

22 It is going to be a dismally low figure that are
23 going to be coming out of that fifty to eighty-one thousand,
24 and I have a great concern for that number of people after
25 they have met the first threshold requirements. I'm not

1 sure what's going to happen with those.

2 There was a question earlier as to what will
3 happen to those who fail to take the test or pass the test.
4 Will they be deported? And the answer was this morning:
5 Yes, they will be.

6 Yet, Father Sotelo and several others have raised
7 questions about family unity. So, I'm still concerned about
8 what's going to happen, as we enter into the second stage,
9 to those who don't pass the tests in English or civics.

10 I'm aware, based on my experience, that changes in
11 the law itself, the immigration law, will require
12 congressional action. Those are statutory changes. So, we
13 can't expect liberal changes in the law that might help a
14 number of people now or in the immediate future.

15 But many of the changes presently, too, can be
16 made by the Immigration and Naturalization Service. They
17 have certain administrative authority to make changes by
18 interpretation, giving different interpretations.

19 Some of their initial interpretations, as was
20 testified about this morning, were changed because of
21 lawsuits that were filed to make some of those changes and
22 to get different interpretations.

23 As they've liberalized some of the
24 interpretations, we have allowed more people to come in.
25 The ironic thing about the situation is the time frame, the

1 window of opportunity for applying.

2 There's only a certain universe of individuals who
3 qualify in the legalization process--that is,
4 nonagricultural workers--those who have been in this country
5 unlawfully since January 1, 1982, to the present, to the
6 time they applied. That was the time period to qualify for
7 residence here.

8 Now, that number of people would never change,
9 because they're not going to change the law and make it back
10 to '81 or '80. It's January 1, 1982. So, there's already a
11 universe of people there.

12 We had hoped that there was going to be some
13 change on the closing date of that window so that there
14 would be no closing time; that those persons who met the
15 qualifications of that universe of people could apply,
16 whether it be now or two years later or three years later or
17 five years later.

18 Now, that number would never change, because they
19 have been here since 1982. However, we've lost that battle
20 at this point.

21 With regards to implementation of the law itself
22 in this area in Arizona, the Arizona immigration steering
23 committee formed because of the concern for the welfare of
24 those individuals in the community. Little did we know that
25 many of the people who are going to be affected negatively

1 would be employers, also.

2 Many employers who have attempted to comply with
3 the law find themselves in a dilemma. In order to comply
4 with one law, they may be in noncompliance with another law.
5 So, we find that they have become victims, also.

6 But the representative victims tend to be the
7 applicants at the beginning. And it's unfortunate that at
8 the beginning we were not able to keep the I.N.S.
9 interested in developing a community advisory committee of
10 some sort, including our committee, so we could work
11 together. And they were invited.

12 This group, the immigration steering committee,
13 has been meeting on a weekly basis since November 1986. We
14 have had input with congressmen's offices and various other
15 offices, meeting on a regular basis.

16 If we had had full cooperation of the I.N.S. at
17 the beginning, we probably would be a lot better off than we
18 are now.

19 We haven't lost hope fully, because there's still
20 some time left; and we hope there's still going to be some
21 changes. But, it has been a very difficult situation.

22 As one of the persons testified earlier, he may be
23 facing a breakup of his family because of the fact that they
24 may not be able to get the documentation to support his
25 wife's legalization process.

1 So, we're still concerned. We're still working at
2 it.

3 And we appreciate the fact that you have taken
4 time from your schedules to listen and to create a record
5 here today so, hopefully, this can be used to persuade
6 members of Congress and that we might be able to get some
7 changes in the law.

8 Thank you.

9 DR. WHITE: Thank you.

10 Any questions?

11 MR. ZAZUETA: Dr. Valenzuela, you have written a
12 book on employer sanctions. Have you found any success
13 with your book?

14 DR. VALENZUELA: Well, I find that every employer
15 who has seen it says, like the gentleman who testified this
16 morning from the restaurant, that for that \$8.00 price of the
17 book he could have saved a \$1500 fine.

18 I did write the book because I saw the confusion
19 that many of the employers were facing. My first draft of
20 the book was more an extensive text, a reference text for
21 attorneys. But I found that most of the mom and pop
22 operations, who are under the requirements of the law, also,
23 did not have something to follow.

24 The book is available, and it advises them on
25 very simple, easy steps to follow in order to stay in

1 compliance with the law.

2 MRS. WHITLOCK: I have a question.

3 You commented about the requirements of AIDS
4 testing and that they are not insane or, you know, have
5 serious medical problems or are not criminals or that sort
6 of thing.

7 You're not saying, are you, that there shouldn't
8 be restrictions or limitations or requirements? In other
9 words, are you saying just anybody should come, regardless
10 of background?

11 That's not what you're saying, is it?

12 DR. VALENZUELA: Well, no, I'm saying that anyone
13 who qualifies in any other situation outside of IRCA should
14 be given the same opportunity under IRCA, also.

15 I'll give you an example: A person who is
16 physically unable to make a living on their own. Now, this
17 could be a person in a wheelchair.

18 I know some attorneys who are in wheelchairs.
19 Now, they have a physical disability, but they can make a
20 living on their own. But that could technically disqualify
21 them from becoming qualified for legalization.

22 MRS. WHITLOCK: I see.

23 So, in other words, you want a clarification: as
24 long as these people can qualify to make a living,
25 regardless of their physical impairment.

1 DR. VALENZUELA: That's correct.

2 MRS. WHITLOCK: Okay, thank you.

3 DR. WHITE: Thank you, Dr. Valenzuela.

4 I understand that there is one other person who
5 desires to address the Committee.

6 Miss Piedad Huerta? You're welcome, and you may
7 proceed.

8 MS. PIEDAD HUERTA: Thank you very much.

9 I just want to make a legal clarification, and I
10 want to do it in Spanish.

11 DR. WHITE: Very good.

12 MS. HUERTA (through the interpreter): I just want
13 to clarify something.

14 A while ago one of the gentlemen was speaking. He
15 mentioned that farm workers need to take the English exam.
16 I was a little bit surprised, because I was thinking that
17 this person is representative of other farm workers.

18 This specification, this requirement, is not
19 included in the requirements and things that are required of
20 agricultural workers.

21 However, I think it was a very real error, a very
22 understandable one; that is, it's understandable that there
23 is a lot of confusion, both over the requirements for the
24 first phase of the law as well as the requirements for the
25 second phase.

1 So, in practice, for those of us who are working
2 in the offices that work in helping to facilitate the
3 processing of the papers for the legalization process, and
4 from my own personal experience, I can say that we have had
5 to go back and review and review again the various aspects
6 or requirements of the law.

7 The I.N.S. office, as the case applies here, the
8 local office for legalization, has not carried out any major
9 effort to clarify all the doubts or questions that people in
10 the community have.

11 It's true that they went on radio and television,
12 one month prior to the deadline for applying for amnesty.
13 But as of today, we have not seen that they have done
14 anything to make that same type of effort to communicate to
15 farm workers that they have until the end of November to
16 apply.

17 For me it's very clear that the greatest concern
18 of the I.N.S. for May 5th was to get as many applications
19 filled out as possible by that time so that they would not
20 be discredited so badly on a national level.

21 And that's all that I wanted to say.

22 DR. WHITE: Thank you.

23 Any question from Members of the Committee?

24 Thank you very much.

25 Now, I previously promised Mr. Arter that he

1 could add anything that he would like to.

2 Mr. Arter, do you have anything further?

3 MR. PAUL ARTER: Yes, sir, briefly. Real briefly.

4 DR. WHITE: This is Mr. Paul Arter who previously
5 addressed the Committee.

6 MR. ARTER: Thank you, Mr. Chairman.

7 I had spoken earlier, and I appreciate a brief
8 second chance. The point I had raised about the education
9 or the English and civics requirements for SAW applicants
10 has been clarified, but I would like to add a point that I
11 had neglected and intended to mention.

12 It is the fact that--and several have alluded to
13 it--at Wesley Community Center, in our office of
14 legalization assistance, we are seeing the beginnings of
15 indications that the law, as predicted, is causing there to
16 be an even lower, economically and morally, subclass of
17 workers.

18 And, specifically, there are those people who
19 remain in the country who for some reason or other have been
20 unable to qualify, have been unable to raise the funds or
21 have been unable to meet the criteria, and do not see it as
22 their option to leave the United States.

23 We have had various complaints. I can't count
24 them, but I know there are several. We have had various
25 complaints about people--for instance, employers;

1 especially, I've noticed, in construction--who will hire an
2 entire crew, anybody that walks in, until they fill their
3 crew, without necessarily reviewing each person's
4 immigration documents, until payday comes.

5 And then on payday, as they're issuing the checks,
6 they will request to see everybody's immigration document.
7 And they only pay those who present one.

8 I hope we can find a way to cease this practice.
9 If the point of employer sanctions is that these people in
10 this country illegally not be employed and not be paid, we
11 should also see to it that their labors are not used. And I
12 would make that point.

13 The other point I was going to make is that when
14 people do come in, I oftentimes refer them to the Department
15 of Labor, Wage and Hour Division. But, unfortunately, at
16 this point, at least in Phoenix, they estimate about a
17 90-day delay for adjudication or the resolving of these
18 problems.

19 Many times people get frustrated with that and,
20 being that they are already in an illegal status or perhaps
21 in a newly legalized status, feel that they're placing too
22 much at risk by pursuing something like that and oftentimes
23 choose that: well, rather than wait here 90 days without
24 work, I could be someplace else working for a living or I
25 could be involved in more gainful activities. And this

1 practice is allowed to continue.

2 That was all I had.

3 DR. WHITE: Thank you.

4 Any questions?

5 MR. ZAZUETA: I have one question.

6 By the subclass, do you mean people that will be
7 here working for less than the minimum wage and for very,
8 very low wages?

9 MR. ARTER: Yes, that's one example of the things
10 that people could find themselves victims of. Another
11 example is, for instance, relatives of people who have
12 qualified who will stay here with their family.

13 I know of a specific instance of a man who was
14 found to be ineligible for legalization through I.N.S.
15 proceedings and is facing possible deportation because of a
16 deportation which disqualified him in the past. But, his
17 wife and children appear to qualify.

18 They're faced with a real difficult decision of
19 whether the wife and children will lose their benefits by
20 accompanying the gentleman outside the United States or
21 whether he will remain here illegally without work
22 authorization and struggle in that respect.

23 So, that's another type of person that would
24 become victim to this type of practice.

25 MR. ZAZUETA: Have you ever run into an employer

1 who, when he is presented a new Social Security card or some
2 kind of new document that the person has qualified, then
3 started a person over again, losing all the back benefits
4 that he's had?

5 MR. ARTER: I'm not sure I understand the
6 question.

7 MR. ZAZUETA: Well, there's been some cases that
8 I've been presented with that an employer will start a
9 person like all over again when he presents a new Social
10 Security card, when he had an illegal one or some other
11 document.

12 MR. ARTER: Oh, I see.

13 That entire area of Social Security law, as you
14 know, in light of the new Immigration Reform and Control
15 Act, is a tremendously complicated one.

16 They're having trouble with employers filling out
17 the I-9 and of employees understanding what's required of
18 them with regard to Social Security, and it's a tremendous
19 mess because of various Social Security numbers people have
20 used.

21 In the past employers were often willing to help
22 an individual invent a Social Security number. And now,
23 with the advent of employer sanctions in this new law,
24 people oftentimes present a work authorization document but
25 are refused a job because their Social Security card is

1 often three to four months delayed.

2 Although Social Security has publicized a
3 procedure for dealing with that type of situation, many
4 employers are ignorant of that.

5 We have a copy of the Social Security
6 Administration's press release that, whenever somebody comes
7 in with that complaint, we hand it to them and ask them to
8 present that to their employer and, hopefully, straighten
9 out the difficulty.

10 DR. WHITE: Any further questions?

11 Thank you, Mr. Arter.

12 MR. ARTER: Thank you, Mr. Chairman.

13 DR. WHITE: Is there any other person who wishes
14 to address the Committee?

15 If there is not, does any Member of the Committee
16 wish to say anything further?

17 Senator?

18 SENATOR PENA: Mr. Chairman, I would just like to
19 reserve the right to submit a written statement for the
20 record as to my recommendations as a result of the hearing
21 today.

22 Also, I would request that the people who were not
23 able to appear here today, if they want to, that they be
24 allowed to present a written statement in regard to today's
25 subject.

1 DR. WHITE: Well, certainly any Member of the
2 Committee who wishes to submit a statement may certainly do
3 that.

4 And if, indeed, any other person wishes to make a
5 timely submission, I'm sure we'd be happy to receive that as
6 well.

7 MR. ZAZUETA: Mr. Chairman, no objection.

8 I would just like to add that we must make sure
9 that there is no retaliation to any of the witnesses by any
10 government agency.

11 DR. WHITE: Well, I would take it that any such
12 action would be illegal, and one would hope that it would be
13 dealt with properly.

14 All right. If there is no further business, the
15 Chair will declare this hearing to be adjourned. And thank
16 you for coming.

17 The Committee will now have an executive session.

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20 (Whereupon, at 4:50 o'clock p.m., the foregoing
21 proceeding were adjourned.)


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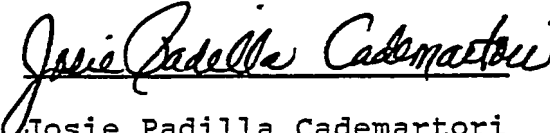
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5 Cademartori, do hereby certify that the foregoing
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9 Phoenix, Arizona, thereafter reduced to typewritten
10 transcript, and that the foregoing is a true and correct
11 record of all proceedings had upon the taking of said
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15 anyway interested in the outcome hereof.

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17 DATED at Scottsdale, Arizona, this 30th day of
18 September, 1988.

19
20 
21 Thomas F. Seemeyer

22
23 
24 Josie Padilla Cademartori

25
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