

U.S. COMMISSION ON CIVIL RIGHTS

BRIEFING ON IMMIGRATION ISSUES: PROPOSITION 187, IMMIGRATION  
REFORM, AND CIVIL RIGHTS

December 16, 1994

Chairperson Berry. On behalf of the Commissioners, I welcome all of you to this briefing on immigration reform, California's Proposition 187, and civil rights concerns underlying those issues. In June, we had one on the causes and civil rights implications of growing anti-immigration sentiments throughout the nation. And we had a number of presenters there from various groups who are affected and who are interested in this question.

We also considered immigration at our September 1994 fact-finding hearing in New York, and we heard testimony from a variety of people. Today's briefing is one in a series on a wide range of civil rights issues that this Commission has had this year. The fact that this is the second immigration-related briefing means that we really are interested, are continuing to be interested, in this issue. And, also, our state advisory committees have done reports on immigration.

We have a long list of reports on immigration that if anyone is interested you can get from our Public Affairs Office-- which indicates our interest.

The U.S. Commission on Immigration Reform's interim report includes the recommendation for a national registry of workers, national registry of employees. Proposition 187 would deny illegal immigrants in the state most publicly funded services,

and the interim report and Prop. 187 have contributed to a sometimes emotional national debate over the control, costs, and benefits of immigration, and over the legal rights of all U.S. residents.

As with most emotional debates, the hard facts and their meaning are not always self-evident, and that is why we have scheduled this briefing, and we hope to learn from all of our participants as we proceed with our agenda here. So we thank you for coming.

The way we would proceed is to ask each of you to make a brief statement, and then we will have questions from the Commissioners, and then you may even ask questions of each other. On panels, I've always wanted to ask questions of the other people and they never let me.

(Laughter.)

**Mr. Prince.** Now you get to decide.

**Chairperson Berry.** The only thing you don't get to do is to ask us questions. How is that?

(Laughter.)

**Mr. Prince.** Okay.

**Chairperson Berry.** I'm only kidding.

The first person, the way we'd like to start this is we would like to ask you first, Mr. Swenson. Mr. John Swenson is the Executive Director of Migration and Refugee Services of the U.S. Catholic Conference. This organization is the public policy agency

of the United States Bishops on issues relating to immigration and refugees.

It is also the largest refugee resettlement agency in the United States, having provided placement for some 29,000 refugees in 1994. Before his present job, Mr. Swenson was Deputy Executive Director of Catholic Relief Services, and before that he was a career foreign service officer with the U.S. Information Agency.

Mr. Swenson?

**Mr. Swenson.** Thank you very much.

If I can break your rule and ask you just one question. Do you want me to address Proposition 187 specifically?

**Chairperson Berry.** You can talk about the immigration issue and its saliency, including the report of the Commission we are particularly interested in reactions to, and then 187, a subsidiary.

**Mr. Swenson.** Well, as you probably know, the Catholic Bishops of California were among the strongest opponents of Proposition 187, and they based their opposition both on moral and social policy grounds. They felt that the matter would be incredibly divisive within the state.

They felt that it would promote and affirm fears, emotions, racism, and prejudices already deeply ingrained in the hearts of people. And they felt that letting such emotions become the social policy of the state would be destructive, would attempt to institutionalize these tendencies in the society.

They also affirmed that while the state has a right to regulate entry into its borders, once people are here, there are basic rights as human beings, basic human rights which take precedence over immigration status, and that those include access to education, basic health care, and that these kinds of services not only are a basic right for people regardless of their immigration status but make good social policy as well, that providing these services tends to protect the society as a whole.

They also were highly opposed to making providers of social services, among whom Catholic Charities, both in California and around the country are among the largest in the country, de facto agents to the Immigration and Naturalization Service. In the tradition of the Catholic church, such services, charitable and philanthropic, are provided and have been historically in the tradition of the church, without asking such questions, that such services are provided on the basis of need of the individual human being making application.

So for these reasons and consonant with its social teaching, the bishops took a very strong stance. They did, however, point out that the current state of debate urges a more comprehensive approach to immigration reform and indicated a willingness to participate in that, and indeed the Catholic Bishops of the country will be meeting, or the migration committee will be meeting in February to outline an approach and to enter the debate as a church on the national level.

The California Bishops, and I think the Bishops as a whole would endorse this, suggested three principles in beginning the discussion. First, a clear articulation and affirmation of the rights of all immigrants, regardless of their status, and the accompanying responsibilities of immigrants as participants in society.

Second, the recognition that the root causes of immigration are in the country of origin, and that any long-term solutions require specific actions that will directly impact economic underdevelopment, war, and political and racial oppression in those countries.

Third, the redistribution of Federal revenues to states that are particularly impacted by immigration. And I think this last point is particularly salient as we go into this.

Undocumented aliens constitute slightly more than one percent of the population as a whole. However, their distribution in the country impacts particularly seven states. California alone I think receives about -- has about 40 percent of the entire undocumented population in the country.

So while in many cases, perhaps most if you accept the Urban Institute's readings, these people are productive, do pay back on a net basis more into the society than they take out. Most of the revenues go to the Federal government rather than the state government, so that the burden tends to be at the state and local level.

So this kind of redistribution I think needs to be a central point of any comprehensive immigration reform.

But I think that for the Bishops, the important thing is not that the state should not regulate its borders, regulate admission into the country, but the means which it undertakes to do that, and it's important -- it will be important for them that those be humane, just, and fair. But that the state does have the right to exclude and that there certainly is room for discussion of additional enforcement measures, so long as they meet those tests.

But for the people once they're here, I think that we would say it is unfair to -- to, in the case of denial of education, to take out on children the offenses of their parents. And that it doesn't do the society as a whole any good to create this kind of underclass. We doubt that it would have much deterrent effect.

So this, in brief, is the approach that, as I said, the Catholic Bishops of California have taken, specifically to 187, and in large measure I think will formulate the outlines of how the Catholic Bishops of this country will enter the immigration debate in the years ahead.

**Chairperson Berry.** The only thing you didn't address, and then I'll go to the next person, is I asked you also to address your view on the Commission on Immigration Reform report.

**Mr. Swenson.** Yes. The --

**Chairperson Berry.** So everybody else will do that now.

Mr. Swenson. I'd be happy to. I'm sorry. I meant to do that.

We read with great care the Commission's report and do not necessarily at this point oppose the suggestions that they make. We do have serious concerns, and this has been historically the case for the Bishops about any system of national identification, what the implications for civil rights and for privacy.

Plus, the fact that it would include all American workers, and that's imposing a burden, to get at what is less than one percent of the population to regulate that population, the whole working population, is therefore brought into a system of identification strikes us as a little odd.

Also, we doubt that the database that is being proposed by the Commission -- that is, the Social Security and the INS databases which I think is acknowledged were inaccurate to begin with -- are going to provide the kind of basis that is going to lead to accurate and timely reporting, and that could lead to discrimination.

But the high error rate in those databases could lead perfectly legitimate employees to be denied employment.

We also are very fearful, and always have been, of immigration tests in employment, largely for the tendency that that can have for discrimination. That is, to deny employment, deny access to work, to people who look or sound different from the norm, whatever that may be.

The propensity or the tendency to increase divisiveness along racial or ethnic lines by instituting such a test is something that concerns us very much. If a system can be devised which can meet these concerns, and which is going to be truly fraud resistant, we'd be happy to look at it. But right now, we're very skeptical of the measures proposed by the Commission.

**Chairperson Berry.** Okay. Thank you very much. What we'll do is get into the questions after you have an opportunity to present.

**Mr. Swenson.** Okay.

**Chairperson Berry.** The next presenter is Mr. Richard Foltin, who is Legislative Director and Counsel, Office of Government and International Affairs, The American Jewish Committee. Mr. Foltin is responsible for developing, promoting, and executing AJC's legislative agenda through advocacy work in Congress and in the executive branch.

Mr. Foltin?

**Mr. Foltin.** Thank you.

Chairwoman Berry, members of the Commission, I appreciate this opportunity to come and speak about these very important issues.

Let me first say about the American Jewish Committee that we have a long-standing policy of commitment, both to civil rights and to fair and generous immigration policies. The comments I'm going to make are grounded in that perspective and grounded in the perspective that, while we acknowledge and support that there's a



legitimate interest of this nation to respond to abuses and violations of immigration laws, and that this nation certainly in its sovereign capacity has the right and the obligation to determine who does or doesn't enter this country and under what circumstances, the methods of dealing with unquestioned abuses and violations of immigration laws cannot be done, and should not be done, in a fashion that poses a grave threat to the civil rights and civil liberties of everyone who resides here, immigrant and native-born alike.

And we must never, also, lose sight of the positive contribution that immigrants have made and continue to make to what is, after all, with a narrow demographic exception, a nation of immigrants.

I think a very good point was made just a moment ago that in dealing with illegal immigrants we're dealing with something between close to one or a little bit over one percent of the population, and yet proposals are made or are enacted that have -- have been enacted in one case in California that have the danger of posing a severe threat to the civil rights and civil liberties of the residents of a given state and of the nation generally.

I do want to stress again we have long supported the vigorous enforcement of the immigration laws. We have endorsed alternative methods of achieving control of entry, such as the devotion of greater resources to border control and other things that may be appropriate for dealing with immigration problems.

The means of dealing with immigration problems must be consistent with generous immigration, must be consistent with fairness, and must be consistent with protection of civil rights and civil liberties.

Let me turn, then, to the proposal that has been made for a national centralized database in the interim report of the U.S. Commission on Immigration Reform. The first thing I'd like to say about the report is there was a lot in that report that we agreed with, and we particularly endorse the positive attitude towards immigrants that was reflected in that report and recognize the hard work and careful thought that has gone into preparation of those recommendations.

Nevertheless, we find it to be inherently problematic that there is a recommendation of a pilot project that would test the feasibility of a national worker verification system. Not only the final system, but even the pilot project would necessarily rely on the creation of a centralized database for all persons eligible to work in the United States.

And that's true even of a pilot project because even if you might limit the project to a geographically distinct area, applications for employment could be made by any person within the United States. And, therefore, the system, even on a pilot project basis, cannot work unless you have a universalized database, and the problems with that I'll get to. In fact, I'll get to that right now.

The proposed database, in order to be reliable as a resource for verification, would necessarily include much personal information, and that personal information could be accessible without the affected person's knowledge or consent to government agencies, to private employers, and to computer hackers.

The sad fact is that the government agencies that have been responsible for this kind of information, including the INS database on which reliance is made, but also to some extent Social Security database, have not had a wonderful track record in terms of the accuracy and completeness of their information, nor in terms of the safekeeping of that information.

Therefore, one has to ask questions about whether in centralizing and gathering all of this information in one place, something that I think ought to give all of us concern when we see that kind of information in a central place to which so many people might have access, that ought to cause us concerns because of the danger that this information will be used for improper or illegal purposes.

And even in the fullness of time, while we may be assured initially that information will only be used for verification of employment, the danger is great that people with very good motives, government officials, others will seek to use that information for other purposes since it is centralized already, and we will ultimately see the kind of concentration of information, the kind of creation of essentially a big brother kind of information base, that ought to give all of us pause.

Another concern is that the centralization of this information, because of the danger of inaccuracy, could pose a danger to the livelihood of persons that would be qualified to work, that are citizens or are legal residents of this country, but yet when the information is sought in this database for some reason or another, that person just isn't (quote/unquote) "found" in the computer, and there are threats, therefore, to the livelihood of all Americans by the inevitability of failures in the correction and updating of the data.

There is also the issue of discrimination. We know that the regime of employer sanctions that was enacted some years ago, according to a report of the General Accounting Office, has led to discrimination that employers have not applied that system in a -- in the same fashion to all persons, that some people based upon their apparent national origin have been subject to discrimination in terms of opportunities to be considered for or accepted for employment.

Even with this database, which ostensibly would be applicable to all employers and everybody should be treated alike, it seems to us that what would inevitably happen is that persons who seem to be of a foreign national origin would be subject to more rigorous questioning. The documents upon which an employer might rely would be examined more rigorously, so that the system would, in any event, be used in a fashion that was more likely to lead to discrimination.

And, in addition, the last point I'll make on the system is that it will take billions of dollars to get it up and running, and there's a danger that it will in the end not be effective, not work the way that it's expected, and there's really a great question as to whether or not those kinds of resources ought to be devoted at this point to a system whose feasibility is really of such question.

So in the end, what I think we have to say about this is that -- after all of this, it may surprise you for me to say we have not taken a position absolutely opposed to such a system, but our position is that the burden of proof in instituting a worker verification database must be on anybody who suggests it that it's not sufficient from our perspective for those who are advocates of a worker verification database to say to us, "We understand your concerns. We share your concerns." We accept implicitly that that's true, that the Commission is concerned about civil rights. The Commission on Immigration Reform is concerned about civil rights and civil liberties just as we are.

But what we have to say in response to that is, "We need to see the plans and the safeguards and the way in which the system would work," because of our grave doubts that in fact it can be made workable. And it's only after we have the opportunity to examine that and after that burden of proof is met that we think that there should be any talk of proceeding to an actual pilot project based on the proposal for a worker verification system.

Let me turn, then, to Proposition 187, which as we all know was approved in a recent referendum of the citizens of California. The American Jewish Committee, through its California chapters, was part of the campaign to defeat Proposition 187.

Our opposition is based on several key provisions of that proposition. One is it denies public education to all undocumented children, just depriving them of an education, and since most undocumented children do become legalized, at some point it will only foster illiteracy and dependence on public financial support.

The proposition also requires officials such as teachers, hospital employees, social service workers, and police departments become monitors of the immigration status of those whom they serve, and to report immigrants who they merely suspect of being undocumented.

This is an inappropriate task for professionals. It requires them to spend precious time making complex determinations of immigration status and destroys the trust of the members of the public that must deal with them. In addition, the fact that they will be devoting their time and energy to the task of determining status will mean that precious resources will be devoted by those officials to carrying out that task and not to the other obligations that they have before them.

And finally, the proposition denies all but emergency medical care to undocumented immigrants, creating a possibility for disastrous public health hazard. It means that medical treatment will not be sought until people possibly reach emergency status.

There's the danger of contagious disease that will not be dealt with at the appropriate time.

The next point I'd like to make about Proposition 187 is that we know that even in the short time since it has been enacted, and even given that there are injunctions against its actually being placed into effect, that we begin to see some of the civil rights implications of this enactment.

We have seen reports from California that there are businesses, including restaurants, banks, grocery stores, dental clinics, that have asked for proof of legal residency before providing a service. In one remarkable case, a bank would not allow a woman to withdraw money from her own account until she could prove her proper immigration status to them.

Individuals often of apparent Latino background have been subjected to abusive remarks by, in some cases, bus drivers, by customers at places where these individuals are employed, and police officers have asked for immigration papers in some cases in connection with valid stops of individuals. But, in other cases, it seems that individuals have been randomly stopped -- on the basis of their apparent national origin -- in order to provide to the official proof of their immigration status.

It seems also to us that in connection with the application of Proposition 187, that a child named Rodriguez, in the words of Jack Kemp and William Bennett, will be far more likely to appear to an official to be an illegal immigrant than a child named Jones, and that the civil rights implications of Proposition

187 and the dangers become clear, that it would result in an atmosphere in which people report each other because of fear and suspicion, and which those who with foreign-sounding last names, unfamiliar-sounding last names, or foreign accents will be more likely to be hurt than others.

There are also, and I won't go into the details of this, substantial questions as to the validity of significant portions of Proposition 187 under the U.S. Constitution and by reason of what may be a preemptive Federal law in the area of immigration and education policy.

Let me just say about one key Supreme Court case, Plyler against Doe, in that case in 1982, the U.S. Supreme Court struck down a Texas statute that cut off state funds from local districts that provided education for children who have not been legally admitted into the United States. The American Jewish Committee had filed an amicus brief in that case, arguing for that result.

All of the members of the Plyler court acknowledged that the 14th amendment's equal protection clause extends to anyone within a state's boundaries, regardless of immigrant status, and at a minimum this means that the classification has to bear some fair relationship to a legitimate public purpose. The difference amongst the members of the Plyler court was whether or not the regime that Texas had set up in that case did bear that fair relationship.

**Chairperson Berry.** You have to start winding up, Mr. Foltin.



**Mr. Foltin.** Okay. I'll close up by just saying that what the court looked to in that case was that the children are being denied an education based not on their misconduct but that of their parents, and the importance of education in the lives of illegal alien children, and also the lack of any clear congressional immigration policy for drawing the equal protection balance in the fashion that Texas did.

Whether or not Plyler can be extended to strike down a state's denial of at least some benefits to illegal immigrant adults is an open question, and it is not the American Jewish Committee's position that illegal immigrants must be afforded access to all of the same services as legal residents and citizens.

We do think, however, that Plyler demonstrates one key issue, one key proposition, and that is that one cannot simply look at the problem of dealing with illegal immigration and say, "That's the be all and end all," and not look at countervailing considerations and the impact on the persons to whom the laws apply.

And it is that that we think needs to be taken into account as we look at propositions and proposals for dealing with the problem of illegal immigration, and hopefully we'll all find together more appropriate affirmative responses for dealing with violations and abuses of the immigration laws.

Thank you very much.

**Chairperson Berry.** Thank you very much, Mr. Foltin.

Our next presenter is Mr. Andrew Schoenholtz, who is a Senior Policy Analyst at the U.S Commission on Immigration Reform. He is an expert in international law, and he will tell us about this report and how it relates also to Proposition 187.

Thank you, Mr. Schoenholtz.

**Mr. Schoenholtz.** Thank you, Madame Chair, for providing the opportunity for the Commission to report on its recommendations. We regret the fact that Barbara Jordan couldn't be here personally today, and hopefully at some point if the Commissioners would like to exchange views with our Chair and other Commissioners, we'd be happy to try and arrange that. We have submitted a statement from Professor Jordan for the record.

Just so everybody knows, the Commission was created in order to assess and make recommendations on the implementation and impact of an immigration policy. We've held public hearings, done fact-finding missions, and we've held expert consultations to try to identify the major issues facing the U.S. today. And as has been reported and discussed, we submitted our first study with recommendations to the Congress this past September 30th.

I'd like to briefly discuss the principles that the Commission supports and then go to a few key recommendations that will apply to the discussion we're having here.

As to the first principles, the Commission believes very strongly that legal immigration has strengthened and can continue to strengthen this nation. Legal immigrants are admitted because they are close family members of U.S. citizens and permanent

residents, and because they provide needed skills to businesses in the United States.

And the Commission has strongly denounced the hostility that has been evidenced in this debate towards immigrants, and we hope that we're going to be bringing some fair discussion of the facts and the issues to the debate and to try to calm some of that rhetoric.

Basically, in supporting legal immigration, the Commission is also quite concerned that all of the efforts to control immigration are being labeled as inherently anti-immigrant. The feeling is that if we're going to preserve our immigration tradition, and our ability to say yes to those who we want to bring to the United States, that we have to have the strength, also, to say no to those who we determine should not be here or are not invited.

The Commission is convinced that immigration can be managed more effectively and in a manner that's consistent with our traditions, our civil rights, and civil liberties. The first recommendation I want to briefly discuss demonstrates the Commission's commitment to legal immigration and the rule of law.

As you know, the immigrant eligibility for public benefits has become a major focus of debate. It's going to be a primary focus of debate on welfare reform on the Hill. And the Commission has come out with a recommendation that essentially follows the objectives of our immigration policy regarding public benefits.

That is, those individuals who we've invited to come to the United States, who we hope will become integral parts of our society, we believe that they should continue to be eligible for needs-tested assistance programs. And the Commission has strongly recommended against any broad categorical denial of eligibility for public benefits to legal immigrants based on their alienage.

The Commission's views on the eligibility of illegal aliens for public benefits differs markedly from its recommendations on legal immigrants. If an alien is in the United States unlawfully, the Commission's view is that he or she should not receive public-funded aid except in very unusual circumstances. Number one, where there is emergent need, such as emergency health care. Number two, where there is some public health or safety need -- immunization, child nutrition programs, etcetera. And, number three, where their eligibility is constitutionally protected.

Why this distinction between legal immigrants and illegal aliens? It's essentially that those who are here illegally have no right to be in this country. At the same time, the Commission certainly recognizes that these people are human beings and they have certain rights, and we certainly should not turn them away in a medical emergency, and in these other matters that I've mentioned.

Let me turn to another recommendation that has really obviously spurred a great deal of controversy, and that's the verification of work authorization. The Commission is very

concerned that the increasing public frustration over our country's inability to control illegal immigration will undermine the country's commitment to legal immigration.

And it believes that a credible approach to curbing illegal immigration has got to be comprehensive, and it has got to start at the border -- and border management has been part of the recommendation -- but it's got to go beyond the border. Employment continues to be principal magnet attracting illegal aliens to this country. And as long as U.S. employers are benefitting from hiring unauthorized workers, control of unlawful immigration will be impossible.

The Commission believes that employer sanctions and enhanced labor standards enforcement are essential components of the strategy to reduce the job magnet. But as currently formulated, the employer sanction system isn't working. It's got two serious flaws. One is that it's easy to circumvent the system by purchasing counterfeit documents. There are some 28 documents that are impossible to use in terms of proving who you are and what status you have here.

And the other problem with the system is employment discrimination. The Commission has directed recommendations to each of those problems.

The Commission believes that the most promising option for alleviating the fraud and the discrimination is a computerized registry based on the Social Security number. All employees already have to provide a Social Security number. All that would

be added to this requirement is that employers call a computer registry to verify that the number is valid and it was issued to someone authorized to work in the United States. Employers would have to do this for every new employee.

The Commission's recommendation is to test the most promising option for a simpler and more effective work site verification system. It wouldn't depend on any single document. And, in fact, it may be possible to verify work authorization without any document at all.

The Commission has urged the President to carefully phase in and evaluate pilot programs to test the options, and has stated that in setting up the pilot programs special attention has to go to ensuring that they fully protect the civil rights and civil liberties of all Americans.

The Commission intends to monitor pilots that come into being to see how these requirements are being met: if it's a reliable system, if it's cost effective, and if it protects civil rights and civil liberties of Americans and those who are here with a legal right to work. Should the results prove promising, then we would recommend the implementation of a national verification system.

The Commission is also concerned about unfair immigration-related employment practices -- discrimination -- against both citizens and legal immigrants that occur under the current system. They fully believe that the more reliable, simple verification system, where an employer does not have to make any

determination whatsoever about an individual's status, holds great potential to reduce any such discrimination.

The Commission has also made recommendations, though, to suggest that the Office of Special Counsel for immigration-related unfair employment practices in the Department of Justice, which is charged with monitoring, investigating, preventing, and remedying such discrimination, initiate more proactive strategies to identify and combat discrimination in the workplace.

OSC should focus its resources more on independent investigations in industries and geographic areas where such discrimination is likely to occur, and also on assessment programs that will provide the information to better target OSC's activities. A task force on immigration-related discrimination found several years ago that such discrimination is greater in certain geographic regions, in certain businesses of a particular size, and in industries that employ a large number of Hispanics and Asians.

The Commission also recommended, because they believe that there has got to be constant vigilance in this area, that a methodologically sound study to document the nature and extent of unfair employment practices be made.

I think at this point I'll stop, and I'll be glad to answer any questions.

**Chairperson Berry.** All right. Thank you very much, Mr. Schoenholtz.

Our next speaker is given some of the responsibility, or is accorded the responsibility in part, for Proposition 187. He is Mr. Ron Prince, who is Chairman of the "Save Our State" Committee, one of two leading California groups that wrote and successfully campaigned for the passage of Prop. 187.

Mr. Prince, welcome.

Mr. Prince. Thank you.

Chairperson Berry. And you may proceed.

Mr. Prince. Thank you for inviting me.

Actually, I guess I should first apologize to the Commission for not having a prepared statement. I was under the misapprehension they were discouraged.

However, just having come off this campaign and done this a few hundred times, I don't think I'm at any particular disadvantage.

(Laughter.)

What I would like to do first is just briefly say what Proposition 187 does and says, because I think there have been some misrepresentations here, or inaccuracies. Inaccuracies, let me say.

What we are doing with Proposition 187 is creating a mechanism whereby we ask all persons applying for certain public benefits in the State of California to produce identification at the time of application indicating that they are legally entitled to those benefits, meaning that they are legally in this country.



With regard to education, for example, we have heard that teachers will become INS agents and have to report on students that they suspect of being illegal aliens and snoop or snitch on those children.

Proposition 187 requires that when a child enrolls in school that child will produce identification, just as all American citizen children are currently required to do, all legal residents of the State of California are required to do. However, in California, illegal aliens are not required to produce that identification. They are currently excluded.

The one exclusion that is afforded to them is identification, specifically their birth certificate. If they do not have a birth certificate or naturalization papers, the parent of the child can produce a statement as to the age and date of birth of the child, so that the school will be able to place that child in the proper grade level. That is all that is required of them.

What Proposition 187 does, essentially, is remove that exclusion, that they will be required to produce a birth certificate, or naturalization papers, or a visa, just as everyone else.

With regard to health care, we require that in California every person applying for MediCal will present documentation at the time of application indicating that they are legally entitled to it, just as all American citizens are currently required to do.

For example, an American citizen applying for MediCal, which essentially represents over 90 percent of what we were talking about under the health care provision of Proposition 187, must produce a very large quantity of documents, including three years of tax returns, and so on. For example, we have heard from the opposition, and again here today, that doctors will be required to snoop on their patients. Doctors are not involved in the application process for MediCal.

MediCal is a benefit that is applied for at a welfare office. And at the time of application, American citizens are required to produce a great deal of documentation. Illegal aliens are not.

One of the main tests for MediCal is destitution. And for American citizens, they will be investigated to see if they own property. The DMV records will be searched to see if they own a vehicle. They will be checked to see if they have a bank account.

An illegal alien with a phony driver's license or a phony green card, with a phony name and a phony address, obviously has no assets in that name, does not own a car in that name, does not have a bank account, and therefore, in effect, instantly qualifies for MediCal. It is a very common occurrence in my state.

Also, with regard to welfare benefits, there is a current prohibition against illegal aliens receiving most welfare benefits in the State of California. However, currently, you are not allowed to ask applicants for welfare benefits if they are here

legally or not, and you are not allowed to check the documents that are presented to you.

So that when an illegal alien again presents fraudulent documents, they are not checked, and that illegal alien again is able to qualify for welfare benefits more easily than American citizens and legal residents.

All of this adds up to a system of discrimination against American citizens and legal residents of every race, creed, and color, simply because they are legal residents of the State of California. Those who are favored are a protected class of non-citizen and not legal residents -- the illegal alien.

We in California, at least 60 percent of the population of California, feels that this is unfair. This situation has not been redressed by our government. It has led to a great deal of frustration on the part of our people, who would like to see some reasonable action taken. This is a good point to quickly interject that we do support the findings of the U.S. Commission on Immigration Reform with regard to the computerized registry and find that it is a very reasonable approach to the problem.

Some of the issues that I think need to be addressed, the misinformation and the confusion about Proposition 187 begin with the idea of immigration. We are not talking about immigration. We are talking only about illegal aliens. We are not opposed to legal immigration.

We support our country's policy in that regard. We do believe that if our legal policy of immigration is going to

survive, we must deal with this problem of illegal aliens. We certainly believe that the best way to destroy that policy of legal immigration is to not only allow but, in fact, encourage legal immigration into this country. For example, last year the State of California actually was encouraging illegal aliens to come into our state to avail themselves of the opportunity to have their babies born in California, that those children would be provided for, they would be entitled to welfare benefits, certainly all medical benefits, and no one would ask the parents' legal status or report their legal status to anyone. That certainly was an inducement to illegals to come to California.

Literature was distributed abroad. Radio commercials were broadcast outside the United States giving this information, obviously encouraging people to come to California illegally.

I know that, for example, we've just heard that all people have human rights. We certainly agree with that to an extent. We do not believe that once a person has illegally entered the United States, that means they have all the rights of citizens.

As you probably know, legal immigrants to the United States do not have all the rights of citizens. While they are awaiting to be processed for citizenship, they are not entitled to welfare benefits and many other public benefits in this country. However, illegal aliens do get those benefits, which is one of the reasons why so many legal immigrants to this country supported this initiative.

We have heard, for example, that the Catholic Church is prepared to enter into the debate for immigration reform. You should be aware that in this recent campaign, the Catholic Church distributed literature in California stating that it is the Catholic Church's teaching that any human being has a right to enter our country for political or economic reasons.

That essentially covers all reasons. Normally people do not illegally enter another country just to visit for a temporary period of time. In other words, tourists are usually not illegal aliens.

So when the church takes a position that anyone can enter this country, legally or not, as long as it's for political or economic reasons, essentially what that means is that our borders are open to anyone to come into this country. We do not support that position.

For example, another comment we heard is that the church is supporting a redistribution of Federal funds to help those states impacted by illegal immigration. Again, this harkens back to what the State of California was doing last year in encouraging illegal aliens to come to California because, certainly, if you subsidize illegal immigration by providing those Federal dollars to those impacted states, you will encourage more illegal immigration.

Another problem that we have had in this recent debate with the Catholic Church is that they said we were denying children certain benefits and essentially blaming the children for the errors or sins of their parents. If we were not to take the

position that we have taken that all illegal aliens, regardless of their age, should not be entitled to public benefits in this country, you would be saying that any person can come here illegally as long as they come with a child.

And certainly there are a lot of people who would like to come to the United States who do have children. And, as I understand it, most of the people in the world do now have children or will have children at some time.

It is not a reasonable approach to take with regard to immigration policy to say that "As long as you are coming with children, you can stay. And you can come under any circumstances."

We understand that children as well as everyone else are impacted by this, but we also understand that our own children are impacted by this problem.

And one last comment with regard to that point, and that is with regard to education. We have in California at least 400,000 illegal aliens in that state in public school, most of them in grades kindergarten through sixth grade. By the time you get to seventh grade and beyond, most of them have dropped out because they are in bilingual programs and unable to transition into English language programs.

We also have a situation of severe overcrowding, especially in southern California. In October we had black students in Pasadena walking out of their classes because they were complaining that with 50 students or more in the classroom, they

were not getting an education. It's a position with which we absolutely agree.

In the City of Los Angeles, for example, if you are an English-speaking child, normally an American citizen child, you are in an average class size of 40 students or more. If you are an illegal alien in a bilingual program, you are in an average class size of 25.

We feel that, again, this is discrimination against American citizens in favor of illegal aliens. We do not think it's right. We think these and other problems need to be addressed, not only at the state level, where we are trying to cooperate with the Federal government in finding illegal aliens and reporting them to the INS, but also from the Federal government itself in enforcing its own laws.

Thank you.

**Chairperson Berry.** Thank you very much, Mr. Prince.

Our last presenter is Ms. Georgina Verdugo, who is Regional Counsel of the Mexican American Legal Defense and Educational Fund, MALDEF. Ms. Verdugo heads the Legislative Branch of MALDEF. Prior to joining MALDEF, she completed the M.P.A. at Kennedy School, Harvard. And before that, she was an attorney in private practice.

Welcome, Ms. Verdugo.

**Ms. Verdugo.** Thank you, Chairwoman Berry. I'd like to thank the Committee for inviting me here today on this important discussion.

I have the advantage of sort of bringing up the rear here and reiterating a lot of what my colleagues have said, but I also hope to shed a little light on what MALDEF has felt is an important distinction in this discussion. And that is the consideration of what is rhetoric and what should be important in the discussion of policy.

With regard to the Commission's recommendations, I concur with my colleague Mr. Foltin in our concern about employer national ID system for the reasons that were mentioned earlier.

MALDEF has historically disfavored any kind of employer or ID system such as this. And, in addition to the chilling effect on employment and the potential for discriminatory application, our concerns are with regard to access to the data and of the data and its actual application.

With that in mind, additionally the cost is also another important factor that should be considered. And I think that my colleagues have discussed the concerns very well in that regard.

But I do applaud the Commission in attempting to look at immigration reform and looking at issues such as Proposition 187 because it brings an important issue to the table, which is the attempt by initiatives such as this to essentially circumvent Federal immigration law.

What we have seen in this and what MALDEF has brought to the Federal courts and what has recently been determined, most recently in the hearing on Wednesday, was that initiatives like



this at the statewide level tend to bring in a parallel immigration enforcement scheme. And that is the danger.

When you're trying to look at a comprehensive immigration reform, it's necessary to see how it will impact the states so that initiatives like this do not take root and provide an alternative system, which besides being a textbook case of unconstitutionality has a grave potential for discriminatory effect.

With regard to what it purports to do and what it actually does, MALDEF has brought that to the courts. And the courts have also shown their concern in bringing into attempts to reform untrained persons, such as teachers, police.

Commissioner Willie Williams of Los Angeles Police Department has, in fact, joined in the case in providing a declaration with his concerns regarding initiatives like this, which put the onus on local police and health providers and teachers in trying to enforce this initiative.

Despite previous comments by my colleague to my left, if you look at the exact wording of this initiative, it does require that persons who are reasonably suspect, information regarding them be turned over to not just the INS but the attorney general of the state and local authorities. So not only does it put the onus on them, but it requires them to determine exactly what is reasonable suspicion.

The language of it is so extremely vague that the discriminatory effect comes when each individual person attempts to enforce this law. And I think if you consider the actual language

of the initiative and initiatives like these, it does show the wide open ways in which it can be discriminatorily applied.

And the danger is not just in the application but also in the effect and, as Mr. Foltin stated to the Commission, there have been already not just attempts at enforcement of this initiative, but it also created an atmosphere where people are not given services to which they're not even applied to this initiative itself, services in any kind of public arena. There are a number of examples of this sort of problem that comes out of the initiative.

So very briefly, I mean, in closing with this, it's important that the Commission take a look at initiatives like this because of the danger in attempting to provide a comprehensive Federal scheme because initiatives like this attempt to run a parallel immigration enforcement scheme without due process by creating a suspect class without any rational basis. And so far this has been upheld by the Federal courts.

**Chairperson Berry.** Thank you, Ms. Verdugo.

**Mr. Swenson.** Could I just make a little statement, just to set the record straight on what --

**Chairperson Berry.** Sure.

**Mr. Swenson.** -- the position of the Catholic Church in California was?

**Chairperson Berry.** Sure.

**Mr. Swenson.** In citing longstanding Catholic social teaching, the bishops of the state did indeed affirm that every family or individual has the right to immigrate.

They go on to say, however -- this is also well-established in the teaching of the church -- "The existence of any human right presupposes the corresponding responsibility in the context of the universal common good. The rights of the illegal immigrant must be balanced with the common good and a hardship that a great influx of people into a single geographic area may produce."

It's establishing the balance and the means to do that that the bishops address. So that the position is not unlimited immigration, but that that has to be balanced against the state's obligation to provide for the common good.

**Chairperson Berry.** Okay. Well, before I turn to my colleagues for their questions, Proposition 187 is what is being discussed here. And just so we don't have disagreement about what it says and others who are here, I'm not reading from any particular portion for any particular purpose. And other colleagues may wish to call attention to other purposes.

But the "Findings and Declaration" section of this Proposition 187 I'm going to read. It says "The people of California find and declare as follows, that they have suffered and are suffering economic hardship caused by the presence of illegal aliens in this state, that they have suffered and are suffering personal injury and damage caused by the criminal conduct of

illegal aliens in this state, and that they have a right to the protection of their government from any person or persons entering this country unlawfully.

"Therefore, the people of California declare their intention to provide for cooperation between the agencies of state and local government with the Federal government and to establish a system of required notification by and between such agencies to prevent illegal aliens in the United States from receiving benefits of public services in the State of California."

I won't read the rest of it, but at least that tells us. And insofar as Ms. Verdugo's last point about law enforcement agencies, what this section says is that -- this is Section H.34B on the first page -- "Every law enforcement agency in California shall fully cooperate with the United States Immigration and Naturalization Service regarding any person who is arrested if he or she is suspected of being present in the United States in violation of Federal immigration laws." And then it asks them to verify their status and so on.

Let me just say that listening to the briefers, so far apparently Mr. Schoenholtz for the Commission on Immigration Reform and Mr. Prince are in agreement, at least about Proposition 187 and the exclusion of illegal aliens from getting all social services with some caveats by Mr. Schoenholtz. But you and Mr. Prince said he agreed with the -- the record will show that.

**Mr. Schoenholtz.** I think you're mistaken.

**Chairperson Berry.** I will call on you in just a second.

**Mr. Schoenholtz.** Thank you.

**Chairperson Berry.** And Mr. Swenson, Mr. Foltin, and Ms. Verdugo seem to be opposed in varying degrees of heat to Proposition 187.

And so I'll turn to my colleagues. I think Commissioner Horner wanted to ask a question about that. I saw her gesturing.

**Commissioner Horner.** I was going to ask Mr. Schoenholtz exactly what you've just said, --

**Chairperson Berry.** Right.

**Commissioner Horner.** -- whether the criteria he put forth, public safety, emergency, and constitutionally protected, implied that the Commission opposes 187 because those 3 criteria don't jibe with 187. In other words, are you in the oppose 187 camp?

**Mr. Schoenholtz.** The Commission hasn't formally taken a vote on 187. These recommendations --

**Chairperson Berry.** Hasn't, you said? I didn't hear you.

**Mr. Schoenholtz.** Has not --

**Chairperson Berry.** Has not.

**Mr. Schoenholtz.** -- formally taken a vote on 187.

**Chairperson Berry.** Thank you.

**Mr. Schoenholtz.** However, they have the recommendations that I think Mr. Prince will agree with me are in direct conflict with 187.

**Mr. Prince.** I think perhaps to clarify this -- I said I thought their report was a good first step. Certainly we are not

going to agree with every word in the report, but on the whole I think it is a good statement and a good first step.

**Chairperson Berry.** We will have other questions. Commissioner Horner, do you have others while you're there or would you like to wait to see if others --

**Commissioner Horner.** I would like to reserve my questions for later.

**Chairperson Berry.** Sure.

**Commissioner Horner.** But I think Mr. Foltin was also addressing some dismay at your characterization of his position. So I would like for clarification to know whether the American Jewish Committee supports or opposes --

**Mr. Foltin.** We oppose Proposition 187, but it was based upon opposition to specific provisions. It's not our position that every benefit that's available generally to a legal resident should be available to somebody in the country illegally. But there are particular provisions of Proposition 187 that led to our opposition to that proposition.

**Commissioner Horner.** So there are four opponents and one proponent of 187 present.

**Chairperson Berry.** That is not precisely accurate. Mr. Schoenholtz said that his Commission had taken no position on Proposition 187 one way or the other. That's what he said.

This is a little side debate going on, --

**Mr. Prince.** I'm used to being outnumbered.

**Chairperson Berry.** -- in case you're wondering what that's about. But you did state that your Commission has taken no position on this. Is that correct?

**Mr. Schoenholtz.** The Commission has not formally taken a vote on 187 as such.

**Chairperson Berry.** Right.

**Mr. Schoenholtz.** The report that we issued was previous to the --

**Chairperson Berry.** We have it.

**Mr. Schoenholtz.** -- vote on 187 to California. But we did clearly make a recommendation that benefits to illegal aliens in three specific areas should not be cut off: --

**Chairperson Berry.** Okay.

**Mr. Schoenholtz.** -- where there is an emergency, some emergency health benefits; where there is a problem of public health and safety, which includes everything from immunizations to child nutrition programs, school lunch programs; and, finally, where any eligibility is constitutionally protected. And that is --

**Chairperson Berry.** But what is your view of Proposition 187, which has many parts to it, as you know?

**Mr. Schoenholtz.** Well, those are central parts of 187 unless I don't understand 187. So in terms of the principles outlined by the Commission and the specific recommendations, it is in conflict with 187 in a very serious way.

**Commissioner Horner.** And, Madam Chair, just to complete the record of this discussion, Steve Moore, whom I had recommended, also opposes 187, but from a different perspective. And I thought it would be a valuable experience to hear his perspective.

**Chairperson Berry.** Yes. Commissioner Anderson?

**Commissioner Anderson.** I'd like to follow up on this because, as I read Dr. Jordan's paragraph here on Page 3, it seems to me that it meant something. That is, it meant that there would be benefits cut off. Do you enumerate what those would be?

**Mr. Schoenholtz.** No. Under the current system, this is exactly what is permitted for those who are here in this country illegally. This is no change from our current legal system.

The principle that the Commission wanted to articulate was that they, number one, believe that legal immigrants in this country should be protected under the safety net. That's one principle.

They're not suggesting that needs-tested benefits, the safety net, should be provided to illegal immigrants. It is not currently. But they are suggesting that emergency health care, constitutionally protected benefits, such as education, and other benefits that are in the public interest should continue to be provided to those who are not here legally.

**Commissioner Anderson.** If I can follow up?

**Chairperson Berry.** Yes, please.

**Commissioner Anderson.** I don't want to discuss the minute text of 187. I'd like to discuss your characterization of



what it does in terms of identification for eligibility under welfare, education, and health.

**Mr. Schoenholtz.** Right, right.

**Commissioner Anderson.** Now, as you characterized them, -- I'm not going to say it's an accurate characterization of 187, but as you characterized them, is there agreement that that is acceptable policy or disagreement?

**Mr. Schoenholtz.** As 187 is characterized?

**Chairperson Berry.** As Mr. Prince characterized it -- do you agree that it is acceptable to engage in that kind of identification? That's your question of the panelists.

**Commissioner Anderson.** Right. It seemed to me that it was a question of documentation.

**Mr. Prince.** Yes.

**Commissioner Anderson.** Right. That is, the level of the question of documentation. What's wrong with that as public policy?

**Mr. Prince.** Can I make a brief statement --

**Chairperson Berry.** Well, you --

**Mr. Prince.** -- on that point perhaps to clarify? Because when you're talking about why we have the provision for documentation --

**Chairperson Berry.** He just wants to know if the other panelists agree with you. Isn't that right or not?

**Commissioner Anderson.** I mean, first I'd like to know what was wrong with that characterization, not what is wrong with

the text of 187, but what is wrong with the policy options he listed.

**Chairperson Berry.** Maybe we need to have him repeat it again because they look a bit puzzled.

Could you just repeat the identification part of your understanding?

**Mr. Prince.** What we are talking about is -- let's take a specific example: education. When an American child, a citizen child, enrolls in school in California, you must present, the parent or guardian must present, to the admissions officer of the school, not a teacher, not anyone else, but the admissions officer at that school, a birth certificate and immunization record and proof of residency in the school district. That same requirement applies to naturalized citizens and to all of those people who are here illegally; that is, for whatever temporary period of time, whatever kind of visa they may have.

Illegal aliens are not required to do that. If the parent or guardian informs the school that they are not here legally and they do not have that document, the birth certificate, the naturalization papers, or a visa, they're excused from producing any of those documents because we all know about the Plyler v. Doe decision that the illegal alien child must be educated anyway.

Thereafter, the only thing that is required of that illegal alien pupil is a statement from the parent or guardian as to the age of the child.

**Chairperson Berry.** Okay.

**Mr. Prince.** But when we're talking about documentation, one of the other things I guess has constantly been said by the opposition is "Well, only certain people are going to be asked because of the way they appear."

What we are saying in this initiative clearly is everyone who enrolls in school must produce that documentation, everyone. No one is excluded. No one is discriminated against. Essentially the only people who are currently discriminated in favor are those illegal aliens who are not required to produce a full set of documents.

**Chairperson Berry.** We haven't gotten an answer to Commissioner Anderson's question, which is: What do the rest of you think is wrong with that?

**Commissioner Anderson.** Well, if I could --

**Chairperson Berry.** Is that your --

**Commissioner Anderson.** And I'd prefer not the contest of the factual premises.

**Vice Chairperson Reynoso.** But the factual premises will be contested. I'm sorry. I come from California. I've never heard of that, frankly. I've never heard that that's the policy of any school district. I've never heard that. I've never heard of that being the policy of anybody in California.

So your statement comes as a complete puzzle to me, even though I've been raised in and have been involved with California education all my life.

**Mr. Prince.** I can tell you that having been involved in this campaign throughout the State of California and been in a great number of debates with a lot of educators, that I've never heard anybody dispute that before.

**Vice Chairperson Reynoso.** Well, you have now heard somebody dispute it.

**Chairperson Berry.** Yes, Commissioner Anderson? Yes?

**Commissioner Anderson.** What is the disagreement here that you have to provide that kind of documentation?

**Vice Chairperson Reynoso.** Of course, everybody, every child, is asked to produce exactly the same documentation. If an American child doesn't have a birth certificate, that child is going to be required to produce a birth certificate. That child can produce any other documentation to show the child was born here.

**Mr. Prince.** I can tell you that I have talked to a number of principals who are responsible for those policies in their schools. And some of those districts do differ, but many of them have a policy that if an American citizen child is enrolling in school and does not have a birth certificate, that child will not be allowed to attend that school until that document is produced.

Sometimes they will be given a period of days to produce it. Sometimes they will not.

**Vice Chairperson Reynoso.** If that's the policy, it violates the California law.

**Chairperson Berry.** Do others on the panel -- yes?

**Ms. Verdugo.** If I could just address the policy issue of that, one of the problems is that it's a simplistic notion to look at people here as simply illegal or legal. I mean, there are a number of recognized classifications for persons in the United States.

There are people here who are under color of law. And for them their status here is in question, but they are not here illegally. And whether or not they can produce documents, they may not be able to produce documents because it is a question of whether -- and that is a question that's being taken up by the INS. And during that process -- and this includes approximately, I believe, about 400,000 people. During that process, it is difficult to provide those documents.

Now, if you look at the threshold question of whether people need to carry those documents, particularly in the situation where it's an emergency, who will be the ones who will be asked? I mean, ultimately it is the people who are, as this initiative says, reasonably suspect.

So as a matter of policy, it doesn't recognize what immigration law actually produces, which is a various and complex system of determination of status. It merely divides people into legal and illegal people who are here.

**Chairperson Berry.** So one thing you, then, have addressed as part of Commissioner Anderson's question is the people who you say may not be "illegal immigrants" --

**Ms. Verdugo.** Yes.

**Chairperson Berry.** -- and that the term, therefore, is too broad and they may not be able to produce documents, and then what happens to them? But maybe there's another piece of it. But that's one piece. So you find the policy strange for that reason.

**Ms. Verdugo.** Well, for a number of reasons, but that being one of them. It doesn't relate to the current situation or the current status of Federal immigration law.

And if we allow states to come up with their own definitions or interpretations or getting down to the level where it's enforced, which is the cop on the beat and the teacher in the classroom, then they become the people who enact the policy decisions that should be made on a Federal level.

**Mr. Prince.** Could I provide a response?

**Chairperson Berry.** I will. Just a second. I'll see if anyone else wants to respond to Commissioner Anderson's question. Yes?

**Mr. Foltin.** I'd like to. I think that one has to look at what it is -- which particular program we're talking about in part. As I indicated, it's not our position that illegal immigrants should be allowed access to all benefits. And, in fact, that's not the law. There's a great number of benefits to which they are not and ought not to be -- for which they ought not to be eligible.

And it may be the case that there's an appropriate regime of documentation that might be appropriate to assure that people do not receive benefits to which they're not entitled.

However, part of what Proposition 187 does is suppress particular services or particular government activities in which the kind of regime that's set up here is very problematic.

For instance, when a law enforcement official -- and this is not an application for benefits, but, nevertheless, when the law enforcement official in confronting an individual is obligated to make sure of what their immigration status is, people are going to be discouraged from going to police when they are victims of crimes. And this is not something that is to the public good, whoever the victim of that crime is.

If people in coming in for emergency medical services or coming in for inoculations or other things that are in the public good are discouraged from doing that because they will be confronted with the need to produce documents, that's also not to the public good.

And, finally, because I do think we have to address the premise of the question to some extent, it seems to me that at least portions of Proposition 187 do place an ongoing burden on the officials charged with providing education or providing other services under Proposition 187 to go to the INS if they "reasonably" suspect somebody's immigration status.

And it does place those officials in the position of having to be on an ongoing basis making these kinds of complex

determinations as to immigration status that will only interfere with their ability to carry on their duties.

Finally, let me say in the context of education I do think that given the reasoning of Plyler against what reason we think was appropriate, to the extent you have set up a system that is going to discourage parents of children because of the illegal status of those children from bringing them into the educational system, we again are going to have something that is not to the public good.

That doesn't mean that every public benefit is the same as education. It's not our position that it is. But for certain public benefits, there are concerns that are raised by the kind of structure that is set up by Proposition 187.

**Chairperson Berry.** Mr. Prince, you wanted to say something.

**Mr. Prince.** Yes. I think what we were talking about just before was Proposition 187 is setting up a parallel immigration policy. Again, I think I originally had said that is not the intent of the authors of 187.

Our intent is to cooperate with the Federal government. The State of California has for the last year been suing the Federal government for reimbursement now for, I believe, \$10 billion for the cost of services in the State of California to illegal aliens.

The defense on the part of the Federal government, of course, is that the state is not cooperating with the Federal



government in reporting illegal aliens to them and, in fact, is encouraging illegal immigration into the State of California by providing generous benefits that no other states provides, which is one of the reasons why California has half of all the illegal aliens in the United States within its borders.

It is not that they are just coming there for work. There is not that much work in California. Our recession continues while the rest of the country is moving out of recession.

If they were going anywhere for work, they would be going to other states, but they are still coming predominantly to California because we provide services other states do not.

What we are trying to do, again, is simply to report these people to the INS so that we are now in compliance with Federal law. For example, we have local ordinances that prohibit cooperation with the INS. Section 4 of the initiative tried to overturn those local ordinances and bring the State of California into compliance with Federal law.

The arguments on behalf of MALDEF and the other plaintiffs' attorneys is that that is preempting Federal law. We do not believe that is the case. The situation with regard to the Federal law requiring local law enforcement agencies to report illegal alien arrestees to the INS is that the law is not being enforced.

Local ordinances such as Special Order 40 in the City of Los Angeles directly prohibit the LAPD from doing that. The City of San Francisco directly prohibits the City of San Francisco from

doing that, and Santa Cruz and other cities and counties throughout the State of California do.

So we have a Federal law that is literally totally unenforced. We are trying to assist by refusing to allow the local governments, cities and counties, to prohibit that kind of cooperation. And, yet, they are saying by doing that, we are preempting Federal law.

Again, we do not think that is the case. We think that this is the only way to make that Federal law work in the State of California.

**Chairperson Berry.** Yes. Well, I have a long list of questions, but I'll wait until my colleagues have finished.

**Commissioner Horner.** I'll finish mine.

**Chairperson Berry.** Yes?

**Commissioner Horner.** I have two questions, one for Mr. Swenson. I was interested in your initial contention that human rights, including the right to immigrate, takes precedence over law.

And then you modified that subsequently, after the other panelists had spoken, and you said that that statement had to be considered in the context of limits, I guess. I forget your phrasing, but balanced with other considerations.

I'm interested by a couple of questions that raises. One is why the balance, the other side of the equation, comes as the afterthought and not as the advocacy point.

And the other is this: What is the bishops' position on the requirement of citizenship that a citizen observing or strongly suspecting that a law is being broken report that fact to law enforcement authorities? That has always been my understanding of citizenship is why I'm very concerned about keeping the clear distinction that the Commission on Immigration Reform asserts between legal and illegal.

**Mr. Swenson.** That --

**Commissioner Horner.** Could I just finish?

**Mr. Swenson.** Yes.

**Commissioner Horner.** I'm concerned about it because I think that there is a vague generic right being asserted which makes people feel very good to assert against a citizenship obligation which is being seriously eroded.

Putting aside whether immigration is good or not, generically the question of law, a doctor or nurse suspecting child abuse will be required by law to report that fact, even though some people may then not take their children to the doctor out of fear of being reported. But the society says law matters. We require this.

Why does the church emphasize the human right and not emphasize the obligation to obey the law?

**Mr. Swenson.** Well, it emphasizes both. And if I gave a different impression, I didn't intend to. There is, I think, in the statement of position an inherent intention of the social teaching of the church on the issue, which often occurs. And what

that means is that it's that area in the middle that you get down to specific judgments.

The bishops fully recognize and support the right of the state to regulate its borders. We would acknowledge the people here illegally are under due process subject to removal.

The question, the moral question, as the bishops have defined it, is: What happens when they're here? And the answer that they give is that those basic kinds of services that are available to them ought to be provided.

So in terms of your question, I think what that means is such people almost by definition don't have documentation, but the issue for us isn't documentation. It's the withdrawal of the services.

**Commissioner Horner.** Now, in that context, balancing the need for services of an individual against the state's requirement for obeying the law, suppose you have a 27-year-old woman with 2 children and husband. She's a retail clerk. He has a blue collar job. Together they earn about \$33,000, maybe 1,000 above the national average income for a family of 4.

Would the bishops go to bat for this woman if she said: "I don't want to pay any more state or Federal taxes nor to have my children's classroom experience degraded nor respect for the law degraded, and, therefore, I wish to take extreme measures" -- or not extreme, but -- "strong measures to call upon the church to get the bishop up there on Sunday calling on every citizen to turn in strongly suspected or known illegal aliens"?

In other words, do you think about that woman at all in your calculation or do you think only about the illegal immigrant in your calculation?

**Mr. Swenson.** No, I don't think so. Of course, I'm not a bishop myself.

**Commissioner Horner.** No, but you speak for them, I hope.

**Mr. Swenson.** And in speaking for them, no, I think that they try to weigh these things very carefully. I think they're very conscious of the fact that the vote in California among the Catholic population probably was just the same as it was among the population at large, but they also take the position that when they speak out, they try to address the whole of the community but that they have a special obligation, a preferential option, as they put it, for the poor and most disadvantaged. And that I think is what they are exercising here.

**Commissioner Horner.** Which encyclical was that?

**Mr. Swenson.** That was -- the preferential option for the poor was most recently enunciated in their letter on economic justice for all.

**Commissioner Horner.** It's the bishops, not the pope?

**Mr. Swenson.** Yes.

**Commissioner Horner.** Thank you.

**Mr. Swenson.** But the pope has also affirmed that as well.

**Chairperson Berry.** The bishops work for the pope.

(Laughter.)

**Vice Chairperson Reynoso.** What GS grade are they?

(Laughter.)

**Chairperson Berry.** If I could ask one of my questions or maybe two -- and then I'll wait and ask somebody else. I'm just dying to ask these two questions. One of them that I'm dying to ask is: Mr. Foltin and Mr. Swenson and Ms. Verdugo especially, when you were making these arguments in favor of opposing Prop. 187 and so on, some of them sounded so eminently reasonable. If they were so eminently reasonable, how come you lost when folks voted?

And, secondly, isn't it really true that if you did not provide services for immigrant children, undocumented children or illegal children, that, in fact, or other kinds of services -- and law enforcement officials identified them and so on -- you would be: One, helping the national effort toward controlling our own borders? You would be helping the Immigration Reform Commission in its recommendations? The state would be helping them? And, secondly, you really would be getting rid of sort of an attraction that attracts people coming to the state? So why did you lose? Why did such large numbers of -- I'm told in the Asian American community in California they voted in favor of Prop. 187. At least that's what the press says. I don't know the numbers. And I'm told that large numbers of African Americans voted in favor of Prop. 187. I'm told that some Latinos voted in favor of Prop. 187. So how come you lost, if it's all so eminently reasonable? And what's going on here, any of you who take the position against Prop. 187?

**Mr. Foltin.** I'll be brave. I think we have to confront that, first of all, there's a real problem. Some of the grounding in some of the people who supported Proposition 187, I do think there was some hostility towards immigrants and some xenophobia and such.

However, the great danger and the risk I think to people who oppose Proposition 187 ran was of making it seem as if that's all there was to it. And there were a lot of people who have legitimate concerns that I think responded to what was the wrong solution to a real problem. And the real problem is, first of all, California is having economic problems now, as was said.

And to some extent, and I think inappropriately, that was laid at the feet of the illegal and some people even blamed legal immigrants for it. I don't think that that's the reason, but that's a lot of the reason that people see, their economic well-being endangered.

They're looking for reasons. They're encouraged to some extent to believe that the immigrants are the reason that they're having these problems, instead of a long history of a lot of other decisions that might have been made in the State of California that have led to where the state is today.

And that's part of a general concern within the country about where we are going and do we still have the sense of unity and community in this country that some people believe we used to have.

So I think there are a lot of things that all play together. And in looking at real concerns and problems that people have, this is responding to the problem of illegal immigrants, one of the things that gave rise to this vote.

The other thing that I would say is that to the extent that there are costs associated with illegal immigrants, California does bear more, then, because it does have more illegal immigrants.

And even when the argument is made, which I think is proper, that generally immigrants are a boon to the economy, when taxes are paid very often they flow to the Federal level, but the costs are at the state level. So the locality and the state bear a lot of those costs.

And, for that reason, it's important that the states be to some extent reimbursed for the net cost to them of having that community in their area, which is something that we support.

So, in sum, I think we were reasonable in the reasons that we were opposed to Proposition 187, but that there's a lot of reasons why people voted for Proposition 187 which I think ultimately didn't respond to our advocacy.

And I think that as that kind of proposition gets proposed in other states, and as we think it's going to, it's going to be considered at the Federal level. We just have to do a better job of responding to the real concerns.

And also I think we have to make it clear that at least many of the advocates against Proposition 187 are against illegal immigration, do believe that there are affirmative steps that ought



to be taken to deal with problems of illegal immigration. And that message has to get out there as well.

And we have to be a lot more creative and positive about the kinds of things that are going to be put on the table to deal with that very real problem so that bad solutions aren't what get adopted.

**Chairperson Berry.** But you and Mr. --

**Mr. Foltin.** Let me just respond.

**Chairperson Berry.** Just a second.

**Mr. Foltin.** Yes.

**Chairperson Berry.** You and Mr. Prince have a clear conflict on one point you just made again. You made it earlier, and you just made it again. He takes a sort of scorched earth, in my characterization, approach --

**Mr. Prince.** I didn't know that.

**Chairperson Berry.** -- that we shouldn't even give money to the states to make up for the burdens of services because that's an attractive nuisance. You think that there ought to be money given or some kind of help given to relieve the burdens. That's what you said.

**Mr. Foltin.** Yes.

**Chairperson Berry.** You said it earlier. You just said it again. So you've got a clear conflict. Isn't your approach sort of mushy and his sort of strong in terms of getting it done?

**Mr. Foltin.** Our approach is nuanced and thoughtful.

(Laughter.)

**Mr. Foltin.** Let me say that relates --

**Mr. Prince.** You should be in politics, not me.

**Mr. Foltin.** That relates to the question about the real effect of this. It may be that there will be people who leave California or don't come to California because of these kinds of things.

I wouldn't sit here and say that every illegal immigrant in the state is going to stay put, no matter what kind of onus you place on them. And then that's not the issue. The issue is: What's the effect upon the entire state when you have this kind of regime in place?

When you have -- nationally it's a small percentage. In California it's a larger percentage. But, nevertheless, you have to ask: What's the effect on the legal residents, on the citizens, the American citizens, of having a regime in place that already without Proposition 187 even having been put into effect yet, it's resulting in discriminatory statements and approaches and provision of services toward people who have every right to be here? And, yet, nevertheless, the notion that Proposition 187 has been passed seems to give some people the idea that they have the license or even the obligation to act in this fashion.

And I think you get an atmosphere of divisiveness that's harmful, that is not to the public good when you have something like Proposition 187 enacted. And that is wholly separate from the question of whether or not you are being successful in driving some people back across the border.

**Chairperson Berry.** And before I recognize you, Commissioner Wang, Mr. Prince?

**Mr. Prince.** Yes?

**Chairperson Berry.** Just to not let you get completely off the hook as far as my questions are concerned, hasn't it ever occurred to you that the dirty little secret is that much of America likes illegal immigration, especially if they're going to pick the vegetables you buy in the store and all of that?

**Mr. Prince.** Absolutely.

**Chairperson Berry.** But that's the dirty little secret. And also why do people like respected leaders in our country, like Jack Kemp and Bill Bennett and other leaders --

**Mr. Prince.** Respected leaders?

**Chairperson Berry.** Why do they, then, oppose this? What's going on here? And isn't it --

**Mr. Prince.** Well, Jack Kemp, I can answer that question because when he was Secretary of HUD, clearly there were several instances in which he stated his favor for illegal aliens being able to receive Federal benefits.

In California, in Orange County, where I live, in Costa Mesa, just a couple of miles away, when he was Secretary of HUD, the city council in Costa Mesa funded a senior citizen housing facility for senior citizens in that city. They included a provision in the establishment of that facility that excluded illegal aliens from being able to live in that facility.

They heard from Mr. Kemp, Secretary Kemp, that if they did not remove that provision post haste, the City of Costa Mesa would never again receive one single penny of Federal funds.

So his position with regard to illegal aliens is perhaps, peculiar to him, of long standing. Obviously he favors illegal immigration and does not --

**Chairperson Berry.** For some unexplained reason?

**Mr. Prince.** For some unexplained reason.

-- and does not favor denial of services and benefits to illegal aliens.

**Chairperson Berry.** What about the dirty little secret part?

**Mr. Prince.** It is not a secret. It is not something that we have tried to hide. It is something that we have tried to reveal because it is a problem.

There are a lot of interests in my state that profit from illegal immigration. They are certain business interests. They are certain governmental interests as well as unions. It is a convergence of special interests that does profit from the situation at the expense of the state and the general population.

We do not support illegal aliens coming to California and working for anyone. We do think that illegal aliens should be prohibited from working in this country completely.

The difficulty you have there is that you will have a business that hires illegal aliens, especially a labor-intensive business, that now greatly reduces its labor costs and greatly

increases its competitiveness against its competitors. Many of those competitors go out of business or move to other states, as they are doing now. It is one of the reasons why we have a lot of businesses leaving California.

This is not all just defense industry downsizing. That is not a process that's going to go on forever. Not all of the businesses that are leaving are related to defense industries. They are, however, labor-intensive. And many of them are finding it better off to go to another state and set up business elsewhere. It is a very serious problem.

We in California do not feel -- and that is why the people in California voted for, one of the reasons why they voted for, Proposition 187. We do not feel that a few special interests, be they unions, be they business, be they whatever, should profit from the exploitation of any person at the expense of the greater community because it is the state as a whole that is forced to subsidize them.

For example, with some of our raisin growers who are complaining in the Central Valley of California that they needed illegal aliens, it was pointed out to them by the Farm Labor Union that there was no shortage of labor in the Central Valley.

One of the reasons why there was no shortage is because there was such an abundance of the normal table grapes and so many people picking them that a lot of people had come into the Central Valley to do that.

There was no shortage at all. What is really going on with our raisin growers is that they can bring in more and more illegal aliens. They can always bring in a new set of illegals who will work cheaper than the previous set. And wages have been continually going down in that area.

They do profit from them, but remember that picking season only lasts for a short period of time. And once that season is over, those people are now living in government housing and getting the public benefits that are subsidized by the State of California and subsidized by the Federal government.

We don't think that's fair. We don't think that taxpayers should have to pay subsidies to bring in illegal alien workers so that a few businesses can profit from it.

**Chairperson Berry.** Yes. Commissioner Wang and then Commissioner --

**Commissioner Wang.** Thank you, Madam Chair.

A comment and a question to the three of you here. My comment is your question. You mentioned about the Asian community, why some of them actually voted in favor of 187.

The vote that they cast -- really they're not thinking about the civil rights issue. It was more economics, more particularly immigration because they felt, particularly those who are petitioning for a relative to come, they would have to wait five, seven, eight years. And here you have undocumented, who can just come by ways of all kinds of means and seem to get precedence over them. So they're frustrated.

The other part is an economic reason more, that some of the wages of the Chinese, in particular, have upset the wage in the community very much because they want work. So they'll take any kind of work. And they'll be supported with the salaries.

So maybe that has a negative impact on those other workers in the community because they have a hard time finding increases, getting increases, because of the employers. If you want increases, they're going to go to the undocumented. So you have this kind of animosity.

And also they come from different regions. I mentioned it, the regional conflict back home. Traditional immigrants of Chinese are from Canton. And the new wave are from Fujon Provinces. And they are rivalries back home. So there's that historical kind. So we're not here to talk about that.

I think I want to ask. Maybe I'll start with Mr. Swenson. Your early comment about particularly the ratio aspects is we are here concerned about that. You mentioned increase of racial and ethic tensions. Could you elaborate a little bit about that?

**Mr. Swenson.** Yes. I think that particularly Hispanic communities believe that 187 was directed primarily against them. And a lot of the reporting, at least, around it indicated that the major problem was illegal immigrants from Mexico.

That particularly with the both linguistic and ethnic characteristics, I think we've seen often both in California and along the Mexican border severe incidents of discrimination and

often misconduct by the Border Patrol. I mean, it is not or it has not been uncommon.

I am informed by a former Chief of the Border Patrol that American citizens have been run across the border into Mexico simply because they looked Hispanic, spoke with a Spanish accent, and didn't happen to have their naturalization certificate on them as they were out for work. So it's these kinds of issues of discrimination which have occurred frequently enough in the past that we're worried about.

And I think part of the distinction is -- I mean, if you look into it, there are what, maybe -- I think INS estimates about four million undocumented aliens in the country at the current time.

**Vice Chairperson Reynoso.** 3.2.

**Mr. Swenson.** 3.2 is it? Thank you.

And about 700,000 of those are thought to be Canadian. When's the last time anybody ever heard about deporting anybody to Canada?

New York, which has about 400,000 undocumented aliens, the largest populations are Italian and Irish. I've never heard anybody talk about deporting anybody of Italian or Irish extraction.

**Mr. Prince.** We did.

**Mr. Swenson.** So, I mean, it is these kinds of issues and the kind of emphasis that you often see on Hispanic and primarily Mexican populations that fuel our concern about discrimination.



**Commissioner Wang.** Thank you very much.

Mr. Schoenholtz, your statement, actually Dr. Jordan's statement, particularly you mentioned about employment continues to be the principal magnet attracting illegal aliens to the country. But you probably would agree that most of the jobs they hold the average Americans do not want.

So what kind of an impact in that respect -- I mean, when the undocumented are filling the level of jobs that actually are at the way, way bottom, and actually helping? Otherwise those jobs are going to go vacant without really being taken up.

**Mr. Schoenholtz.** That may be the case. I don't think the facts are in as exactly to what degree the illegal immigration displaces American workers and to what degree, as you say, if they weren't working here, the work would go abroad. I don't think that's clear at all.

But the Commission's concern goes to the credibility of the immigration system. Its fact-finding resulted in something quite different from what I think Mr. Prince suggested. The real magnet for those people are jobs, despite the fact that those are very low-paying jobs, often very exploited jobs.

And that's the magnet, not benefits, as far as we've seen in a large sense that is bringing people to the United States and that allows them to stay. I don't think people would stay if all they had were benefits. I don't see how you eat on the kinds of benefits that are legal under our system. You have to have a job.

Now, whether or not we should allow everybody to come into our country to work, that's a fair question to raise to discuss. The point of the Commission at this point is we're quite concerned that the entire foundation of our legal immigration system, which I should remind you brings in at least 800,000 new people a year into the country, is going to be undermined if we continually defer attending to public concerns with illegal immigration and employment. And that's where the Commission's concentration has gone.

**Chairperson Berry.** Commissioner Wang?

**Commissioner Wang.** If I could?

**Chairperson Berry.** I'll let you. Research done by Professor William Julius Wilson and his students at the University of Chicago on this question of job displacement -- and there's lot of research, but the most recent work that they've done -- indicates that there is job competition, even for jobs like busboys, janitors, and so on, between people here in this country and illegal aliens, which is one reason why in the African American community there's a lot of hostility toward illegal aliens.

But the real question is not whether illegal aliens would be hired, but whether anyone would do the work at that wage with the illegal alien being taken advantage of because the person is undocumented or illegal and, therefore, can be exploited.

Proceed, Commissioner Wang.

**Commissioner Wang.** Okay. The other part, I just want to know that the Commission continued to -- your second part of the

work is going to look into the administrative part of the whole INS?

**Mr. Schoenholtz.** The Commission is attending at this stage to three significant problems that we see out there. One is the situation with mass migratory movement, such as we've seen from Haiti and Cuba over the last six months; and, secondly, removal of those who are not here legally in the country; and, thirdly, what I think will be a very major issue coming up is what our legal immigration policy looks like, how many people we have in the country, et cetera, et cetera.

**Commissioner Wang.** When you come to the management of the whole immigration problem, could we be informed?

**Mr. Schoenholtz.** Yes.

**Commissioner Wang.** We would love to. I think first of all -- I'm sure -- other members of the Commission would like to have input in those areas.

**Mr. Schoenholtz.** Absolutely. The operations, the implementation of policy will clearly be a focus in each of these areas. We've simply broken them down into different substantive areas to have some focus, but absolutely. And we will be happy to share that with you and to hear things that you've learned.

**Commissioner Wang.** Thank you.

One quick question for Mr. Prince. Actually, we were given a summary by the educators in California state. And the majority of the educators actually went on record opposing 187.

You were talking about the whole education issue. Why do you think the educators are all opposing?

**Mr. Prince.** I think we should clarify we're not talking about the educators. Our indications were that most of the teachers in California actually supported the initiative, but the leadership of their unions did not.

That is something that we saw, the same thing, with regard to law enforcement.

**Commissioner Wang.** The document didn't say that their leadership, teachers, superintendents, principals. This is a --

**Mr. Prince.** I haven't seen that document, but all I have seen is that the organizations that represent them, the lobby groups and the unions, oppose the initiative universally. But that was not the case with regard to teachers.

And it was the same with law enforcement and even law enforcement unions opposed the initiative. But certainly the rank and file police officers and county sheriffs' deputies supported the initiative and on down the line.

We could not have gotten the vote that we got in California if all of the doctors and all of the teachers and all of the nurses and all of the law enforcement personnel and all of the fire-fighters and government workers and on and on and on and all of the Catholics and all of the blacks and all of the whites and all of the groups that supposedly were supposed to oppose the initiative -- it obviously did not happen. We know clearly that most --

**Commissioner Wang.** I heard you. But the teacher doesn't understand how the financing of the district works. The educators basically say that if the proposition passes, each district will get less money, rather than more money.

**Mr. Prince.** No.

**Commissioner Wang.** You're intending to bring more money to the district? I just asked. You are cutting off --

**Mr. Prince.** No.

**Commissioner Wang.** -- more money for the district?

**Mr. Prince.** I think many of them are aware of the fact that in California in 1988 we had another proposition called Proposition 98, which says that if the number of students enrolled in particular school districts were to suddenly drop, funding for that school district does not commensurately drop.

It is a similar setup to the variable interest rate mortgage on your home, that if interest rates fluctuate dramatically, the interest, let's say, in the market, your interest rate on your mortgage does not also fluctuate in that way. It moves much more slowly. And so there is no immediate drop of funding to any particular school district.

**Commissioner Wang.** The other point is on this very subject. You have a dropout rate in California, substantially as I assume like New York. And the chairs are empty in the classroom. When you talk about 50, you have a slot of 50, but you don't have 50 people attending.

**Mr. Prince.** Oh, yes, you do.

**Commissioner Wang.** I mean, you have a substantial dropout rate. It's about a 30 to 40 percent dropout rate.

**Mr. Prince.** But there are so many people still. Yes, you have a very high dropout rate, especially by the time you get into high school, but there are still large numbers.

**Commissioner Wang.** The dropout rate starts out in elementary. Eleven and 12-year-olds start shooting then. They're killing each other.

**Mr. Prince.** That's right.

**Commissioner Wang.** So they're not in the classroom. They're out in the street.

**Mr. Prince.** That is not really funny. It is true.

**Commissioner Wang.** And I saw with the --

**Mr. Prince.** The dropout rate begins to really hit at seventh grade level because in recent years we have seen a major problem with young children, 11 and 12 years old in gangs committing serious crimes.

**Commissioner Wang.** So the undocumented children actually produce revenue for you filling those empty seats in the classroom.

**Mr. Prince.** They produce revenue? I'm sorry.

**Commissioner Wang.** Because of the --

**Mr. Prince.** I'm sorry, sir.

**Commissioner Wang.** -- way that the --

**Mr. Prince.** I'm sorry. When an illegal alien family comes to California where you have a mother and a father if they are both working at the wages that most illegal aliens get, it is

not very much. But their children are enrolled in programs that cost the State of California an average of \$6,500 per year each.

**Commissioner Wang.** But if the seat is empty, you're not collecting those dollars from whoever the funding source comes from.

**Mr. Prince.** Where do you think the money comes from, sir?

**Chairperson Berry.** In other words, he means that the school district --

**Commissioner Wang.** Yes. The school district --

**Chairperson Berry.** The point is that the taxpayers pay the taxes.

**Mr. Prince.** Yes, the school district gets money based on the number of students in attendance.

**Chairperson Berry.** Right. That's what --

**Mr. Prince.** It's called the average daily attendance.

**Chairperson Berry.** Right. That's what he's saying.

**Mr. Prince.** But we're concerned about where that money is coming from. It's coming from the taxpayers of California. If that child were not there, we would not have to pay for that education.

**Commissioner Wang.** You already pay for it because based on the number of people you have submitted, documented or otherwise.

**Mr. Prince.** But if they don't come, we're not paying for it.

**Commissioner Wang.** So, I mean, it's your point of view they're not attending the class. You see the logic? You see?

**Mr. Prince.** No. I'm sorry. I don't.

**Commissioner Wang.** You're not seeing the logic -- right?

**Chairperson Berry.** Okay.

**Commissioner Wang.** You have this class that's --

**Mr. Prince.** Maybe this is why we have a \$5 trillion debt.

**Chairperson Berry.** Well, in point of fact, we understand the dispute. He just doesn't agree with you.

**Mr. Prince.** Okay.

**Chairperson Berry.** Commissioner George?

**Commissioner George.** Thank you, Madam Chair.

**Chairperson Berry.** And then Commissioner Fletcher.

**Commissioner George.** Mr. Prince?

**Mr. Prince.** Yes, sir?

**Commissioner George.** One of the interesting things to me about the Prop. 187 dispute is that it's one that confuses the ordinary political and ideological categories. There are notable liberals who are supporting Proposition 187, notable conservatives who are opposed.

I don't think it's fair to suggest, if you were suggesting, that Jack Kemp is being eccentric in this regard. I think --

**Mr. Prince.** No, no. Obviously he has his agenda, his opinion.



**Commissioner George.** Sure. But, I mean, he's not alone among conservatives.

**Mr. Prince.** That is correct. That is correct.

**Commissioner George.** Nor are there not liberals on the other side. The liberal Republican Governor Wilson was --

**Mr. Prince.** Perhaps to help your case, --

**Chairperson Berry.** Liberal Republican?

**Mr. Prince.** -- I could point out that approximately 75 percent --

**Commissioner George.** From his point of view. In my point of view the unacceptably liberal governor --

**Chairperson Berry.** I see. I see.

**Commissioner George.** -- in opinion polls.

**Mr. Prince.** Opinion polls show that about 75 percent of those who identify themselves as relatively conservative supported Proposition 187. The support among liberals was approximately 50 to 55 percent.

**Commissioner George.** Fine. One of the conservatives who was opposed was Bill Bennett. And in criticizing Governor Wilson, he spoke in the bluntest possible terms, accusing Governor Wilson of scapegoating immigrants, or at least illegal aliens, for the failings of the welfare state.

Now, I'm not asking you to defend Governor Wilson. Governor Wilson can defend himself. But I would like you to address the point: Could it be the case that part of the problem is deeper than 187 goes to? It's not that the state is trying to

do too much for illegal immigrants, but the state has tried to do too much for everybody? And the bad side effects of the well-intentioned government programs that have been put in place are becoming apparent? What really has to be done is a rethinking of the welfare state, not a Prop. 187 solution, which from the point of view of conservatives like Bennett and Kemp and many others, does raise serious concerns that people will be singled out because of their ethnic identity or appearance to suffer some, at a minimum, harassment from people who might suspect, perhaps reasonably but wrongly, that they're here illegally?

**Mr. Prince.** Well, again I guess we now have two issues. On the issues I think we've already addressed of who is reasonably suspected, it is based on documents. Everyone applying for certain public services is asked for documents. And it is on the basis of those documents that determinations are made.

**Commissioner George.** I'll ask about that in a moment.

**Mr. Prince.** That is the only way you can do it --

**Commissioner George.** All right.

**Mr. Prince.** -- because, as I think we've pointed out here, illegal aliens are coming here from everywhere. There is no way to know who is here legally or not unless you ask -- by simply looking at them. You would have to ask for documents to show their legal status.

But with regard to the political debate on "Is this a problem with the welfare state?" -- that is not a political debate that we are involved with in Proposition 187. What we are saying

is that in providing services for illegal aliens at a estimated cost of anywhere from 3.5 to 5 billion dollars per year, according to state agencies, that cost added onto our other fiscal problems makes them insoluble, particularly with regard to education in the State of California, which is a very serious problem.

It is one of the reasons why the State of California has now fallen to 46th among the states in quality of education. That is a very significant drop. And we regard it as a very serious problem.

If we could not spend at least \$2 billion a year on education for illegal aliens in our public schools, it means that we would be better able to deal with the problems in education we already have.

We have never said that illegal aliens are responsible for all of our problems. We simply say that they exacerbate the problems we already have and in some of these cases make them so bad that we cannot deal with them.

**Commissioner George.** Georgina Verdugo?

**Ms. Verdugo.** Yes?

**Commissioner George.** Could you confront Mr. Prince with some examples of the kinds of cases that you fear or that MALDEF, Kemp, Bennett fear would, in fact, result in unfair harassment of innocent people? Why are so many -- and I realize that many Hispanics voted for Proposition 187 -- but why are so many Hispanics who are here lawfully concerned that they will, in fact, be harassed?

**Ms. Verdugo.** Well, I think if you consider Mr. Swenson's statement, I mean, the numbers show that illegal or undocumented people are not just from the Southwest.

Fifty percent of people who are here illegally are through visa overstays. Yet, this has never been addressed. And if you look at the examples that we just saw, we just heard about the raisin pickers in California. We just heard about Asian workers in California. You didn't hear about students who overstayed visas coming from Canada and Europe.

You don't hear about other people. It is obvious because the initiative requires that people who are reasonably suspect, however that's defined by whoever is implementing it, are required to show some proof of documentation.

Now, reasonably suspect to most people if you're talking about a visual just looking at someone or by their accent, that includes Hispanics. I mean, if I'm walking down the street and you're walking down the street, who are people most likely to reasonably suspect?

**Commissioner George.** The Arab.

**Chairperson Berry.** They wouldn't know.

**Ms. Verdugo.** Well, I would submit, I mean, there have been cases. I mean, I don't want to base policy on merely anecdotal stories, but there are situations. And there is a laundry list of that situation.

**Commissioner George.** I'm not asking, actually, for an anecdotal story, but I think it would be helpful if you would give

us an example or two which would have the effect of refuting Mr. Prince's point.

I think the relevant language that I have here is in Section 7E, "Each school district shall provide information to the State Superintendent of Public Instruction," so forth and so on, and the INS "regarding any enrollee or pupil or parent or guardian attending a public or elementary or secondary school in the school district determined or reasonably suspected to be in violation of Federal immigrant laws."

Now, can you give just an exemplary case of how an abuse would happen, a civil rights abuse would happen, there?

**Ms. Verdugo.** Well, it doesn't require -- I mean, who is being questioned? People who are reasonably suspect. A U.S. citizen child is allowed to go to school here. That's just a fact.

**Commissioner George.** Right.

**Ms. Verdugo.** Yet, if you go on further, they are required to look into the status of parents or legal guardians as well.

**Commissioner George.** Yes, it says that, "or parent or guardian."

**Ms. Verdugo.** Right. So if a child shows up at school to enroll in school and is a U.S. citizen and is allowed to go to school, why is it that the immigration status must be checked of a suspect parent? What raises that suspicion? And how is that implemented? And how can that possibly not be implemented in an indiscriminatory way?

**Commissioner George.** So here's how it would happen. The student who was born in America of parents who are unlawfully in America shows up at school, produces the documentation. But then the principal or teacher would, nevertheless, say "Well, I suspect that that person's parents are here unlawfully." And then the hunt begins.

**Ms. Verdugo.** Well, I think your example is a perfect example of showing that in a lot of people's minds this student is showing up with parents who are illegal.

What triggers that to raise the suspicion if a student -- and I know this because I come from a family of school administrators. They will present themselves at school with the proper documentation. High school students will enroll themselves without their parents. And very often their parents are working and cannot come to school.

Now, what would raise the suspicion that their parents are not here legally? Is it --

**Commissioner George.** It would have to be appearance, wouldn't it?

**Ms. Verdugo.** It would have to be appearance. It would have to be the fact that these students are coming with --

**Commissioner George.** Or accents.

**Ms. Verdugo.** -- school records from another country. I know in California students are asked in what country they are born. I mean, there are so many ways that this can be just discriminatorily applied.

**Commissioner George.** Now, Mr. Prince, what is it that would prevent that kind of a horror story from happening? What would prevent an investigation stemming from a teacher's or administrator's --

**Mr. Prince.** Well, let me first point out the misconception and then deal with the reality. What we are now hearing is that some parents of some students will be suspected and required to produce documentation.

That is not what the initiative says. What the initiative says is that in 1996 every parent of every child in public school in California and/or every guardian will produce documents showing that they are here legally. That means everyone in the year 1996.

**Commissioner George.** Can you point to the language?

**Mr. Prince.** I'm sorry.

**Chairperson Berry.** Well, it's right here. It's right above where you were reading.

**Mr. Prince.** Unlike everybody else in the room, I don't have any of the --

**Chairperson Berry.** It's right above where you were reading. It's Section D.

**Commissioner George.** Yes, I see. If I can just read it? "By January 1, 1996 each school district shall also have verified the legal status of each parent or guardian of each child referred to in (the above) subdivision ... to determine whether such parent or guardian is one of the following: a citizen of the United

States, an alien lawfully admitted, an alien admitted lawfully for a temporary period of time."

So the idea is that every parent of a school child in the state would present some documentation?

**Mr. Prince.** That's right.

**Commissioner George.** Why is that not sufficient?

**Ms. Verdugo.** If the issue is purely economic, do we want to turn our school systems into an agent of the INS, which is essentially what this is doing? This is creating more -- the INS itself with its trained agents does not have the manpower to enforce immigration laws and to be able to enforce that sort of thing.

Why do we want to spend more school time, valuable school time, with the -- Mr. Prince himself will admit we do not have enough resources in the schools to spend that sort of time to create the schools as an agent of the INS. And that's essentially what --

**Commissioner George.** Well, that certainly strikes me as a legitimate policy issue. But on the specific question I was asking, on "Is there any protection against harassment," particularly of Hispanic citizens -- it could also be Asian citizens, people who might by appearance trigger a concern that there might be an illegal alien somewhere in the background here.

Mr. Prince's pointing to this language, should that make me less concerned about possible abuse? Quite apart from whether



we want to turn the schools into an agent of the INS, but how about just on the discrimination issue, on the harassment issue?

**Ms. Verdugo.** I'm sorry. Could you point out the language again?

**Commissioner George.** Yes. It's D. It's 7D. It says: Look, all parents have got to provide evidence that they're in the country lawfully so that you can't just on the basis of suspecting somebody by appearance.

**Ms. Verdugo.** But it does go back to the issue of: Why is the school interested in whether the parents are here legally or not? The children have a right to an education if they're U.S. citizens, despite the fact whether their parents are here legally or not.

And whether it's an invasion of privacy to these people -- I mean, where does this information go? Why is it being raised? It's not an issue for the educational system.

**Commissioner George.** Those all seem to be legitimate concerns, but I do wonder whether there's any harassment, you know, any --

**Ms. Verdugo.** I think it's a wide open area for harassment.

**Chairperson Berry.** Commissioner George?

**Commissioner George.** Yes?

**Chairperson Berry.** If I may just say that past Commission investigations have shown on other issues that when you have a general requirement like that, that the issue is whether

it's discriminatorily applied. In other words, everybody is required, but do they just ask certain people?

Because there's nothing in the statute that I see that takes any kind of punitive action or has any kind of policing action to make sure that, in point of fact, everybody is asked. So it's one thing to say you ask everybody. It's another thing who you ask.

**Ms. Verdugo.** And, in addition to that --

**Chairperson Berry.** I'm not trying to help you, Ms. Verdugo, but I'm just saying that --

**Ms. Verdugo.** No. In addition to that, though, there is

--

**Mr. Prince.** Could I make a point there?

**Chairperson Berry.** Just a minute.

**Mr. Prince.** Sure. Thank you.

**Ms. Verdugo.** -- no allowance of due process. It summarily decides that people are suspect or they are here illegally. That information is given to authorities.

There's no hearing regarding these people. I mean, that is something that is simply under the auspices of the INS. And they have an elaborate and complex system to deal with the determination.

**Commissioner George.** But that is once everybody has given the --

**Chairperson Berry.** Information.

**Commissioner George.** -- the evidence. Of course, it could, as Mary Frances Berry says, be discriminatorily applied. You might not actually demand that of some people. You might of others. That's a legitimate concern.

Mr. Prince I think wanted to respond.

**Chairperson Berry.** Yes. Do you have another question before --

**Commissioner George.** Yes, if I can just ask one more quick one.

**Chairperson Berry.** Okay.

**Mr. Prince.** I just had a real quick point to raise or answer to the question you were raising. In California law, we have a prohibition against criminal prosecution of public employees who do not do their jobs properly. And so that's why that's not in this initiative.

**Chairperson Berry.** Okay. Commissioner?

**Commissioner George.** Yes. My other question, Mr. Foltin raised a point that struck me as a powerful one -- I wonder if you have a rebuttal for it -- which was that there's a danger of laws like Proposition 187 discouraging illegal aliens from reporting crimes or from getting inoculations, thus jeopardizing the general public health and safety. Do you have an answer for that?

**Mr. Prince.** There are really two issues. One is an illegal alien who reports a crime is not required to produce documents as to their legal status. It is only the illegal alien

who is arrested and taken into custody by a law enforcement officer. That officer will then question that person.

**Vice Chairperson Reynoso.** What section is that?

**Mr. Prince.** That is Section 4.

With regard to inoculation or immunization, that is prohibited for any illegal alien.

**Commissioner George.** Do we have Section 4?

**Chairperson Berry.** Yes. It starts on Page 1.

**Commissioner George.** Oh, I see. Sorry. On the inoculation issue now?

**Mr. Prince.** All illegal aliens are excluded from all non-emergency health care. And that would include inoculation. Our concern there -- I know that during this campaign, the particular argument was over the issue of tuberculosis, which largely comes from illegal aliens because, of course, legal entrants to the United States are not allowed entry if they have tuberculosis.

And, yet, they're here, particularly in Southern California. We do now have an epidemic of tuberculosis. Within the last couple of years, thousands of new people infected with this disease. It is obviously largely coming from illegal aliens.

We feel the best way to deal with this problem is to report them to the INS and to deport them, not to give them free ongoing health care that, for tuberculosis, can take years.

The problem, additionally, particularly with regard to illegal aliens who commonly use phony names, phony identification,

is that when they start a medication program, they do not always follow through with it. You cannot check up on them. You cannot find them. You cannot make sure that they are taking their medication, which is one of the causes, we now see, for the development of multiple drug-resistant strains of tuberculosis in Southern California. It is a very serious problem for us.

We have additional problems, particularly in California, especially in Los Angeles County, which has just undergone severe cutbacks in its public health care programs because of lack of funding. They no longer have TB screening. They no longer have TB follow-up care. They cannot afford it.

So what we are really talking about is "Gee, it would be nice to provide all of this free public health care to all of these people," but in reality we do not have the money to do it.

What we are currently doing in California is rationing public health care. A lot of what we are giving is going to illegals. A lot of what we are not giving is not being given to American citizens and legal residents of the State of California.

**Commissioner George.** How do you protect undocumented people who are here lawfully?

**Commissioner Anderson.** You don't.

Mr. Prince. Undocumented people who are here lawfully?

**Commissioner George.** Well, Georgina Verdugo introduced the idea that there's not just the simple distinction between people who are here illegally and not, that there are some people who --

**Ms. Verdugo.** People who are here under color of law.

**Commissioner George.** Under color of law.

**Mr. Prince.** I would contend that with regard to giving the public services we are talking about, that either you are here legally and entitled to those services or you are not.

There is no middle ground for that, particularly for immigrants who are here legally. They are not entitled to welfare benefits in the State of California and do not get them because --

**Vice Chairperson Reynoso.** They're undocumented, aren't they?

**Mr. Prince.** Yes, but, you see, there's a difference between a legal immigrant and an illegal alien. Legal immigrants to this county and in the State of California have a tendency to be more law-abiding than most other people.

Illegal aliens are the reverse of that. In the State of California, illegal --

**Vice Chairperson Reynoso.** Can you provide us some studies as to that?

**Mr. Prince.** Yes, sir. I'm about to.

**Vice Chairperson Reynoso.** Okay.

**Mr. Prince.** Illegal aliens, according to our state attorney general, make up one-sixth of our state prison population. According to our U.S. attorney general, they make up one-quarter of the Federal prison population in California.

This means one of two things. Either they commit crime at a much higher rate than any other population group or we have

several million more illegal aliens than anybody ever estimated. I think it's the former, rather than the latter, because certainly we do see a propensity for illegal aliens not to respect the law.

When they cross the border, they know that they are violating our immigration laws. That's why they run. That's why they cross the border at night. When they get fraudulent documents, they know that it's wrong to do that.

When they get work here, they know it's wrong to do that. When they are being paid cash under the table and not paying taxes, they know that it's wrong to do that. There is a propensity not to respect our laws.

**Chairperson Berry.** Commissioner Fletcher?

**Commissioner Fletcher.** Yes. I'm going to answer your question and ask one. My background comes from being an Assistant Secretary for Employment Standards. And we implemented minimum wage, Davis-Bacon and those. And I also taught school in California. And I'm also a former employer.

Now, in terms of harassment, what I found when I had my food service company with about 300 people on the payroll and hired a significant number of Hispanics and Asians, there were constant operations called sweeps.

The assumption was because my workforce was so loaded with Hispanics and Asians, that obviously there would be some illegals there. There turned out to be not one employee I had hired was the hiring of illegals.

The bottom line is, for you also, Brother George, the bottom line is, the appearance or perception of being covered by one of those laws invites -- without any great deal of justification will invite -- a whole lot of harassment.

Now, we found that when I was at the Labor Department with reference to trade unions. I'd be curious to know where the restaurant association stood in terms of this in California.

**Mr. Prince.** I have no idea.

**Commissioner Fletcher.** Well, let me help you. Let me tell you.

**Mr. Prince.** I can tell you this. They never gave our campaign any money.

**Commissioner Fletcher.** I'll bet you they didn't. I'll bet you they didn't. How about the laundry association?

**Mr. Prince.** Not them either.

**Commissioner Fletcher.** Okay. I can name a string of them from being Assistant Secretary for Employment Standards.

**Mr. Prince.** In fact, no, we did not get any money from

--

**Chairperson Berry.** From the what?

**Mr. Prince.** Someone from the peanut gallery said we got money from growers. We did not.

**Commissioner Fletcher.** I found that because of a high intensity of hiring Hispanics, whether they are legal or not, the tendency to violate their minimum wage rights was often exaggerated where those four industries were concerned.



So we found that -- the term I often used was -- "innocent on its face, vicious in application." And what we often found at the Department of Labor in that regard was people somehow who misunderstood the law somehow managed to assume that they had been licensed, if you will, to become enforcers, whether they understood the application or not.

My concern at the moment is both that I've always said that discrimination when you get down to the bottom line is about the greenback dollar bill. It's the dollar. Okay. And it just depends on how it depends under a given set of circumstances as to which side even people in the same race or ethnic group will spin. We find that it cuts both ways. It just depends on which way would help it.

My concern again is to hook the children, coming out of my school teacher background, to hook the children, into what looks like to me to be a very punitive approach to solve a problem really bothers me.

How much additional documentation do you have in terms of what happens to these youngsters when they're not allowed to go to school anymore but still don't go back to Mexico? Is there any document along that line?

**Mr. Prince.** I understand. Well, there's no way to predict. The only thing that we can do as far as that is concerned is anticipate that the law will be enforced, that if illegal aliens are reported to the INS, the INS will fulfill its responsibility and return them to their home countries.

There is another consideration to that, and that is currently again with regard to the lawsuit, California against the Federal government, for reimbursement for the cost of illegal aliens in the state.

There is quite literally no chance that that lawsuit will be successful, at least up to this point, because, exactly as the Federal government was saying, we are not cooperating with them. We are not reporting illegal aliens, and we are encouraging them to come to California.

However, if we now take a position at the state level that we are cooperating with the Federal government, we are reporting illegal aliens to the INS, we are doing what we should at the state level to help the Federal government do its job and enforce its laws. Then if the Federal government does not deport those illegal aliens, it will have to reimburse the State of California for the expenses of those illegal aliens in the state until such time as the Federal government does enforce its laws and does deport those people.

So we think the Federal government is now presented with a choice of either funding additional INS agents, which I understand the new Congress has already indicated it will do, or reimburse the state for the expenses of those illegal aliens.

We think it is very likely that the Congress or the Federal government will provide additional funding for additional INS agents, which will be sufficient to return those people to their home countries.

**Commissioner Fletcher.** So it's spinning, then, on the Federal government living up to its obligation? Is that what I'm hearing?

**Mr. Prince.** That has to be part of it, yes.

**Commissioner Fletcher.** And the Catch 22, though, is if they do, then that becomes, as the Chairman says, an attractive nuisance and will cause more --

**Mr. Prince.** Well, certainly if we are going to continue to provide for illegal aliens and, in fact, encourage them to come to our state, they will continue to come.

**Commissioner Fletcher.** Who is we? Who is going to do this?

**Mr. Prince.** The people of California who are paying for this; that is, the taxpayers of the state who are footing the bills and providing the services. That's us.

**Commissioner Fletcher.** Would this be the growers who are urging the illegal aliens to come? Who is the we that --

**Mr. Prince.** Well, if you want to break it down to everyone who is profiting from it or everyone who is acquiescing --

**Commissioner Fletcher.** Well, that's really what it's about, isn't it?

**Mr. Prince.** Yes.

**Commissioner Fletcher.** Okay.

**Mr. Prince.** Because what we have had up until the passage of Proposition 187 is the people of California have

acquiesced | in this. The people of the United States have  
acquiesced. | Nobody has done anything about this.

We are now trying to do something about it.

**Chairperson Berry.** Mr. Swenson?

**Commissioner Fletcher.** You wanted to make a comment?

**Mr. Swenson.** I think Andrew is probably better able to  
address the issue.

**Mr. Schoenholtz.** John and I were both commenting on the  
idea of the Immigration and Naturalization Service being able to  
remove people who are not legally here in this country or not  
entitled to be in this country, that if it comes into existence, it  
will be a long ways down the road.

At least presently the INS does not have the capability  
to do that. | It would take a great deal to get that.

**Chairperson Berry.** Okay. We want to thank the panel  
unless you have a question.

**Vice Chairperson Reynoso.** Well, let me ask a couple of  
questions. I could ask several for a few hours.

(Laughter.)

**Vice Chairperson Reynoso.** First, if you could provide us  
any studies on your testimony that the use of undocumented in  
California is one of the reasons why industries are leaving  
California, | I think that would be helpful to us.

**Mr. Prince.** Sure.

**Vice Chairperson Reynoso.** But let me give you this  
hypothetical | and see what your reaction is. I see this happen very

often. Literally hundreds of thousands of immigrants are paroled by the INS.

Example: Two immigrants are here properly, parents. The child is not here properly. The INS out of humanitarian reasons will say "Child, we won't deport you." Later that child can apply for proper immigration. The child is going to be raised in this country.

What is the value to the American public to have that child, then undocumented under your definition because you don't want any middle ground? The child will now be undocumented. Yet, the child is going to live in this country forever. What's the value to the American public of having that child not be educated?

**Mr. Prince.** Well, what is the value of educating the child at considerable expense to the state? And thank you very much, Federal government, for forcing us to do that. But now that child, according to Federal law, once it is 18 years old if it graduates from high school, if that person wants to now seek employment, that person cannot legally be employed in this country according to Federal law.

**Vice Chairperson Reynoso.** No. Under the law, most of those who are paroled initially --

**Mr. Prince.** You're talking about a person who is here illegally.

**Vice Chairperson Reynoso.** You know, taking care of the concept of illegality is very easy. All you do is give them a document, and they're documented. But the reality is that there

are hundreds of thousands here under the permission of the Federal government who have not immigrated, as we would think of a person,

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**Mr. Prince.** Yes, yes.

**Vice Chairperson Reynoso.** -- passing through those tests

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**Mr. Prince.** Yes, yes.

**Vice Chairperson Reynoso.** -- to get here, but once they're here, the government says "We will not deport you." Most of those folk end up immigrating and many of them, of course, becoming citizens. So there are hundreds of thousands of such folk here.

I know you say it's black and white, but the reality is, as I'm indicating to you, there are hundreds of thousands here not properly immigrated who have been told by the federal government, the INS, "Under the law we are entitled to parole you. You fit that category."

Now, we could call them documented if we want to, but I think you're calling them undocumented. Those folk are going to be raised and live in this country forever.

**Mr. Prince.** Perhaps we still have a question as with regard to the legality. As far as the State of California is concerned, we simply want to know from the Federal government that these people are here legally, whatever provision the Federal government wants to make for them. We do not feel that the State of California should provide for any public services.

**Vice Chairperson Reynoso.** Well, you may know we have some experiences in California already because of some rulings pertaining to higher education. And I saw an incident, I was told of an incident, the other day where a young woman who was going to be eligible under the Amnesty Program within six months and, therefore, will be here forever -- her parents and the rest of the family already had been immigrated. She by a quirk of the law had to wait until she was a certain age to be an immigrant.

**Mr. Prince.** Yes.

**Vice Chairperson Reynoso.** She was then attending a public university. And she was dismissed because she was considered undocumented. But six months later she was going to be considered documented.

But she was also paroled. That is, the Federal government had already said --

**Mr. Prince.** I don't know under what circumstances she was dismissed because Proposition 187 was not yet in effect. The only thing that could have had an impact there, I presume, is as a result of the Bradford decision, which said that she must pay out-of-state tuition if she was not in the State of California legally.

**Vice Chairperson Reynoso.** Well, let me shift. Mr. Schoenholtz, have you folks made any recommendations to the estimated 62 percent of the undocumented who are not Mexican? Has your Commission made any recommendations for them?

**Mr. Schoenholtz.** Absolutely. The Commission's recommendations are not specific to any group here.

**Vice Chairperson Reynoso.** No. But, I mean, does all --

**Mr. Schoenholtz.** The work site verification system applies to visa overstayers who work, --

**Vice Chairperson Reynoso.** Exactly.

**Mr. Schoenholtz.** -- to people who come across the border illegally, to the entire group. And the fact that was stated before is quite true that 50 percent of the people who are here in this country illegally come in annually as visa overstayers. They had a visa. It expired.

**Vice Chairperson Reynoso.** Have you made any recommendation as to a control system to know who's come as a visitor, who's come as a student when they leave? I haven't seen them. That's why I'm asking. You may make those recommendations. I just haven't seen them.

**Mr. Schoenholtz.** We haven't made any recommendations about that, but we are looking at that problem. That's a fairly complex problem. Let me quickly, very quickly, explain why.

We have over 21 million visitors a year to the United States. We want to have a lot of visitors to the United States. It benefits our business, our trade, culture. And we have to be very careful when 150,000 of those 21 million are overstaying their visas exactly how we change the system of entry and departure.



So that is something we're looking at, but it requires a much finer response, I would say, than when looking at the entire work site verification.

**Vice Chairperson Reynoso.** Did you folks have occasion to look at the history of the Bracero Program and the use of alien workers in California and the U.S. and coming up to the use of the undocumented now? Your Commission?

**Mr. Schoenholtz.** Certainly in terms of -- I mean, first of all --

**Vice Chairperson Reynoso.** Let me make a statement. I want to get your reaction. It will be my last question. I appreciated Mr. Prince's statement that they're against the undocumented anyplace in California, including the fields of the Central Valley. Let me make the following statement. I'd like to have you react.

California particularly, the nation as a whole, but California particularly, has not only not discouraged undocumented from coming to California for the last 20, 30, 40 years -- I've been around for 63 years. So let me say 63 years. That's how many years that I know -- but has affirmatively encouraged the undocumented and has had basically a de facto law encouraging the undocumented to come to work there, as far as public policy is concerned until 187 passed. What's your reaction to that statement?

**Mr. Schoenholtz.** Well, I think that you're right in identifying the fact that there is employment available to people

at sub-minimum wage with labor standards far below what the law requires. Those laws have not been enforced.

**Vice Chairperson Reynoso.** But the leadership, the governmental and political and economically the growers in the Central Valley, Governor Wilson in his support of them, George Deukmejian in taking money that was given by the Federal government for the education of the newly documented workers and taking that money and expending it for other sources, I mean, have we not had a de facto law that has said for decades "We want those people here"?

**Mr. Prince.** Maybe that's why so many Democrats voted for 187.

**Vice Chairperson Reynoso.** I'm sure that's true.

**Mr. Schoenholtz.** Well, I think until 1986, when the Immigration Reform and Control Act came into place, the magnet was there without any Federal program to control it. You're absolutely

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**Vice Chairperson Reynoso.** But even after '86, with due respect for the Commission that made those recommendations, haven't we had such a lack of enforcement as to translate to an affirmative statement it is the public policy of this country to encourage the undocumented to come?

**Mr. Schoenholtz.** We have not had adequate enforcement. And that is something that the Commission has addressed. You're absolutely right.

**Chairperson Berry.** That's absolutely true.

Vice Chairperson Reynoso. Thank you.

Chairperson Berry. I want to thank the panelists. This has been a very engaging discussion on the important issue. And we thank you very much.

Mr. Prince. Thank you.

Chairperson Berry. And before I lose commissioners, I have to adjourn the meeting. Without objection, the meeting is adjourned.