

# **Voting Rights Issues in San Luis, Arizona**

**Arizona Advisory Committee to the  
United States Commission on Civil Rights**

**October 1992**

*This report of the Arizona Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in this report should not be attributed to the Commission, but only to the Advisory Committee.*

## **The United States Commission on Civil Rights**

The United States Commission on Civil Rights, first created by the Civil Rights Act of 1957, and reestablished by the United States Commission on Civil Rights Act of 1983, is an independent, bipartisan agency of the Federal Government. By the terms of the 1983 act, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

## **The State Advisory Committees**

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 and section 6(c) of the United States Commission on Civil Rights Act of 1983. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference that the Commission may hold within the State.

# **Voting Rights Issues in San Luis, Arizona**

**Arizona Advisory Committee to the  
United States Commission on Civil Rights**

**October 1992**

*This report of the Arizona Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in this report should not be attributed to the Commission, but only to the Advisory Committee.*

## Letter of Transmittal

Arizona Advisory Committee to the  
U.S. Commission on Civil Rights

### Members of the Commission

Arthur A. Fletcher, *Chairperson*  
Charles Pei Wang, *Vice Chairperson*  
William B. Allen  
Carl A. Anderson  
Mary Frances Berry  
Esther G. Buckley  
Blandina C. Ramirez  
Russell G. Redenbaugh

Wilfredo J. Gonzalez, *Staff Director*

Attached is a report of the Arizona Advisory Committee based upon a forum convened by the Committee on January 19, 1991, in San Luis. In addition, interviews and other research were undertaken by members of the Committee and Commission staff.

The Advisory Committee was initially concerned with complaints of voter challenges, intimidation, and harassment that it had received from the mayor of the city of San Luis. The Advisory Committee found a relatively new city with a large migrant population and many newly enfranchised voters with great interest in exercising their right to vote. A major problem was the lack of awareness of the electoral process and a citizen's role in this system. Another problem was the political battle between two rival factions over control of the city.

Although troubled by the number of voter challenges, the Advisory Committee was particularly concerned about the allegations of intimidation and harassment. Such actions, the Advisory Committee believed, would negatively impact upon the electorate and might decrease citizen participation in the democratic process. The Advisory Committee's concern led to its request for observers from the U.S. Department of Justice for the February 26, 1992, gubernatorial elections.

The Advisory Committee believes that voter education would eliminate problems associated with lack of awareness and increase the level of participation of the citizens of San Luis. The Advisory Committee offers this as its major recommendation to officials of the city of San Luis and Yuma County. The form of this education and its implementation are left to the various jurisdictions to develop.

By a vote of 8-0 (3 vacancies), the Advisory Committee approved submission of this report to the Commission. The Advisory Committee trusts the report will add to the Commission's body of work on voting rights and hopes it will prove of value to the Commission as it continues its efforts to promote civil rights.

Respectfully,



Manuel Peña, Jr., *Chairperson*  
Arizona Advisory Committee

## Arizona Advisory Committee

Manuel Peña, Jr., *Chairperson*  
Phoenix

Dr. Morrison F. Warren  
Tempe

Isabel G. Garcia  
Tucson

Deborah Ann Watson  
Tucson

Angela B. Julien  
Tucson

Peterson Zah  
Window Rock

Ramon M. Paz  
Nogales

Richard Zazueta  
Scottsdale

### Acknowledgments

The Arizona Advisory Committee wishes to thank staff of the Commission's Western Regional Office in Los Angeles for its assistance in the preparation of this report. The project was the principal assignment of Philip Montez with assistance and support from Grace Hernandez and Priscilla-Lee Herring. The report was written by Thomas V. Pilla. The project was carried out under the overall supervision of Philip Montez, Director, Western Regional Office.

# Contents

<b>I. Introduction</b> .....	1
Arizona Advisory Committee .....	1
<b>II. Background</b> .....	3
Demographics .....	3
The Community .....	3
<b>III. Voting Rights Issues</b> .....	6
Challenges .....	7
Harassment and Intimidation .....	10
<b>IV. Conclusion and Recommendations</b> .....	12

# I. Introduction

San Luis, Arizona, a predominantly Hispanic community, is situated about 22 miles south of Yuma along the Mexican border in the southwestern part of the State. San Luis is a farming community and many of its residents are farm laborers or migrant workers.

According to Mayor Marco A. Reyes, the city of San Luis was established in 1978 and had about 2,000 residents and 52 people on its voter rolls.<sup>1</sup> The city's first council was appointed by the Yuma County Board of Supervisors. Reyes added that in January 1991 there were about 5,000 residents and between 350 and 400 registered voters.

From its incorporation in 1978 through 1990, the San Luis City Council selected the city's mayor from among the council members. On March 19, 1990, San Luis held its first election in which the electorate could vote for mayor. Following the election, which saw 236 ballots cast, Elias Bermudez,<sup>2</sup> a resident of San Luis and a former mayor, alleged that 36 votes cast for the winner were fraudulent.<sup>3</sup> Marco A. Reyes, another former mayor and the election's winner, stated that 16 voters intended to file voter-harassment complaints against the loser.<sup>4</sup> Mayor Reyes noted that harassment and intimidation of voters has been a long-term problem in general in Yuma

County and specifically in San Luis.<sup>5</sup> The complaints were brought to the attention of the Arizona Advisory Committee<sup>6</sup> to the United States Commission on Civil Rights (USCCR), a Federal agency.

## Arizona Advisory Committee

At its June 22, 1990, meeting in Casa Grande, the Arizona Advisory Committee discussed the complaint of harassment and intimidation of voters brought to its attention by minority citizens of Yuma County, specifically San Luis. The Advisory Committee determined that it had little information upon which to act in its capacity to advise the Commission on matters within its jurisdiction regarding the right to vote. The Advisory Committee concluded that it would invite the mayor of San Luis to its July 27, 1990, planning meeting scheduled for Phoenix in order to obtain additional information on this issue.<sup>7</sup>

At the July meeting, the Advisory Committee discussed having Commission staff undertake a preliminary review of the voting rights issues in San Luis and southern Yuma County. Staff of the Commission's Western Regional Office (WRO), located in Los Angeles, California, traveled to Yuma and San Luis in August 1990 to interview

---

1 Mayor Reyes made this statement at the Arizona Advisory Committee's Jan. 19, 1991, proceedings in San Luis. Unless otherwise noted, all quotes and statements in this report are from the proceedings transcript, which is on file in the Commission's Western Regional Office, Los Angeles, California. United States Commission on Civil Rights, Arizona Advisory Committee, Transcript of Proceedings, San Luis, Arizona, Jan. 19, 1991 (hereafter cited as Transcript 1991.)

2 Mr. Bermudez was the first vice mayor and was mayor in 1982. He served on the city council from 1980 through 1990.

3 Paul Brinkley-Rogers, "'Proof' of ballot fraud claimed," *The Arizona Republic*, Sec. B, p. 1, Mar. 23, 1990 (hereafter cited as Brinkley-Rogers fraud claimed). See also, Paul Brinkley-Rogers, "San Luis mayor race ends, feud doesn't," *The Arizona Republic*, Mar. 22, 1990.

4 Brinkley-Rogers fraud claimed.

5 For information on this allegation, see: Leslie S. Polk, "Harassment of voters alleged in Yuma County," *The Phoenix Gazette*, Nov. 9, 1990; and, Editorial, "San Luis voters, If they were intimidated, heads should roll," *Tucson Daily Star*, Nov. 13, 1990.

6 The Commission is mandated by Congress to have State Advisory Committees in all States and the District of Columbia. These 51 Federal advisory bodies advise the Commission of civil rights issues within their States.

7 Manuel Peña, Jr., chairperson, Arizona Advisory Committee to the USCCR, letter to Marco Antonio Reyes, mayor, city of San Luis, July 19, 1990. In the letter, Mr. Peña wrote: "[The Arizona Advisory Committee] discussed the Yuma County voting rights problem but did not take any action on your complaint as we did not have enough information to act on." Mr. Peña invited Mayor Reyes to appear before the Committee at its July planning session.

community representatives and county officials. Based upon this initial review and additional staff fieldwork, the Advisory Committee decided to conduct a forum on voting rights issues in San Luis. Specifically, the Advisory Committee decided to focus on allegations that voters in precinct 22, the only election site in San Luis, have been intimidated by poll challenges and by law enforcement investigations of complaints of illegal voting.<sup>8</sup>

The forum was held January 19, 1991, in San Luis, Arizona. Over 13 participants appeared before the Advisory Committee to present their views, opinions, perceptions, and facts on voting rights issues in San Luis.<sup>9</sup> This report provides a summary of the Advisory Committee's inquiries.

---

<sup>8</sup> See, John Vaughn, staff writer, "Voter harassment charges to be voiced at hearing," *The Yuma Sun*, Jan. 18, 1991.

<sup>9</sup> Participants included: Blanca Garcia, resident, San Luis; Esperanza Cruz, resident San Luis; Marco Tony Reyes, mayor, San Luis; Irma Rios, resident San Luis; Arnaldo Hernandez, resident, San Luis; Elias Bermudez, resident and former mayor, San Luis; Josefina Rodriguez, member, Catholic School Board and Federal employee; Miguel Lopez, human services specialist, State of Arizona; Bob Phillips, supervisor, Yuma County; Frank Molina, resident, San Luis; Judy Pimberton, chair, Yuma County Democratic Party; Maria Luz Hollos, resident, San Luis; Alex Joe Harper, resident, San Luis, Transcript, 1991.



## II. Background

### Demographics

According to the Bureau of the Census, U.S. Department of Commerce, Arizona had a total population of 2,718,215 in 1980 and 3,665,228 in 1990.<sup>1</sup> The 1990 population in Arizona included: 2,963,186 white (80.8 percent); 110,524 black (3.0 percent); 203,527 American Indian, Eskimo, or Aleut (5.6 percent); 55,206 Asian or Pacific Islander (1.5 percent); 332,785 other race (9.1 percent); and, 688,338 Hispanic origin (18.8 percent).<sup>2</sup>

Yuma County is located in the southwestern corner of Arizona, bordering Mexico to the south, and California to the west. According to the Bureau of the Census, Yuma County had 106,895 residents in 1990, including: 80,702 white, 3,056 black, 1,429 American Indian, Eskimo or Aleut, 20,315 other race, and 43,388 Hispanic origin. The Arizona Department of Commerce (Department of Commerce), notes that agriculture contributes substantially to the county's economy, with 209,464 acres harvested in 1988.

The Department of Commerce reported that San Luis, a border town, grew from 1,946 residents in 1980 to 5,055 in 1989. According to the Bureau of the Census, San Luis had 4,212 residents in 1990 and 4,196 or 99.6 percent were of Hispanic Origin. While agreeing on the percentage of Hispanics, community spokespersons suggested that the Bureau of the Census had undercounted the Hispanic population.<sup>3</sup>

### The Community

San Luis, Arizona, lies along the American border with San Luis Rio Colorado, a Mexican freeport. Mayor Reyes told the Advisory Committee:

[San Luis] is basically a new city going on its twelfth year. It is a low- and middle-income [community] that is 95 or 96 percent Hispanic. It is a base for farm workers. . . . It was a farming community in the past, and obviously the influence of farmers was very strong before it became a city. . . . Farmers still have a lot of influence over the whole area.

Mr. Bermudez stated that San Luis is 99.9 percent Hispanic:

I think I can count all the Anglos in this town on one of my hands and we do have two strong leaders that have been through the mud and have come up. We have had factions in San Luis.

According to some spokespersons, the fact that there are so many migrant farm workers has affected how elections are viewed. Mayor Reyes observed:

You have a very difficult situation in San Luis with people moving around a lot. They are migrant farm workers and the term migrant ought to tell you something. They are not here some of the time. They move around. They go to California. You never know when a job is going to come available in Salinas. So finding people in San Luis is a tough [proposition].

The Community Redevelopment Division of the Department of Development Services (Development Services), City of Yuma,<sup>4</sup> wrote:

Approximately 2,000 to 2,300 individuals on average migrate to Yuma County during the season and likely require dormitory type housing since adequately priced housing is not available within the region due to the low wages of

---

1 "Census Bureau Delivers Arizona's 1990 Census Counts," *United States Department of Commerce News* (Release CB91-71), March 1991, table 1 (hereafter cited as Commerce News).

2 Commerce News. The Department of Commerce noted that persons of Hispanic origin can be of any race.

3 The U.S. Department of Commerce noted at the time of preliminary release of figures that the population counts were subject to possible correction for undercount or overcount and, although consideration was given to correct and publish corrected counts, this was not done.

4 The city of Yuma is located within and is the county seat for Yuma County.

farmworkers, the supply of assisted housing facilities, and housing demand resulting from other lower paid workers within the area (military personnel, service workers, etc).<sup>5</sup>

Development Services assumes "a minimum population of 10,800 persons comprise farmworker families permanently living within Yuma County," and believes that "many inadequately housed families within the county are locally based farmworker families." Development Services suggested that "housing facilities for farmworkers are severely limited."<sup>6</sup>

The state of the available housing stock in San Luis is also cause for concern. Mayor Reyes added:

We have a situation where housing is a problem and people live in RVs [recreational vehicles] and places that none of us would live in and that is the problem. . . . Those people say, "I live there" and some investigator comes looking around and [says] nobody can live in that little mobile home [or] in that little trailer. That is because the investigator cannot deal with it, but that does not mean nobody lives there. . . . It only means that he lives under standards [in which] you and I would not live. . . . We have got five people [living] in a little 12 by 6 or 7 or whatever . . . not by choice.

According to the Arizona Department of Economic Security, nationally the proportion of households with more than one person per room rose from 4.5 to 4.9 percent of all households between 1980 and 1990, while in Arizona, this proportion increased from 7.2 to 7.4 percent for the same period.<sup>7</sup> In 1980 the Bureau of the Census found 457 households in San Luis, and of this figure, 141 households had 6 or more persons; 36 households had 5; 196 households had 4; and 65 households had 3. By 1990 the number of occu-

pled households grew to 886, and 147 had 7 or more persons; 122 had 6; 162 had 5; 212 had 4; and 121 had 3. According to the 1990 census, San Luis had an additional 112 housing units that were vacant. Of the total 998 housing units, 49 had 1 room (4.9 percent); 146 had 2 rooms (14.6 percent); 177 had 3 rooms (17.7 percent); 194 had 4 rooms (19.4 percent); 286 had 5 rooms (28.7 percent); 114 had 6 rooms (11.4 percent); 24 had 7 rooms (2.4 percent); 7 had 8 rooms (0.7 percent); and 1 had 9 plus rooms (0.1 percent). Mobile homes or trailers accounted for 460 of these housing units.

The statistics for San Luis appear to mirror Arizona's housing pattern. The Population Statistics Unit of the Department of Economic Security summarized Arizona's housing characteristics:

Homeownership rates have declined while the percent of households with more than one person per room has increased between 1980 and 1990. Nonfamily households have increased in proportion to family households. Vacant housing units have increased faster than occupied units. Arizona's proportion of seasonal units is greater than that of the nation, but the percentage of vacant housing units that are seasonal decreased between 1980 and 1990, when compared to other types of vacant units.<sup>8</sup>

A Governor's executive order in 1974 established six regional planning areas in the State to allow local input and control of various governmental programs and entitlements.<sup>9</sup> The councils for these planning areas are composed of elected officials representing individual cities and the counties. The Western Arizona Council of Governments (WACOG), one of these six, includes the counties of La Paz, Mojave and Yuma.<sup>10</sup> If a municipality is seeking financing for a particular pro-

---

5 "City of Yuma FY 1992 Comprehensive Housing Affordability Strategy." City of Yuma, Department of Development Services and Crystal & Company (development, financial, and economic research consulting services), February 1992, p. 12 (hereafter cited as Housing Affordability Strategy).

6 Housing Affordability Strategy, pp. 12-13.

7 Arizona Department of Economic Security, State Data Center, Newsletter, Fall, 1991, p. 7 (hereafter cited as Data Center Newsletter).

8 Linda Strock, Population Statistics Unit, Department of Economic Security, "Arizona Demographics, Arizona Housing Characteristics," Data Center Newsletter, p. 11.

9 Rivko Knox, Community Development Block Grant Program Manager, Department of Commerce, State of Arizona, telephone interview, Feb. 21, 1992 (hereafter cited as Rivko telephone interview).

10 Rivko telephone interview.

gram such as block grant money for housing rehabilitation, it would initiate the process through the regional council. Since the State of Arizona took over administration of the community development block grant (CDBG) program in 1982, San

Luis has never requested financing for housing rehabilitation.<sup>11</sup> Alex U. Ruiz, city manager, city of San Luis, confirmed that no requests for housing rehabilitation have been submitted during the 19 months he has worked for the city.<sup>12</sup>

---

<sup>11</sup> Rivko telephone interview.

<sup>12</sup> Alex U. Ruiz, city manager, city of San Luis, interview, May 21, 1992 (hereafter cited as Ruiz interview). Mr. Ruiz has been the city manager for approximately 6 months, but has worked for the city since October 1990.

### III. Voting Rights Issues

Community spokespersons allege the problems surrounding voting began with its first council elections in 1982. According to the mayor, a Hispanic candidate who won a council seat was challenged by another candidate allegedly because he could not speak English well enough:

He was challenged in court because he was not proficient enough in English. He was a United States citizen . . . a resident of this city. He met every other requirement, but he just did not speak English well enough. So he was challenged. The court overturned that challenge and let him stay in office.

Residents suggested to Commission staff that the 1982 challenge set the tone for future elections in San Luis. Elias Bermudez said:

For the past three elections, there have been charges of illegal voting. We have taken legal action and have proven that illegal voting has taken place. We have chosen not to confront the voters who have participated in the election process in a court of law because we understand that they have been instructed to do so, and we consider them victims instead of violators.

Mayor Reyes believes that the Hispanic community's support of the candidate who won the 1988 supervisorial race, defeating the incumbent, has led to ongoing harassment and challenge of voters.<sup>1</sup> Following that election, the Yuma County Sheriff's office conducted an investigation into "instances of Mexican Americans living in Mexico or noncitizen voting in San Luis," Reyes added. According to Yuma County Sheriff's records, on November 21, 1988, an individual alleged that "certain voters in the Yuma Valley area

are not residents of Yuma County, State of Arizona and/or are not citizens of the United States."<sup>2</sup>

If these allegations were true, these voters would have been ineligible to register or to vote in the 1988 and other elections. Requirements for eligibility to vote in Arizona elections are set forth in *Arizona Revised Statutes Annotated*, Title 16, Elections and Electors.<sup>3</sup> According to these statutes:

every resident of the state is qualified to register to vote if he

1. Is a citizen of the United States.
2. Will be eighteen years of age or more prior to to the regular general election next following his registration.
3. Will have been a resident of the state fifty days preceding the election, except as provided in sec. 16-126 and sec. 16-127.
4. Is able to write his name or make his mark, unless prevented from so doing by physical disability.
5. Has not been convicted of treason or a felony, unless restored to civil rights.
6. Is not under guardianship, non compos mentis or insane.<sup>4</sup>

Soon after the complaint was filed in 1988, the Yuma sheriff's department began its investigation. Bob Phillips, supervisor, Yuma County, said:

The county attorney informed us that the sheriff's office was investigating and this had been an ongoing problem for a long time and I [believe that] the town of San Luis is being used as a whipping post for anybody that has any complaints.

---

1 The Yuma County recorder noted that at the time of the 1988 board of supervisors election, there were 1,700 registered voters in Precinct 19; 593 in Precinct 20; 1,678 in Precinct 21; and 531 in Precinct 22. The focus of the 1988 investigation was only Precinct 22, which includes the towns of San Luis and Gadsden. Yuma County Sheriff's Department, Incident Report, Nov. 21, 1988 (hereafter cited as Sheriff's Incident Report, 1988).

2 Sheriff's Incident Report, 1988.

3 Ariz. Rev. Stat. Ann. sec. 16 (1984). This special pamphlet was issued by Jim Shumway, Secretary of State, Arizona, April 1990.

4 Arizona Revised Statutes, Title 16, Section 16-101.

In a letter dated November 15, 1989, Major Ralph E. Ogden, chief deputy, Yuma County Sheriff's Department, wrote:

. . . the Sheriff's Department has been investigating allegations concerning voter registration improprieties in the last election. The investigation has progressed to the point where it is now necessary to locate the people who registered to vote and interview some of them about their status as a registered voter.<sup>5</sup>

Beginning on November 15, 1989, through December 15, 1989, two sheriff's officers "attempted or made contact with 59 registered voters in precinct 22 that showed a discrepancy based on a records check of United States citizenship or naturalization."<sup>6</sup>

Mayor Reyes said:

That investigation took 18 months [and] involved over 130 people, [including] the Immigration and Naturalization Service (INS), the Border Patrol, the Motor Vehicle Division, the county chair. It involved everybody and anything they could think of. . . . Out of the 520 [registered voters], they found maybe 12 questionable. That was the result of the first investigation.

The results of this investigation, according to the sheriff's report, indicated that 21 were eligible to vote; 12 were found ineligible; and 26 could not be contacted. The investigators noted in the report that "several of the ineligible registered voters did not vote."<sup>7</sup>

## Challenges

According to Mayor Reyes, in the March 1990 election, a local candidate and some supporters had a list of 63 to 67 people they wanted to challenge on election day. Grounds for challenging an elector are established under Arizona law.

A person offering to vote may be orally challenged by any qualified elector of the county upon any of the following grounds:

1. That he is not the person whose name appears upon the register.
2. That he has not resided within the state and election district for twenty-nine days next preceding the election.
3. That he has changed his residence from the precinct in which he is registered more than twenty-nine days next preceding the election.
4. That he has voted before at that election.
5. That he has been convicted of a felony and has not been restored to civil rights.
6. That he is otherwise not a qualified elector.<sup>8</sup>

The majority of the challenges made on election day were overruled by the precinct workers, Mayor Reyes added, and about 12 were left as questioned ballots. He recalled that of the total challenged, only three or four were disqualified. Mr. Bermudez told the Advisory Committee:

Yes, the rights of law-abiding registered voters of San Luis have been violated by the fact that persons unknowingly or unaware have been coerced to vote without establishing the necessary requirements to participate in the election process.

A second factfinding investigation was begun into allegations of criminal voting fraud occurring in the elections held March 20, 1990, in San Luis.<sup>9</sup> The investigation was undertaken by an investigator from the office of the Sheriff of La Paz County, a neighboring county.<sup>10</sup>

Community representatives alleged that the second investigation, undertaken by the La Paz County Sheriff's office, was improperly handled from the onset. Mayor Reyes said:

---

<sup>5</sup> Major Ralph E. Ogden, chief deputy, Office of the Sheriff, Yuma County Sheriff's Department, letter to Mark Espinoza, city manager, Town of San Luis, Nov. 15, 1989. Mr. Espinoza is now a magistrate in San Luis.

<sup>6</sup> Sheriff's Incident Report, 1988.

<sup>7</sup> Sheriff's Incident Report, 1988.

<sup>8</sup> Ariz. Rev. Stat. Ann. sec. 16-591. (West Supp. 1991).

<sup>9</sup> Yuma County Sheriff's Department, Incident Report, Mar. 21, 1990 (hereafter cited as Sheriff's Incident Report, 1990).

<sup>10</sup> Reports of this special investigator were filed Mar. 21, Mar. 27, and Apr. 2, 1990.

The first thing that the investigator did when he came was to go and see the people who had filed the complaint. I question the integrity of the investigation when the investigator spent all his time going around looking for people [accompanied by] people that had a certain interest in him not finding anybody.

Reyes added, "we subpoenaed most of them and found them."

Bermudez said that he "was with the investigator when he went to the residence of one or two people." He added, "When we got there, we checked the address and we checked the name. When the person was found to be there, we thanked him and we left."

While the investigation was ongoing, John G. Sanchez, Elias Bermudez, Bruce Jackson, and Miguel Lopez filed a suit challenging the results of the election.<sup>11</sup> In its response to the suit, the city denied the allegations of voting fraud, noting that it relied on the county for the accuracy of voter registration. Ruiz noted that the allegations were dismissed by the court.<sup>12</sup> Mayor Reyes said, "the judge found five illegal votes, [and ruled] that doesn't change the bearing of the election." Gerald W. Hunt, attorney for the city of San Luis, added that "the court decreed the contestees [election winners] confirmed, and the case was dismissed April 18, 1990."<sup>13</sup>

According to Mr. Bermudez:

The county attorney found out that there [was] some illegal voting, but not enough to go ahead and . . . finish . . . the process. . . five people had voted illegally. [They were] not residents of the town.

The investigation also did not discover voter fraud. David Ellsworth, county attorney, provided staff with a copy of a press release issued

following the sheriff's investigation into "allegations of a conspiracy to violate election laws." The press release noted:

An intensive investigation has been conducted regarding these allegations. The investigation has produced only five cases involving possible violations of elections laws, and we would emphasize the word possible.

With regard to the five possible violations, one involves an issue of dual residency. Another involves a person living in a car using the parking lot as his voter registration address. There is no available proof of criminal intent in either of these cases. The remaining three listed non-existent or incorrect addresses on their voter registration affidavits. The investigation is not complete with regard to these three individuals.

The investigation, to date, does not provide sufficient evidence to support the claims made to the offices of the Yuma County Sheriff and the Yuma County Attorney.

We are satisfied however that contrary to the allegations that prompted this investigation, no evidence of a conspiracy to violate election laws and no evidence of political corruption has been found to be involved in the March San Luis election.

Despite the court ruling and investigation results, Mayor Reyes told the Advisory Committee on January 19, 1991, that "15 people [were] challenged this last [in the November election] time." Some of these individuals discussed the voter challenges and harassment. Blanca Garcia said:

On the 6th of November I went over there to vote and one of the [poll workers] said, "This man is challenging you [on the basis that] you don't live in San Luis, Arizona." . . . I was upset because they did that to me before, so . . . I told him, "You'd better be sure of what you are saying."

---

11 Sanchez v. Reyes, Civil Action No. 059070, Super. Ct. Yuma, County, 1990. The full list of plaintiffs included: John G. Sanchez, Elias Bermudez, Bruce Jackson, and Miguel Lopez. The full list of defendants included: Marco Antonio Reyes, Irma Rios, Miguel Lopez and Martina Monreal Lopez. On Apr. 6, 1990, the city of San Luis, a body politic, filed a motion to intervene, a motion to join as an indispensable or substantially interested party, and an *ex parte* motion for an expedited hearing. H.S. Bradshaw, judge of the Superior Court, granted the city's motion for an expedited hearing on the motions to intervene and to join as an indispensable party or substantially interested party. On Apr. 10, 1990, Douglas W. Keddie, judge of the Superior Court, denied the motions. Judge Keddie dismissed the case on Apr. 18, 1990.

12 Ruiz interview.

13 Gerald W. Hunt, attorney-at-law, interview, May 21, 1992.

Ms. Garcia, a resident of San Luis, was allowed to vote. Esperanza Cruz noted that, on that same day, she was challenged at the polling place by a man who kept saying that she did not live in San Luis even though she "showed them [her] driver's license and the card that [she] had received from the court [indicating] that she had registered." Ms. Cruz added that in a previous election she had voted and "some investigators [came] to my house to see if I lived there."

Alex Joe Harper, a resident and registered voter of San Luis since 1987, said:

I was one of the ones challenged in the gubernatorial and in the prior election[s]. I went to court. I am 50 years old and have voted ever since I was 21 years old. I had never been challenged in my life until I came to this town. I have been challenged in the last two elections.

Irma Rios appeared before the Advisory Committee to discuss her brother's experience:

My brother was one of the challenges. He is not here [because] he is working night shift. He was challenged because [the poll observers] stated that he did not live at [his] house because they never saw his truck parked at the house. . . . I had already given information that my brother worked different shifts in Yuma, most of them were night shifts. They never bothered to go see where he was working to see what shifts he was working. They never even went up to my brother . . . to ask. . . . his residence is here. It is where he lives. If you are really interested in doing an investigation, you do it the correct way. In this case, I don't think it was done in the manner that it should have been done.

Arnoldo Hernandez noted that when he went to vote on November 6, several poll workers decided to question him:

asking me for residence and also said if I wanted to vote they would investigate me. They asked if I still wanted to vote and I [said], "Yes, I want to vote," and they gave me the ballot and I went to vote. [They implied] that if I insisted on voting, [I] would be investigated.

Mr. Bermudez noted that:

In the last general election, the election board was appointed by the county, allowing a more impartial participation from those of us that believe that many voters were not residents of the precinct. When we were challenging these people, the city manager was telling the election board to allow or not allow people to vote. Of those

challenges, the election board recognized that they do not live within the city limits and they were not allowed to vote.

Mr. Bermudez believes that people are not aware of the laws controlling elections. He said:

We do have a problem of ignorance in the town of San Luis. Ignorance does not mean that the people are not intelligent. Ignorance means that they do not know about certain facts and about certain laws that control [the] election process.

The constant challenges, others in the community noted, cause potential voters to question whether they should be a part of the process. Maria Luz Hollos noted:

Two cousins and two nephews heard about what might happen if they voted in absentee, [and] since it is not too clear what is legal or not legal when you vote, they chose not to vote.

Frank Molina, a resident of San Luis since 1981, said he had gone to vote at 7:30 a.m. so that he could get to work in Yuma on time but felt "discouraged" because:

the people ahead of me were being challenged. I waited 5, 10, 15 minutes and I told the [precinct worker], "I have to get to work." She said, "Sir, you just be calm there." I have to go to work and there are six other people sitting here doing nothing. I said, "if you must challenge that person, there [are] three other tables over there. Remove them from the line and challenge them over there." I wasn't intimidated, but I was discouraged. There were people disappearing from the line in the back. . . . because . . . they had to get to work.

Hollos added:

Many other Mexican [Americans], newcomers to the State, are very susceptible to any type of intimidation, be it language [or] attitude. The first time I voted, I was approached by someone. It was just a question, but even if I knew I was legal all around, I became nervous anyway. How easily we might be intimidated.

If exercising our right to vote gets us into a full-blown, countywide political problem, we may not want to vote again.

Alex Joe Harper believes "there is a certain amount of intimidation." He added:

I feel very strongly that we need to do something about this intimidation. The type of people who are citizens in this area [referring to migrants] are people that can very easily be intimidated because they are not really used to our ways. . . . we need to address this.

Judy Pimberton, county chair, Yuma County Democratic Party, said, she has "heard rumors, hearsay [but has] not been down to precinct 22 during the election day" and believes that something should be done to put a stop to the intimidation and harassment concerns.

### **Harassment and Intimidation**

During the course of the open meeting, participants expressed their concern that a pattern of intimidation and harassment of voters would negatively affect future elections because eligible electors might stay away to avoid embarrassment and confrontation. Josefina Rodriguez agreed that people who are subpoenaed into court two or three times (over voting) face intimidation.

Mayor Reyes said, "since 1988 there's been an orchestrated campaign to make sure that by 1992 the precinct in San Luis won't be as important to win an election for some people." He added:

If somebody that has been investigated twice, goes to court, gets subpoenaed, produces documentation, he shouldn't be bothered over and over and over again. We went to the county attorney's office and said, "Why don't you investigate harassment charges instead of questionable fraud charges?"

Although invited to appear at the forum, Mr. Ellsworth, county attorney, advised Commission staff that "he saw no reason to come." When questioned by Commission staff on the need for investigating harassment and intimidation, Mr. Ellsworth stated that "he did not know or wasn't aware of a statute that would allow him to do that."<sup>14</sup>

Mayor Reyes added, "There's somebody bent on making sure that these people are not allowed to vote freely. It has had a chilling effect on the voting in San Luis."

Mr. Bermudez did not believe a pattern of harassment and intimidation existed in San Luis. He said the events that have been occurring in San Luis "have had a chilling effect on those who are illegal voters, but not the legal voters of San Luis," adding:

I will personally campaign to promote voter participation, and I will tell them that those who do live here do not have any fear, should not have any fear of being intimidated if there is a challenge at the poll.

Mayor Reyes said, "the investigators at the end always found that there were four or five people that shouldn't have voted." He believed that "once you do an investigation and you can't come up with anything solid, then you should drop it." He noted, "We haven't found anybody dead voting yet. Yes, we have some marginal situations, but that's not enough to bring in this sort of pressure and not enough to harass these people."

Josefina Rodriguez said, "I think part of the educational process of newly immigrated or just recently naturalized citizens is for them to be aware [of their rights] of voting." Miguel Lopez, a member of the city council, agreed, that people "need education" about their rights and that as a public official he was still "learning."

Bob Phillips, supervisor, Yuma County, suggested that there were "some irregularities that went on in this last election" although he "did not witness them," adding:

I don't think any politician has any right to be here trying to influence the voters' actions. I do know there was trouble down here [in the form of] harassment of voters because I got it from three different sources. . . .

They just said there was trouble at the polls, and there were people being challenged. . . . I stayed away. I've never seen harassment. I was told this by phone.

Based upon the presentations at the forum, however, the Advisory Committee believed that there was "sufficient cause for the Arizona Advisory Committee to request that the United States Attorney monitor the February 26, 1991, election in San Luis." Such a request was made and two

---

<sup>14</sup> David Ellsworth, county attorney, Yuma county, interview Jan. 10, 1991. Mr. Montez introduced these comments into the record at the forum. See, Transcript, 1991, p. 57. The county attorney is an elected position and Mr. Ellsworth has held the post for over 12 years.



representatives from the Voting Section, Civil Rights Division of the U.S. Department of Justice, Washington, D.C., four representatives of the Dallas Regional Office of the Equal Employment Opportunity Commission (EEOC), a member of the Advisory Committee, and one staff member of the Western Regional Office of the U.S. Commission on Civil Rights were in San Luis to monitor and observe the election. The four representatives from EEOC were stationed at the Border Patrol office of the Immigration and Naturalization Service (INS) to handle any complaints from voters. They did not receive any complaints.<sup>15</sup> The Advisory Committee questions the propriety of the site chosen for a complaint office.

Commission staff observed four poll watchers without official status in the area in and around the voting site during the morning of the election. A Justice Department attorney was advised that voters were being intimidated in the parking lot, and he informed the individuals in the lot that harassing and intimidating voters is a Federal offense punishable with time in prison and/or a fine.<sup>16</sup> At approximately noon, the Justice Department attorney advised the four of these sanctions, and they left and did not return for the remainder of the day. No further complaints alleging voter challenges, harassment, or intimidation were brought to the attention of election monitors.<sup>17</sup>

---

<sup>15</sup> Field Notes, staff, WRO, USCCR, Feb. 27, 1991 (hereafter cited as Field Notes).

<sup>16</sup> Field Notes.

<sup>17</sup> Field Notes.

## IV. Conclusion and Recommendations

The Advisory Committee believes there are a number of factors at play in San Luis which affect voting. Among these factors are the relative newness of San Luis as a city, the large number of newly enfranchised voters, a largely agricultural enclave with many migrant laborers, recently naturalized citizens, and two strong factions with various degrees of community support. A transitory population, poor housing stock, and staggered work hours have also contributed to the concerns regarding voting raised by some community representatives.

The newly enfranchised are concerned about taking advantage of their rights as citizens, including the right to vote. As citizens, we realize the importance attached to these rights and yet do not always understand the mechanics nor the process. An education program that presents information on registering, voter requirements, residency and change of address information may prove of benefit to the citizens of San Luis. This education program would add greatly to everyone's understanding of their responsibilities in regard to voting rights.

Through observations of municipal elections elsewhere in the State, Advisory Committee members have occasionally viewed a challenge based upon an incorrect address or other minor inconvenience to the voter. Often, precinct workers have allowed the voter to cast a ballot or submit a provisional ballot for consideration by the county clerk. The Advisory Committee has not viewed any difference in San Luis. However, the challenges are an inconvenience and troublesome, and are a part of the allegations of intimidation and harassment.

The Advisory Committee has found the continued intimidation and harassment of voters to be troubling. It is clear that harassment and intimidation will affect individuals, and they may also affect future elections, jeopardizing the willingness of individuals to participate collectively. In a nation that prides itself on citizen participation, especially in the voting arena, intimidation and harassment of voters cannot be tolerated.

The elected officials and diverse community leaders of San Luis must develop voter education programs to ensure the informed participation of

all citizens whether newly enfranchised or otherwise. In the absence of a program to educate voters, complaining about the lack of awareness of the process is counter-productive and does little to assist those who would like to exercise their right to vote. The participation of all the citizens of San Luis is the paramount concern of the Advisory Committee. Any effort to thwart that participation should be challenged by the Civil Rights Division of the United States Department of Justice.

The Advisory Committee believes that residents of San Luis do not knowingly attempt to participate in voter fraud. The sheriff investigations and court case did not find evidence of voter fraud. If citizens can be blamed for anything, it may simply be a lack of awareness of the need to notify the county clerk or city registrar of their new address when they change residences. The Advisory Committee is led to the conclusion that voter information will assist the electorate and believes many of the problems alleged to be occurring in municipal and State elections in San Luis can be rectified through an educational program for the city's residents and poll officials. Therefore:

1. The Advisory Committee recommends that State, county, and city officials responsible for overseeing elections devise and implement a voter education program for the residents of San Luis.
2. The Advisory Committee further recommends that poll officials be provided the necessary training and education to deal with the large number of newly enfranchised voters in the city of San Luis. It would be wise for the precinct to have a poll official with bilingual abilities in Spanish on duty during the voting period on election day.

These recommendations should prove helpful to the electorate of San Luis and put an end to the alleged pattern of challenges, harassment, and intimidation. The Advisory Committee will periodically monitor future elections in San Luis to ensure that voting rights are being safeguarded.