

U.S. COMMISSION ON CIVIL RIGHTS
BRIEFING ON CIVIL RIGHTS, IMMIGRANT RIGHTS,
AND RELATED ISSUES PRESENTED BY WELFARE REFORM
December 6, 1996

CHAIRPERSON BERRY: Let me, on behalf of the Commissioners, welcome everyone to this briefing on civil rights, immigrant rights, and related issues presented by welfare reform. I thank all the panelists for agreeing to come, for arranging your schedules to appear on such short notice to give us some badly needed information and much desired insights.

Before the new welfare reform law was passed by Congress and signed into law by the President, there was a general agreement in the country that we required welfare reform. There was a consensus. But the disagreement, as we all know, was over what kind, and now we continue to hear a variety of concerns about the law itself, how it will be implemented, what will be the results.

Issues raised around the new law that have been much in the media recently include the possible effects of the reforms on the children of welfare mothers, things like whether there are enough job training and job placements, and matters like what will happen to minorities and women in this process when they're no longer eligible for welfare. Then we have issues about the constitutionality and fairness of denials of assistance to legal immigrants and to new residents of a state and about any harm that might be inflicted on immigrants by denials of services such as prenatal care.

The immediacy of many of these issues depends on the plans that are being filed by the states with the U.S. Department of Health and Human Services.

The Commission on Civil Rights has been very concerned with this. As you know -- and if you don't know, the statute that was passed explicitly states what we know to be true -- the Federal Government, however much devolution takes place, is responsible for the enforcement of civil rights in this area. That responsibility is reiterated directly in the statute, which came immediately to the attention of this Commission.

The Commission sent a letter to President Clinton on September 26th, asking him to assure that all civil rights are protected in implementing welfare reform. We talked about reports that we'd done, some of which show that state enforcement of civil rights has many difficulties and in some states is problematic. We told him we were worried that illegal

discrimination might take place with the implementation of this reform and wanted to make sure that such discrimination was avoided. We also talked about our interest in the Administration's plan to ensure the enforcement of civil rights when states channel block grant funds to religious groups, charities or other private organizations and about how religious organizations may not be discriminated against because of their religious character, nor welfare recipients because of a religious belief or a refusal to participate in religious practices.

The President recently responded to our letter that the inter-agency group of which HHS is a part, along with the Department of Justice, is considering the issues we raised, as well as all the issues related to civil rights, and that the Departments of HHS and Justice are primarily responsible for seeing to it that the law is properly and fairly implemented and that he expects us to monitor the implementation.

This briefing will better educate all of us so that the Commissioners can exercise their responsibility to determine how we go forward monitoring the implementing of this reform.

Now, the two panelists that we have before us -- the first panel -- are both from HHS. Dennis Hayashi has been Director of the Office of Civil Rights at HHS since June 1993. He's also been on the White House inter-agency group on immigration policy. Before he came to Washington, he was a very widely known and respected attorney in the Asian Law Caucus, where he litigated a number of precedent-setting civil rights cases, and at one point was National Director of the Japanese American Citizens League.

I want to welcome you, Mr. Hayashi. Would you proceed with the first presentation.

MR. HAYASHI: Thank you, Madam Chair.

Members of the Commission, thank you very much for extending us the invitation to appear today to discuss with you this vitally important issue of civil rights and immigrant rights as it relates to implementation of the Personal Responsibility and Work Opportunity and Reconciliation Act of 1996.

On behalf of the Department of Health and Human Services, I am accompanied by Susan Greenblatt, who will speak more specifically about issues related to temporary assistance to needy families and the block grants and some of the other issues raised by the Chair.

I have no prepared statement today, but I would appreciate the opportunity to present a formal statement for the record at a later date.

CHAIRPERSON BERRY: All right. Please do that.

MR. HAYASHI: Thank you very much.

Let me begin by stating again that I appreciate the Commission's willingness to put these issues on its busy calendar. As the Administration works with the states to put welfare reform into place, we welcome the views and concerns that the Commission may have. Moving people from welfare to work is important, but it is equally important -- indeed, it is imperative -- that implementation be carried out in a fair and nondiscriminatory manner.

It is important to emphasize that the Administration will make every effort to educate and ensure that legal protections against discrimination are both understood and carried out. States and providers continue to have the responsibility of complying with, among other statutes, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990 and the Age Discrimination Act of 1975. Quite simply, when operating a federally assisted program, a benefits provider cannot, on the basis of race, national origin, disability or age, distinguish among individuals in the types, quantity, quality or timeliness of program services, benefits, that it provides or the manner in which it provides them.

This policy also applies to practices that are neutral in design but have a disparate impact based on race, color or national origin. Violations of Title VI, for example, may be obvious or subtle. A benefit provider violates Title VI if it concludes that applicants with ethnic surnames or origins outside the United States or who look or sound foreign are ineligible for benefits. It also violates Title VI if it acts upon the assumption that applicants with these characteristics are all undocumented or if it requires that ethnic or racial minorities overcome additional barriers to the receipt of public benefits because of their ethnicity or race.

Demanding that an immigrant present one specific type of document to verify eligibility to the exclusion of all other legally valid documents establishing immigration status, or demanding more or different documentation based on assumptions about the applicant's citizenship or national origin rather than knowledge of such status, may constitute a violation of Title VI.

Asking a specific applicant to present three documents to establish her identity merely because she speaks Spanish or looks Asian, while allowing English-speaking persons and non-Asians to present only one identity document would be illegal.

Issues such as these highlight the fact that there must be careful attention paid not just to the nuts and bolts of

making welfare reform work, but to the legal protections against intentional or unintentional discrimination.

As I said earlier, the Administration takes this responsibility very, very seriously. We have met and will continue to meet with government and non-government organizations about their concerns. We remain committed to being responsible to both complaints and requests for technical assistance. Most importantly, I look forward to working with this Commission to address these fundamental issues in a comprehensive manner.

Thank you.

CHAIRPERSON BERRY: Okay. Thank you very much.

Our next presenter is Susan Greenblatt, who is the Technical Assistance Branch Chief of the Division of Self-Sufficiency, Office of Family Assistance, the Administration for Children and Families, at HSS. She has over 12 years experience with welfare to work programs.

Ms. Greenblatt will focus her remarks on employment and training programs for welfare recipients.

Thank you, Ms. Greenblatt.

MS. GREENBLATT: Thank you, Madam Chairman and members of the Commission. It's a pleasure to be here today.

As you know, welfare reform covers several titles, several programs. I wanted to focus my remarks on the Temporary Assistance Program for Needy Families.

I wanted to also mention, besides highlighting some program changes, the change in the role of the Federal Government versus states.

VICE CHAIRPERSON REYNOSO: I'm sorry. This is Cruz. I can't hear.

CHAIRPERSON BERRY: You can't hear?

VICE CHAIRPERSON REYNOSO: I could hear the previous speaker.

CHAIRPERSON BERRY: Push that little flat microphone next to Ms. Greenblatt.

MS. GREENBLATT: Can you hear now?

VICE CHAIRPERSON REYNOSO: Yes, I can. Thank you very much.

MS. GREENBLATT: Sorry. I was speaking in the wrong microphone.

I was saying I was going to focus my remarks on the Temporary Assistance for Needy Families Program, not just to highlight a few program changes but to highlight the changes between the Federal role and the state role that TANF has brought about.

First of all, the Federal role has changed from --

CHAIRPERSON BERRY: Which section of the statute are you --

MS. GREENBLATT: Title I.

CHAIRPERSON BERRY: Title I. Okay. Go ahead.

MS. GREENBLATT: Okay. The Federal role has changed with welfare reform to more of a consultant role versus a regulatory role. In fact, we only can regulate as authorized by the law in certain areas.

We will not be approving TANF state plans. We will be certifying them as complete. So even if we don't agree with policies made in the states but if they follow the principles of the law, we will certify them as complete.

We will, however, ensure accountability and we have mechanisms to do that. There are certain provisions in the law that states will be penalized if they do not carry out. There are data collection and performance requirements to ensure states cannot misuse any funds. And they will be penalized if they do so.

The law certainly protects, even with state flexibility, civil rights, through the Civil Rights Act. And the TANF provisions explicitly have protections to require the states, in their state plans, to lay out objective criteria of how they're going to deliver benefits and for fair and equitable treatment of recipients.

They have to provide opportunities for recipients who have been adversely affected by provisions to have hearings through either the state administrative process or appeals process. And as I said, the new law penalizes states that fail to meet TANF requirements or misuse Federal money.

I mentioned that we will certify state plans as complete rather than approve them. We have already received about 36 state plans. We have certified as complete about 15. However, I wanted to emphasize that this is the first step in an evolving process.

Most states or many states will have advantageous funding under TANF and we want to make sure that they get all the money they're entitled to to serve welfare recipients. Since they may need to go back to their state legislatures to enact state laws in order to refine and design their programs, we are going to permit states to come in with amendments after they do so. Thus, there will also be opportunities throughout the next year for the Commission -- I believe you have advisory councils -- to be involved in that process.

States will make important decisions, as you know, about time limits. Some of the states have already narrowed

those time limits. The law says that welfare recipients cannot receive TANF benefits more than 60 months, and some states have come in with three- and four-year lifelong time limits.

Some states have done variations on that, saying that they will provide benefits for two years within five years of benefits. So there are variations out there.

I wanted to respond to one of your concerns about job placements and the need for more job creation, or the concern that cities and localities will not be able to place welfare recipients in jobs. The President is also very concerned about that, and the Administration is looking at various proposals to further job creation, and those are under discussion.

Of course, welfare agencies can provide the welfare benefit as a paycheck and as an incentive subsidy to employers. This will depend on the job situation in certain localities and how well welfare agencies coordinate with the community. I think that will be crucial in getting education, training and job services to welfare recipients.

So with that, I think I'll close and open it up to your concerns or questions.

CHAIRPERSON BERRY: Commissioner Redenbaugh?

COMMISSIONER REDENBAUGH: Just for clarification. You mentioned the 60-month limitation in the Federal statute. Could you explain a little more on the state limitations -- are these continuous or cumulative?

MS. GREENBLATT: It's cumulative. And then the states can decide. The statute says 60 months or less. So some states have come in with a three- or four-year time limit.

COMMISSIONER REDENBAUGH: Are any of them being implemented as a cumulative lifetime or are these --

MS. GREENBLATT: Yes. These are lifetime limits. Like the state of -- I believe it's Utah -- has a three-year lifetime limit. And Florida, four years.

COMMISSIONER REDENBAUGH: Four years?

MS. GREENBLATT: Yes. And then there's other variations. Maybe this is why you got confused. Some states, like North Carolina and Arizona, have two years within five years but that is not a lifetime limit. That's just for a phase.

Does that explain it?

COMMISSIONER REDENBAUGH: Yes, it does. Thanks very much.

CHAIRPERSON BERRY: Others?

COMMISSIONER HORNER: I have one question for each.

Ms. Greenblatt, can you describe to us the situation

with the states which had waivers of the previous welfare law in effect when the new law was passed? In other words, I'm a little confused as to whether a state with a waiver of some aspect of the old welfare law is totally exempt from the new welfare law for a period of time or whether it is only exempt from a provision in the new welfare law related to the provision in the old law which was waived.

MS. GREENBLATT: Yes. It's only waived for the provision that is inconsistent with the new law. It raises a lot of complications and we haven't worked out all the details of how we're going to treat certain provisions.

COMMISSIONER HORNER: What is the time period within which the waiver in the old law remains in effect? Is it five years, 10 years, or some --

MS. GREENBLATT: I really don't know that.

COMMISSIONER HORNER: Okay.

Mr. Hayashi, you said that it would be illegal for state policies which are neutral in design but have disparate impact to be put into place. Could you give us a couple of examples of policies that might be neutral in design, neutral in intention, but disparate in impact and therefore illegal?

MR. HAYASHI: Well, I think that one of the things -- and this, I should say at the outset, is an issue that's extremely complex and that we've talked about at length over the last couple of months. The fact that current law states that disparate impact may render policies questionable in terms of constitutionality is one that I think that we've been trying to see what the states are going to do with respect to implementation of welfare. And primarily, I think we've been talking about in the context of verification. There have been a lot of concerns about how states are going to be verifying.

As you know, the statute provides that the Department of Justice, in consultation with HHS, issue a set of recommendations on verification 18 months from August 22nd and that states will have two years thereafter to implement some type of a system.

In the interim, however, we are working with states or in consultation with states about how they do intend at this point to try and verify new recipients' status for benefits.

And, for example, if there is a requirement that a birth certificate be presented in order to verify citizenship, there have been questions raised as to whether or not the birth certificate should be accepted on its face or that you would have to have some type certification to the birth certificate from city hall or to methods of certification of whether the valid or

not. And I think that in that context, questions were raised as to whether or not that type of policy may affect certain groups more than others.

The intent, I think, is really to ensure that we do not see a raft of complaints coming from applicants related to verification procedures. And as much as possible, we want to work with the states to develop procedures which are fair at the outset as opposed to raising questions.

COMMISSIONER HORNER: How important is it to you that verification documentation required actually do the job of verifying?

MR. HAYASHI: Right.

COMMISSIONER HORNER: The reason I'm asking is obviously there are two desiderata in conflict here. One, not to be irrationally burdensome and the other to make sure that the verification is legitimate. I know when I went to teach a course at Princeton University, I had to provide evidence of my American citizenship and it was an irritant but not an insuperable burden.

And when you get a driver's license in the District of Columbia, if you don't have certain documentation, it can be extremely burdensome. I know that from experience, from family members. But it's intended to prevent people from gaining -- it's always on the part of the general public -- that people don't care enough about the intent of the law and use disparate impact as a way of subverting the intent of the law.

How can you offer an assurance that the Office of Civil Rights at HHS will support the intent of the law?

MR. HAYASHI: Well, let me just say this. That all of us in the Administration are very concerned about the issue of fraud and document fraud, et cetera, that you raise. And of course, within the Administration, the policy has been consistent that fraudulent documents are an issue that needs to be addressed. And I will leave that to my colleague at the Immigration and Naturalization Service to address more specifically than I.

However, I think we do intend to ensure that as documents are checked, that there is at least a level of knowledge by those doing the work about what constitutes a fraudulent document or a non-fraudulent document, and that the issue of verifying whether a document is fraudulent or not is not connected solely to the race or ethnicity of the individual presenting the document.

And I know that there are discussions going on right now about how best to provide verification of documents and their authenticity to government entities which may ask for

authentication. Rest assured that we are taking that issue very seriously and are moving expeditiously to put something in place that will help states to verify documents.

But again, I think we are also cautioning states that they have to remember that there are certain procedures that have to be followed when you're checking documents, and when you're looking at a document, that the face of the document and whether or not there are characteristics which present themselves which may lead to suspicion is one thing, but because the individual happens to be, for example, Asian or Hispanic, does not automatically lead to a presumption that the document must be checked more thoroughly or that the document in and of itself is fraudulent.

CHAIRPERSON BERRY: Yes, Commissioner Redenbaugh?

COMMISSIONER REDENBAUGH: Just a follow-up question. That is, what kind of documentation do the states now require or do you anticipate they will require for proof of state residency?

MR. HAYASHI: Well, I have to say that I'm not prepared to address in any comprehensive manner what the states are requiring for the state residency proof. I know, for example, that the driver's license is one that is commonly used to authenticate state residency. Certain states may use rent receipts, bills, et cetera, to help verify state residency.

COMMISSIONER REDENBAUGH: So there's a fairly low standard?

MR. HAYASHI: At this point, I would say that I am not sure whether you can characterize the standard as low, but I think there are probably a disparate number of documents that state may --

COMMISSIONER REDENBAUGH: But I mean a rent receipt would be a much lower standard than a driver's license?

MR. HAYASHI: Right. Exactly. Right.

COMMISSIONER REDENBAUGH: Thank you.

CHAIRPERSON BERRY: I had a number of questions if other Commissioners don't have any yet. Maybe this will stimulate some more.

Under the first review on the question of the -- Ms. Greenblatt -- Title 1, Part A, 402 state plans, how many of the state plans that have been approved so far do have a provision that they will provide assistance to individuals who are not citizens of the United States?

MS. GREENBLATT: We have not had the opportunity to go through all of them and find out a count, but on the ones I have looked at, most of them are providing services to immigrants. States do not have to follow any format and we are trying to

track those things that they state in their state plan, but there's no format. We have given states guidance, but they're not required to use it. Some states have sent in very thick plans. Other states have sent in very small plans.

So we are working through them and we will get that information, but most of the ones I've seen will be serving eligible immigrants.

CHAIRPERSON BERRY: I have a general question about your response as soon as I ask you these detailed questions. I'll have to remember it.

MS. GREENBLATT: Okay.

CHAIRPERSON BERRY: Under the plans that you have seen so far, how many of them do have a provision with objective criteria under Section 3 of the same 402 -- the delivery of benefits and the determination of eligibility, fair and equitable treatment? How many of them have described what they intend to do to implement that provision?

MS. GREENBLATT: Most of the states' plans are referring back to their current AFDC programs and that they will be following those provisions.

As I said, most of the states need state legislation and so they were just using their current programs at this point to continue the programs.

CHAIRPERSON BERRY: How many of the plans that you have looked at or received have a provision for sanctioning welfare recipients for failing to ensure that minor dependent children attend school?

MS. GREENBLATT: I don't have a count on that.

CHAIRPERSON BERRY: How many of them have a provision under the requirement for high school diploma or equivalent provision which has a sanction for people who are not participating in that part of the program? That's under Section --

MS. GREENBLATT: Well, as I indicated, I don't have a count of what states are doing in certain provisions. I haven't brought that with me.

CHAIRPERSON BERRY: Do you know them or does somebody know?

MS. GREENBLATT: Somebody is putting that into process. I don't know exactly when we will have it, but I can check back and give it to you.

CHAIRPERSON BERRY: How many of the ones that have been approved have such provisions?

MS. GREENBLATT: They all have them in there. They say what they're going to do and what they're not going to do. I

just don't have this information.

CHAIRPERSON BERRY: But of the 15 that you said have been approved, do they all sanction -- they have a discretion to sanction welfare recipients for failure to ensure that minor -- it's called Wed Fare in some states, or Learn Fare.

MS. GREENBLATT: They don't have to.

CHAIRPERSON BERRY: I know. But I'm just trying to find out --

MS. GREENBLATT: I don't know. I haven't tracked those.

CHAIRPERSON BERRY: You don't know. Okay.

How about definitions of work requirements and what work will include? Do they include training? How much training? And how have they resolved that issue?

MS. GREENBLATT: This is the state definitions?

CHAIRPERSON BERRY: Yes, yes. State option -- let's see for limitation for special rules; number of weeks for which job search counts as work and then the limitation that is there. How have they handled that generally?

Do you know what I'm talking about?

MS. GREENBLATT: I'm not clear. They have a limitation of four weeks on job search.

CHAIRPERSON BERRY: Have most of them included training?

MS. GREENBLATT: They don't have to define those things in the state plan.

CHAIRPERSON BERRY: Okay. So the answer to that is we don't really know?

MS. GREENBLATT: Right.

CHAIRPERSON BERRY: Is the answer to most of these things we don't really know?

MS. GREENBLATT: Well, we're developing a detailed chart on which states are doing what, but also the state plans are very hard to go through and we're trying to get through them. As I said, they're not like AFDC plans or jobs plans. They are not following a format. So it is very difficult right now to respond to your question. However, we are compiling that data.

CHAIRPERSON BERRY: Does that same answer apply to the section on individual responsibility plans?

MS. GREENBLATT: Yes.

CHAIRPERSON BERRY: So the same answer?

MS. GREENBLATT: Right.

CHAIRPERSON BERRY: I'm just trying to find out in the areas where we have some concerns about how they're applying these and whether the civil rights laws are being attended to,

whether you know that at least in what people say they're doing or planning that they're doing, that there are no problems here or likely to be problems. And the only way I can know that is if I know what they propose to do.

MS. GREENBLATT: I understand that and I apologize. I didn't know that that would be a question. However, the states will only say what they're going to do. They do not have to describe the option or what they're going to do. All they have to do is say whether they're going to have it or not.

CHAIRPERSON BERRY: In other words, am I to understand that the states under this statute are not required to detail -- one, there's no format for reporting to you?

MS. GREENBLATT: Yes. All we have is the authority to say it's complete, and that they've checked off all the certifications. They say they're going to do such and such. In our letters back to states where there are areas of concern or confusion, we have asked them to clarify them and talked to them about those. But they will just say whether they have an option or not in most cases.

CHAIRPERSON BERRY: So, in other words, you don't have really any authority to require more specificity or to --

MS. GREENBLATT: But we have had conversations with states. What we're trying to do is in a consultant mode -- to find out more information about what their intent is and a description.

CHAIRPERSON BERRY: Okay. So where will you, Mr. Hayashi, you or your successor, should you decide to go away -- let's hope you don't, but I've heard rumors. How will you gather the information that will tell you whether there are any civil rights violations if the plans do not require any specificity?

It's beginning to sound to me like what Pat Harris, who used to be HHS Secretary, who's now dead, used to call stump money. The Federal Government puts it on a stump and runs.

(Laughter.)

And that's what everybody wants is stump money, is what she used to say all the time.

MR. HAYASHI: Right. Well, I do not anticipate that we're just going to cut and run, as it were. My office and the Secretary of HHS share the view that how the state plans actually play out over the next two to three years is very important to monitor. And in particular, it's important to be cognizant of whether or not civil rights statutes are in some way being violated.

I think that as Ms. Greenblatt has said, discussions with the states have included a reminder that there are civil

rights statutes with which they must comply.

As you know, in the process of granting waivers as part of the terms and conditions there was always a section which required them to comply with all applicable civil rights statutes. So my anticipation, Madam Chair, is that that attitude and that posture will continue as the states plans are implemented.

CHAIRPERSON BERRY: Let me ask you a question. If a state should, under the policy implemented by the state -- if, for example, you could discover or did discover that a state was letting some people be funded while they went to college, which you can do discretionarily under the statute, and not others, and it was based on race or age or religion or some other requirement that would violate the Civil Rights Act -- or would that violate the Civil Rights Act? Let me ask that.

MR. HAYASHI: Well, I think all the applicable civil rights statutes continue to apply in this situation. So, yes. I mean, it might given the fact situation.

CHAIRPERSON BERRY: How do the people out there know that there are these provisions and what kinds of things would violate the law and what they should be paying attention to? How much outreach or information has been put out there?

Because I've been asking people when I travel around and they are under the impression that somehow this law voids every other kind of protection anybody has and that states can do whatever they want to.

MR. HAYASHI: You ask a very, very pertinent question. And, in fact, that is something that my office has begun actually trying to address in terms of getting the word, so to speak, to people that Federal civil rights statutes still apply to all the programs that are receiving money.

We in the Department are at this time trying to devise, over the next couple of months, an outreach -- call it a campaign, for lack of a better term -- but some type of method of conveying to the states that Federal civil rights law still is alive and well.

And to that end, I might say we have had regional conferences, both in Region 1, which is Boston, and in Region 3, Philadelphia, which have brought together many representatives of the states affected by the different regions or under the jurisdiction of the particular regions, to discuss exactly that issue: How are we going to convey not just to state providers but also to people in the communities that civil rights statutes continue to protect them?

CHAIRPERSON BERRY: The other point is that every

report of this Commission that I'm aware of in the last 20 years, more than that, I guess, going all the way back to 1970, has reported that the HHS -- it used to be HEW -- Civil Rights Office, your programs, has been underfunded, understaffed, unable to keep up with the hospitals and all these big institutions and everything that you guys are supposed to monitor. Your budget is much smaller than the one in Education, for example.

MR. HAYASHI: Right. It always has been since the split.

CHAIRPERSON BERRY: Now that we have this dispersal, is that going to make things worse, better, or what the heck is going to happen with this?

MR. HAYASHI: Well, funding is always an issue for our agency, as you have said. I want to make it clear, however, that again, the Secretary of HHS has been very supportive of increases for my office. And the fact that perhaps over the past couple of years we have not been able to obtain the increases we've sought should not be a reflection on the commitment of the Secretary, nor of the President, to my office's activities.

As to your question of whether it makes it more difficult, I would say that we've been hard pressed to keep up with the demand for our services, given the resources, but we continue to try to do the best possible job we can with the resources we do have. And I want to reiterate that issues of technical assistance or complaints which reach my office with respect to the implementation of welfare will not be buried. They'll be dealt with in an expeditious manner. We are moving to make this a priority in terms of our work activity over the next couple of years.

CHAIRPERSON BERRY: Thank you.
Commissioner Anderson?

COMMISSIONER ANDERSON: Thank you.

I have maybe two or three questions for you.

The first question is this. In terms of looking at the verification procedures, it is a problem if a state agency or employees of a state agency, on the assumption that say Hispanics have a higher use of fraudulent documents than other segments of the population, take a closer look at every Hispanic's document. But that's a different kind of a problem than a view by a state agency or state employees that there are too many Hispanics on welfare and we have to do whatever we can to cut the numbers, not by workfare but by just not giving them benefits. Now, from your perspective, do you see that second kind of a problem in states now?

MR. HAYASHI: Well, I have to be honest. That type of

discussion would not have reached my office. That would probably come through consultation with other parts of the Department, whether that's the Administration on Children and Families or HCFA that has to do with Medicaid. So, I think we have focused our attention on the first problem that you've talked about, but to my knowledge, we've had no discussions about the second issue.

COMMISSIONER ANDERSON: I'm trying to get at the motivation for maybe the document verification procedure.

MR. HAYASHI: Uh-huh.

COMMISSIONER ANDERSON: Whether there's any evidence that you have that there's a more deeper, underlying problem, than just --

MR. HAYASHI: Let me say that our approach up to this point has not been to presume motivation on the part of states or the field workers or anything like that. We have raised general issues as to how certain procedures may be discriminatory but have not really delved into the second issue that you've talked about. But it is something, I think, since you've raised it here, that probably should be part of our discussions as we go on over the next few months.

COMMISSIONER ANDERSON: Let me ask you, too -- are you far enough along that you know what works in terms of document verification? Can you, for example, not just say don't do this or don't do that, but can you say, look, this is what we think you ought to do, use these kind of documents, these kind of verification procedures? There may be others, but at least for what we know now, this works and we recommend that you do this?

MR. HAYASHI: The answer is that I don't know how to describe how far along we are. We have been discussing this issue and of course the Immigration and Naturalization Service is the primary agency which has expertise with respect to the issue of documents, as well as the Social Security Administration with respect to the authenticity of the documents that they issue. So there have been ongoing discussions.

Whether or not we have anything that we can say works and doesn't work, I don't believe at this point that we are quite to that stage. I think the stage we're at is figuring out what are potential problems and what are the methods of certification that the different Federal agencies can provide in terms of assistance to states or providers if they ask whether documents are genuine or not.

COMMISSIONER ANDERSON: I just have one final question, and maybe with the indulgence of the other members of the Commission -- since you're here, could you talk to us for a minute or two just on how civil rights is going from your

perspective? Your perspective, I understand, would be broader than welfare reform. It would be health care and how hospitals are dealing with different questions. I mean, give us one or two minutes of an overview -- things getting better, things getting worse, on the same track, more complaints, fewer complaints.

MR. HAYASHI: Well, I think our office has seen actually an increase in complaints over the past couple of years, but I'm not sure that that's tied to an increase, per se, in civil rights violations or whether that's tied more to an effort on the part of my office to try to do more outreach to affected communities about what their rights are and how to file a complaint.

I think one of the things that were raised by the Chair is a matter of where you put your resources. And I have decided over the past couple of years to put my resources into two areas primarily. One is into complaint processing, so that we're able to move complaints faster. And by doing that, I mean we've been able to team people together so that they can move complaints out as opposed to go through layers up and down the chain to move complaints out the way they used to.

Secondly, I've also put more of my resources into outreach and education. And that's why I've encouraged my regions to conduct these various conferences involving representatives from all the states and providers within the states that are in that region to tell them exactly what it is our office is equipped to do; how we can help them ensure that they are complying with all the applicable Federal laws, et cetera.

But again, as you know, a little education can be a dangerous thing sometimes that leads to an exponential increase in the number of complaints we've received. We're not complaining about that because we think it's important to address these issues. But we have been busy.

COMMISSIONER ANDERSON: Thank you.

CHAIRPERSON BERRY: Commissioner George?

COMMISSIONER GEORGE: Mr. Hayashi, the Act authorizes the states to funnel block grant money to private organizations, including religious organizations. Of course, subject to a nondiscrimination provision and respect for religious freedom and so forth.

MR. HAYASHI: Right.

COMMISSIONER GEORGE: But I know, because of my professional interest in the subject, that the problem of nondiscrimination and religious freedom is a vexed one, in part because the Supreme Court seems to be so unclear. Some people,

and I'm among them, claim that it's probably the most incoherent area of the Court's general jurisprudence, the religion area.

But obviously, it's a very important issue if the states are going to be funneling money to such organizations.

Given the problem that the states might very well have in figuring out what they are and aren't entitled to do, what they're required to do, what they mustn't do in this area, is your office in any position to give any guidance to states?

The only really analogous situation I know is in the public schools where very often school principals just don't know what they're supposed to not do and what they're required to do. Often, things that they're entitled to do they think they're not entitled to do and sometimes things that they're actually required to do they think they're required not to do. And I suspect that we'll get something of the same, at least on some areas with welfare reform.

MR. HAYASHI: Commissioner, I think you raise a very important question and I'm not prepared to say that we would issue guidance one way or the other, but I do think that it is an issue that we need to address along with our colleagues from the Justice Department.

Now, I understand that some issues have been raised in discussions about religious institutions, et cetera. I do not know if the specific questions you're asking have been addressed. I'd be more than happy to look into that and get back to you about that.

COMMISSIONER GEORGE: Let me just say in the public schools area there is some documentation that has been put out I think by the Justice Department with the cooperation of a number of groups representing very diverse viewpoints which I think is starting to be helpful to the public schools. And I wonder if something like that might not be useful here, too.

MR. HAYASHI: If there has been guidance that we can build upon and individuals or this Commission feel it would be useful, I think we would definitely consider that.

COMMISSIONER GEORGE: Thank you.

CHAIRPERSON BERRY: Commissioner Redenbaugh?

COMMISSIONER REDENBAUGH: Do you have any knowledge or could you provide a comment on the provision of the law with respect to payments to disabled children? I think it's far enough away from what you're doing that it's not --

MR. HAYASHI: Right. That's really addressed by others in the Department.

CHAIRPERSON BERRY: Would you address it if it became a discrimination issue?

MR. HAYASHI: Yes. We would definitely take that up.

COMMISSIONER REDENBAUGH: I'm thinking of an ADA discrimination.

MR. HAYASHI: Right.

COMMISSIONER REDENBAUGH: So do you have any comment on that?

MR. HAYASHI: Well, I don't have any comment on it, only because the discussions about the disabled children really have been more with other parts of our Department and with the Social Security Administration. I have not been privy to those conversations.

Again, I would be more than happy to find out what the status of those conversations are and to have somebody from the Department get in touch with you, Commissioner Redenbaugh.

COMMISSIONER REDENBAUGH: If you would, I would appreciate that.

Does the Social Security Administration also have their own civil rights department? I'm just ignorant about how that works.

MR. HAYASHI: I believe they have a division but I cannot tell you exactly what the division does -- whether or not they look solely at EEO complaints which may come up at the Social Security Administration, for example, or whether their responsibilities are also external. I couldn't tell you.

COMMISSIONER REDENBAUGH: Uh-huh. This would be an external. If you can point someone so me, that's fine. Thanks very much.

CHAIRPERSON BERRY: Mr. Hayashi, isn't it the case that your office is responsible for civil rights enforcement for all the programs and activities in HHS?

MR. HAYASHI: Yes.

CHAIRPERSON BERRY: So what about the Social Security Administration? Did I miss it? Did they go somewhere else?

MR. HAYASHI: Yes. They have been an independent agency now for a couple of years.

CHAIRPERSON BERRY: Oh, that's right. I missed that somehow.

MR. HAYASHI: Right.

CHAIRPERSON BERRY: That means we have to get --

MR. HAYASHI: We remain collegial, however.

CHAIRPERSON BERRY: Yes. We'll have to get somebody from the Social Security Administration to tell us about SSI.

MR. HAYASHI: Right.

CHAIRPERSON BERRY: All right. Well, then, that explains why you don't know.

(Laughter.)

MR. HAYASHI: Or can't say.

CHAIRPERSON BERRY: The last question I have is -- I read a newspaper article that somebody called the private businesses that are getting contracts to do work under TANF and the other programs "new style poverty pimps." That's not my phrase. It was in the paper. And they made some argument about how people were going to make money off welfare and so on.

Are there many opportunities in this statute for the states to farm out the work that they're supposed to do to private businesses?

MS. GREENBLATT: They can contract with private or religious groups.

CHAIRPERSON BERRY: For almost anything or just --

COMMISSIONER GEORGE: I take it the question is not just private and non-profit?

MS. GREENBLATT: Right.

CHAIRPERSON BERRY: Private-for-profit businesses. So that is correct under the statute?

MS. GREENBLATT: Yes.

CHAIRPERSON BERRY: And how difficult would that make civil rights enforcement, Mr. Hayashi, if not only do you have this problem with devolution -- not a *problem*, but this *issue* of devolution -- but you have this issue of the states making contracts with private-for-profit businesses to actually implement the programs, which makes it twice removed from your civil rights enforcement responsibilities.

MR. HAYASHI: That's right. Well, I think your description is accurate. It extends the level of investigation we would have to do to respond to any complaint that may arise out of how welfare is being implemented by that particular contractor. And I can't tell you specifically in matters of time how much time it would add, but obviously it would extend the resources of our office to conduct those types of investigations.

CHAIRPERSON BERRY: Do you think that the new welfare reform law, considering the amounts of money involved and the futures of people involved and this provision about farming out to contractors, means that you ought to do more compliance reviews in the future?

MR. HAYASHI: I think that's probably something we should consider. I think the issue of how we do compliance reviews is probably a major one because it could not be done the same way that we've been doing them in the past.

I have to say that compliance reviews have decreased somewhat over the past couple of years as I've shifted my

resources to handling direct complaints. But again, I think the issue you raise is a good one and I will be sure to take that up with my staff over the next week to determine whether or not we should, again, look at compliance reviews as the way to get to the problem that you're addressing.

CHAIRPERSON BERRY: Because we don't want three years from now -- I don't think anybody in the public wants to have a situation develop where we implement all this and then we find out that there are all these complaints about abuses and that no one paid any attention to them and that the agencies are behind the curve on what happened, and then it becomes some kind of scandal as to what has happened.

So it seems to me that it's important for people to stay on top of these things as they are implemented, despite the fact that you may feel that your authority is limited or your resources are limited.

I'll leave it at that, unless somebody else has a comment or question, and thank both of you for being willing to be with us today.

MR. HAYASHI: Thank you.

CHAIRPERSON BERRY: Thank you.

Could the next presenters please come forward? Ms. Phillips and Mr. Anderson and Mr. Rector.

Thank you for being willing to come. We need all the help we can get with everything.

Our first presenter on this panel -- and I'll introduce each one right before they speak -- is Deborah A. Phillips, who is currently Director of the Board on Children, Youth and Families of the National Research Council's Commission on Social and Behavioral Science and the Institute of Medicine.

She is a developmental psychologist from Yale -- that is, she was educated there -- and she has had a wide variety of posts in CBO, on the Hill, has been a Congressional Science Fellow and is well known in the field of child development and child and family issues.

We appreciate your being with us today. Please proceed.

MS. PHILLIPS: Thank you, Ms. Chairman. I want to thank you for inviting us to this very, very important hearing on issues at the intersection of welfare reform and immigration. And I especially want to applaud you for including a voice looking specifically at issues affecting children in particular. That's not always the case here. It's often not the case. So that's particularly gratifying to us.

The Board on Children, Youth and Families was created

in 1993 to provide a national focal point for science-based nonpartisan analysis of policy issues affecting children, youth and families.

The National Academy of Sciences was created by President Lincoln, actually, so it's a very long-standing institution. It's fundamental role is not a government agency, however. It's a nonprofit organization independent of the Federal Government, and our primary role institution-wide is to bridge the worlds of research and science, on the one hand, and public policy, on the other hand. So we're often called on for technical and scientific advice about issues. We don't issue policy statements, absent having done background science-based research on the issue.

The Board on Children, Youth and Families is somewhat unique institutionally because it does operate under a joint custody arrangement between the Institute of Medicine -- the medical and mental health, public health, arm of the Academy -- and the Commission on Behavioral and Social Sciences and Education, which you can tell what is. So we approach issues in particular that lend themselves to interdisciplinary examination, which is certainly true of the issues you're thinking about here vis-à-vis kids, since both children's health and well-being are fundamentally at stake here.

The Board also, as with most groups at the Academy, are particularly interested in taking on issues that are at their heart contentious and where political neutrality and research and scientific credibility can shed light where there often is a great deal of heat and not a lot of light.

We also, as a Board on children, like to focus, of course, on significant national debates that often are not being discussed from the vantage point of children but that bear critically on their lives. And that is true of immigration, for sure, fortunately due to the work of a large number of people. A little less true of welfare reform at this point.

With these objectives in mind, I really want to inform you today about an ongoing project that we have looking at immigrant children. My understanding of this hearing was that it really was focusing on the intersection of welfare reform and immigration, although I do want to let you know that each year the Board does sponsor, in collaboration with the National Institute of Child Health and Human Development, a research briefing on a specific issue related to children and welfare.

Our next meeting will be held this coming April and we'll focus on health issues at that locus and we'll certainly let you know about that meeting. We publish reports on each of

these meetings and I'll make sure you get those reports, as well.

The Board is also keenly directly supportive of the growing number of efforts to look at the effects of welfare reform directly on children and on adults as parents, not just adults as workers. And, as I was saying, we do have a new project on immigrant children. So let me say a little bit about that.

First and second generation immigrant children are the fastest growing segment of the under-15 age group in the United States. In 1993 alone, 276,000 children immigrated to the United States legally. The number of illegal immigrants who are under 18 is unknown, of course. But it is important to note that for some immigrant groups, including those from El Salvador, Honduras, Mexico, children constitute close to half of the newcomers who are coming across our borders legally, yet children remain largely invisible in contemporary debates about immigration and in debates about the intersection of immigration and welfare reform because, as you well know, they are riveted instead on issues of budgetary concerns and labor market competition.

It is, however, precisely those programs at the schools, health care institutions, income support programs that serve children that are the focus of contention about the costs of immigration and the effects of welfare reform.

Further, if you think about these children as pre-citizens of sorts, then learning about who they are, what their circumstances are and how they are doing also provides a glance at the nation in preview, a nation that will inevitably look quite different in the near future than it does today, particularly with respect to our younger citizens and our families with children.

Finally, as you surely know, and more to the point for today, legal immigrants, including many children, have been targeted in the welfare reform legislation and will account for a disproportionate share of the savings that have been estimated to accrue from this legislation. Some estimate that as much as half of the savings will come from legal immigrants. That includes termination of food stamp benefits and SSI benefits, as well as a number of programs that are likely to be affected at the level of state discretion.

States without experience in the area of immigration policy are going to be making far-reaching decisions regarding TANF and Title 20 and non-emergency Medicaid that are likely to have profound effects one way or another on children.

I think it's also critical, just one fact to point out,

and we will be thinking about its implications, of course, is the fact that over half of immigrant households where the head of the household is a legal resident immigrant include citizen children, because they are children who were born in the United States, and therefore, automatically receive citizenship status. And there's a big question about how these citizen children will be affected by denials of benefits to their family members.

That's an issue I'd like this group to think about carefully.

To direct attention to the well-being of immigrant children, not just in the context of welfare reform, though, the Board has constituted a committee to conduct a 24-month study looking very generally at who these children are, how is their well-being, what health service are they getting. The focus of our investigation is on health and mental health, not as much on education, except insofar as it is an important outcome, of course, of children's health and mental health status.

The committee is going to synthesize and draw implications from research and policy from what is known about risk and protective factors associated with different health and developmental trajectories of these children and about what we know now about effective delivery of health and mental health services to these populations through health care institutions, through the schools and through community based settings.

We'll look at the full developmental cycle, starting with prenatal care, continuing on through the adolescent years, so we'll be looking at, needless to say, a wide range of health and mental health issues.

It is funded by the Department of Health and Human Services; specifically, the Assistant Secretary for Planning and Evaluation, which is approaching this study as a baseline of sorts to look at the status of these children pre-implementation of welfare reform.

I don't think of it as a welfare reform analysis, per se, but it will paint a portrait of these children as of today. And if we did it again five years from now, it might make for an interesting comparison of some of the larger effects of welfare reform on this population.

It is also funded by the Rockefeller Foundation, by the W. T. Grant Foundation and Carnegie, so it has a broad base of support.

Among the issues that we're likely to address is: what is known about the health status of immigrant children from differing ethnic and national origins and about patterns of improving or deteriorating health and adjustment across

generations and by duration of U.S. residence; what is known about rates and consequences of health promoting and health compromising behavior among various immigrant populations, with a special focus on pregnant women and adolescence; what factors affect the utilization and provision of appropriate and effective health care services to immigrant families and their children. And there we will look at the provisions of the welfare reform legislation and their implications for this population. Are some delivery systems more effective than others as sources of appropriate health and mental health services for these members of our society and to what extent and through what mechanisms, to the extent that we can answer that? Does variation in health status affect these children's educational attainments and successful entry into the labor force as adult citizens?

Academy committees are deliberately designed to bring a very balanced interdisciplinary group of experts together to look through the literature and come to a consensus about what the literature says and what it implies. In this case, we have the following kinds of expertise represented: public health, epidemiology, developmental psychology, education, sociology, child psychiatry, pediatric medicine, nursing, immigration law, social work, economics, history and public policy, and program evaluation. It's a fairly large group of people but we felt it warranted that diversity of vantage points given the complexity of the issues.

The committee met for the first time in July. It met again earlier this week and it will meet three more times to complete its analytic work and develop its recommendations. The full report of the committee will be made available in March of 1998. It's a slow process but I think it warrants that kind of careful analysis.

I should also mention that as part of this work, it's somewhat unusual for the Academy to do this, but we will be looking at about 12 national and multi-state data sets doing secondary data analytic work, pulling out statistics on immigrant children. As part of that work, we will also be looking at a couple of data sets which tell us about receipt of benefits by these families and children. And that work will be published sooner than the final report. So I, again, am happy to keep you informed about that.

Thank you very much.

CHAIRPERSON BERRY: Thank you very much, Ms. Phillips.

The next presenter is Mr. Stuart Anderson, who is Director of Trade and Immigration Studies of the Cato Institute. His work on trade, immigration and other issues has been widely

published. He was editor-in-chief of Bloc Magazine, a business journal on Russia and Eastern Europe before his present post, and he has appeared on all the normal TV shows and radio and so on that folks like this appear on all the time.

Welcome, and thank you very much for being willing to join us.

MR. ANDERSON: Thank you very much for the opportunity.

I'm going to come at this from a little different perspective maybe than others. I'm going to be focusing particularly on immigration policy. And the three basic points that I'm going to be making here are 1) that immigrant welfare use is not that large when you look at the statistics, 2) the welfare reform bill, however, was not as radical as people think if one looked at what the current policy was prior to the bill, and 3) that inevitably immigration and welfare intermixed was an unsustainable policy for this country. And I'm saying that as someone who believes that legal immigration is a very good thing for the country and that the current levels are not a problem and that the complaints about immigration are often exaggerated. So, let me go to the first point.

I had passed out -- this is something from Michael Tanner, who's a welfare expert at the Cato Institute, from his book. It's a chart. And you can just see by the numbers that for the most part immigrant welfare use is not really a problem in terms of the proportion, compared to the native born.

You can see that -- at the top of the chart, you can see that 15 and younger native-born welfare use is about 4.2 percent; immigrants about 4.7 percent. And this is one of the broader points: that a lot of the welfare use is concentrated among refugees. Age 15 to 64, you're looking at native born 3.7 percent; immigrants 3.3 percent; and then refugees 13.4. And over 65, the numbers increase. Native born, approximately 7 percent; immigrants, 13 percent; and refugees, almost 50 percent.

Then the big issue on over 65 is that of immigrants and refugees especially getting SSI instead of Social Security. Americans don't consider Social Security benefits welfare payments. I won't touch that issue. But SSI is included in welfare. And so you see where the concentration is. It is in refugees and it is in the elderly.

So overall, the welfare use is not about the typical legal immigrant who comes in through the family immigration system. It has been basically overstated.

However, the other thing to think about and the second point is that the welfare reform bill was not as radical as people think. And the reason I say that is that prior to the

bill we've always had a public charge aspect of immigration policy saying that immigrants are not supposed to be a public charge if they're going to come into the country. And we did have deemed income for AFDC and food stamps for the first three years and SSI for the first five years. That basically acted almost as a bar with the way deeming of the sponsor's income was employed.

So, I view the policy that was enacted in the welfare reform bill as basically an extension of what was already in effect. I don't consider it a completely new idea that immigrants would be treated differently in the public benefits area. I consider it an extension, obviously a very large extension, but still an extension.

This brings us to the third point. That even if the welfare reform bill did not contain these provisions this year, the immigration bill had almost the same provisions and in some ways harsher provisions that would have been put into effect and would have passed. Even if that didn't happen, next year or the year after, eight years or 10 years from now, you would have seen some sort of policy like this in the United States because it just is not sustainable to have moderately large levels of immigration while people also feel that immigrants are able to come in here and partake of welfare benefits.

If you've ever been on a radio talk show, believe me, it is the one thing that people always say. Immigrants come in here; they get on welfare. A New York Times poll back in the '80s showed the wildly disproportionate views of Americans, people thinking that about half of immigrants are on welfare. And clearly, you can see from the statistics, that's not the case.

But the point is, I think you saw a lot of very pro-legal immigration members of Congress -- and people like Jack Kemp and William Bennett, who are respected in both parties -- basically saying that the sustainable policy for this country was or is, yes, to legal immigration, but essentially, no, to welfare. And I think that's something to keep in mind when we look at these issues.

And I think personally -- I think the issue is that we're better off having more immigrants and less welfare than the other way around. And I think that's something we have to think about. That if welfare policy had stayed the way it was, I think it would have just continued to add fuel to the fire to cut back on legal immigration.

And the people pushing the welfare cuts for immigrants, a lot of them were opponents of immigration. And whether they

realized it or not, they actually strengthened the case for immigration quite significantly. I'm sure they don't like hearing me say that, but that's basically the case.

Also, the provision saying that immigrant sponsors have to have a legally binding, Court-enforced affidavit of support is another reform that strengthens the case for legal immigration. If people know that someone's coming in here, and they aren't going to be able to go on welfare, that their sponsor is going to be financially responsible for them, people say, oh, that's different. As long as people aren't coming in here and partaking of public services, such as what we've defined as welfare.

So, the final point, the final three issues I wanted to raise were:

One, on the verification issue. I think it's an important issue because of one of the things that has been discussed on the illegal immigration front. There was a big battle in Congress this year on this computer system that would be used to track -- actually, every time someone would go for a job, you would, whether an American citizen or not, you would have to say my name is Stuart Anderson; here's my Social Security number; check it in the computer.

Employer sanctions -- and this is related to that -- employer sanctions is another area that you might want to revisit because it's connected. Employer sanctions already has shown through a GAO study widespread discrimination, against Hispanics and others. And any sort of computer system that you're going to have, the mistakes are going to be disproportionate among people with foreign names. Just the efforts that are going to be made -- it's not going to work, first of all, is the main problem. But I think the discrimination aspects of employer sanctions relate very closely to the verification questions that you were asking about as far as how you're going to check verification for welfare reform.

The final point is on labor market impacts and immigration. Someone had told me that -- when I said if you take welfare off the table, that's going to strengthen the case for immigration -- they said, oh, they'll come up with new arguments; don't worry. And one of the new arguments is, well, immigrants are actually going to make welfare reform harder to implement because they're going to come in and take jobs. And that's sort of a new argument I've seen, so they're either all on welfare or they're all working. I don't know. But that argument basically is not a valid argument.

We have a labor force of 127 million people. People have talked about eliminating the brothers and sisters category,

for example. You're talking about roughly 60,000 people coming in -- probably about a fifth of them are under 18 -- and a 127 million person labor force. Maybe if these 52,000 people all applied for the same job in the same factory you would see a labor market impact, but you would not see it when you're talking about a country the size that we have.

And certainly the argument is that immigrants create as many jobs as they fill because immigrants spend money in the economy, just the way a high school graduate doesn't cause unemployment by entering the labor force because they spend money and that helps trickle through the economy and create other jobs. Also, there's entrepreneurship.

So, that's why otherwise you would see countries with larger populations have more unemployment. And that's obviously something you don't see.

So, in conclusion, the main point is that I just don't see, regardless of any concerns that anyone would have here, that a sustainable policy in this country would be to have welfare -- large-scale welfare eligibility -- and moderately large levels of immigration. And so my preference is, and I think the correct policy choice is, more immigrants but less welfare rather than the other way around.

CHAIRPERSON BERRY: Interesting. Thank you very much, Mr. Anderson.

Now we have Mr. Robert Rector, who is Senior Welfare and Family Issues Policy Analyst at the Heritage Foundation. Mr. Rector is responsible for the entire welfare reform legislation.

I'm only kidding.

He is in some part responsible for the legislation and he recently authored "America's Failed \$5.4 Trillion War on Poverty." He's been in all the media, television, radio, testifying before Congress, and all the things that we expect people in this field to do.

We want to welcome you and we very much appreciate your coming. Thank you.

MR. RECTOR: Well, thank you for giving me this opportunity to testify.

We are now at a point where Congress has ended welfare. I've been in this field for about 15 years. I've lived through three ends of welfare and --

VICE CHAIRPERSON REYNOSO: Mary, this is Cruz. I can't hear the testimony.

CHAIRPERSON BERRY: Okay. Do you have that little microphone right in front of you? That little flat one?

MR. RECTOR: Ah, this mike. Okay.

CHAIRPERSON BERRY: Try that.

MR. RECTOR: Is this better?

VICE CHAIRPERSON REYNOSO: Yes. Thank you.

MR. RECTOR: Okay. Sorry about that.

I've been in the field of welfare for about 15 years. I've already lived through three ends of welfare. I anticipate living through six or seven more during the rest of my career. However, I do think that this reform, in contrast to those in the past, does at least have the seeds of realistic change within it.

I would say that basically we have reformed the welfare system based on Congress' assessment that the current system promotes dependency and illegitimacy and that dependency and illegitimacy are harmful to children, they're harmful to adult recipients, they're harmful and costly to the taxpayer, and they're harmful to society, and that we need to begin to build a new welfare system that promotes self-sufficiency, self-reliance and above all, intact marriage.

In 1992, Bill Clinton, then-Governor of Arkansas, ran for President on a promise that he would end welfare as we know it. In the last four years since Governor Clinton became President, the United States has spent over \$1 trillion on means-tested assistance to low-income and poor Americans. That includes cash, food, housing, medical care, social services to the poor.

Welfare spending has increased to record levels and has increased at nearly record rates in almost all categories. In 1992 when President Clinton took office, total means-tested welfare spending in the United States amounted to \$305 billion in that year. In 1996, it had risen to \$430 billion.

Now, I believe that the reform bill that we just passed essentially has about a half a dozen key points. The first point is that it eliminates, at least within the AFDC system, the irrational, financial incentives that previously had existed for the states.

What do I mean by that? I mean that under an entitlement funding system, any state which increased welfare, its welfare caseloads, increased welfare dependence, got an increase in money. On the other hand, those states which were effective in reducing dependence got an automatic debit in money.

As Governor Thompson of Wisconsin has repeatedly pointed out, that since he took office in 1987, he has cut his caseload by nearly 50 percent. What was the Federal response to that? They cut his AFDC grant by nearly 50 percent.

In contrast, a state like New York during the same

period increased its caseload by almost 40 percent, and under the old system, got a corresponding increase in Federal funding.

What the new system does is essentially gives each state a flat amount, increases it by a few percentage points each year, and says if you are effective in reducing dependence, we're not going to take your money away. We're going to let you keep that surplus and use it for additional services for the poor. On the other hand, if you're ineffective in controlling dependence, if your caseload continues to skyrocket, then you at the state level must be responsible for those additional costs.

The second thing that the bill does is that it does not cut welfare spending but it slows down the automatic rate of growth in welfare spending. Welfare spending will no longer grow without limit. But if you look at the seven programs which were affected by the legislation which President Clinton signed, the average annual future rate of growth will be 3.5 percent per annual. That is above the expected rate of inflation.

The third and perhaps most important thing that this legislation does is for the first time in American history it establishes serious work requirements for welfare recipients. In particular, it requires states either to reduce caseload, which is a major effect of a serious work requirement, or to establish what is called pay-after-performance community service.

Under a pay-after-performance community service system, the welfare recipients, when they go into that, do not get the welfare check until they have performed the community service satisfactorily. And if they fail to perform the required number of hours of work, the check is reduced pro rata.

I have provided to you a chart that I hope you have, showing the potential effect of this policy. The policies which were put into the law were largely modeled after the policies which have gone into effect in the state of Wisconsin in the last eight years. In the last eight years in Wisconsin, as I said, Tommie Thompson has reduced his welfare caseload by 50 percent at this time. During this same period, across the nation, the average AFDC caseload in almost every other state was going up by 25 percent.

So, relative to where his caseload would have been, Governor Thompson has already cut his caseload by nearly two-thirds. As we speak today, the caseload in the city of Milwaukee is declining due to this type of work requirement -- serious work requirement -- by 2 percentage points per month. Two percentage points per month. Most of the work requirements which are in the Federal law, although they allow a great deal of latitude at the state level, were in fact modeled with the Wisconsin system in

mind.

We know that this system works. The similar system where it has been tried in other states is also extremely effective in moving people off of welfare or, even more important, of taking those individuals who don't need to be on welfare in the first place and dissuading them from ever entering the system.

Welfare dependence is not good for the recipient. It's not good for children. It's not good for the taxpayer. And I do believe that this Act does provide the potential for the first time to break a 25-year pattern in the growth of dependence.

The fourth element that this bill provides is it provides very significant -- for the first time it states as legislation that the growth in out-of-wedlock births in the United States is harmful to our society. It requires each state to set a goal for the future number of out-of-wedlock births. It provides additional money to any state which can reduce the out-of-wedlock births without increasing abortions and it provides a new funding for an abstinence education program to be operated in each state.

A fifth element of this bill is to restrict funding through -- particularly through the Medicaid and SSI system to non-citizens. And we simply say on this that the elderly non-citizens on SSI were the fastest-growing welfare population in the United States. This population had grown by several hundred percentage points within the last four or five years and if you simply took the linear projection, assuming that that growth would continue in the future, it was evident that non-citizens on SSI would cost the American taxpayer over \$324 billion in the next 10 years: This was a system that was totally out of control. And what this legislation says is that we would like the individuals to come to the United States to work and be self-sufficient; however, we do not wish the U.S. welfare system to become a retirement home for elderly from other countries.

The sixth element that I believe is very important in this bill is what is called the Ashcroft Provision concerning nondiscrimination of religious service providers. Under this provision, service providers contracting under the various programs affected by the Act cannot be discriminated against because they are religious in nature. This is in accord with various Supreme Court precedents, particularly *Bowen v. Kendrick*, which was very much in the mind of staff when they were drafting this.

But even more, the Act goes further than that. And it says that when services are voucherized, when services are

voucherized under the programs affected under this Act, then the voucherized funds can be used for activities which are religious in nature. This is in accord with the current child care and child development block grant program, which is in operation in all 50 states across the United States, and is in accord with Supreme Court precedence in the cases of *Mueller v. Allen*, *Whitters v. Washington State*, and *Zofers v. Catalina*.

We have always had a precedent that when funds move from the public sector into the hands of the individual, then that individual may use those funds even though they are derived from the states, for activities which are religious in content without violating the Establishment Clause of the First Amendment.

In conclusion, let me say that I think when the dust settles on this bill, we will find that its impact is far more modest than either end of the political spectrum would currently like to claim. It does not transform the system nearly as much as either the proponents or the opponents of the bill would indicate. However, I do think that it does constitute for the first time in about 25 years a really significant change in welfare and does give us an opportunity to begin the building of a new welfare system that is truly beneficial to the recipient, to the taxpayer and to society at large.

Thank you.

CHAIRPERSON BERRY: Thank you very much, Mr. Rector.

Do Commissioners have any questions for any members of the panel?

COMMISSIONER HORNER: I'm not sure. I'm reviewing my notes, Madam Chair.

CHAIRPERSON BERRY: I could ask some while you're doing that, if you want me to.

COMMISSIONER HORNER: Yes. Do that.

CHAIRPERSON BERRY: All right. I'd be happy to.

First of all, let me say to Ms. Phillips, with the previous panel I made a comment that in three years from now we may discover that here are some problems. After listening to your testimony, I think that we're talking more like 60 years, because isn't this going to be one of the issues in terms of policy and how policy is determined and implemented that even if there are some issues related to children, the study you're talking about is going to take at least two years. Then you said it might look at what happens under the current law but it won't talk about impacts. Which means that if there is then yet another study, that will take another two to five years.

So in other words, no matter what happens and that ASPC

is funding these studies as part of its evaluation process which is included in this bill and its normal evaluation process, this means that we won't really know from scientific research on it and a review of the literature what's going on until at least 10 years. And the kids now of that generation will be either benefited, not benefited, or whatever. And we won't really know and be able to make any new policy judgments until long after the time has passed.

Is that correct?

MS. PHILLIPS: That's not correct. You're right it's a two-year-long study. It's not, as I said, really designed to look at the effects of welfare reform on immigrant children. That's a very complicated question to answer.

But there is a lot of ongoing research that is attempting to answer that question. For example, the Administration on Children and Families in the Department of Health and Human Services has given special grants to 12 states that have expressed an interest in beefing up their evaluations of welfare reform to include direct assessments of child outcomes. And again, it's going to take time. It does take time to gather good data that's credible, that you're going to want to look at anyway. But at least there's a concerted effort to set that motion in process as an ongoing part of what we look at in not just caseload reductions, but looking at what do we look at when we assess the effects of welfare reform.

There are also a series of smaller state-focused studies that are looking at children. I'd be happy to provide you with information along those lines. Some very high quality evaluation studies going on, including one in Wisconsin.

And thirdly, there is a large study being conducted by the Urban Institute that's looking very comprehensively at the effects of devolution. And it also is including a child component to that study. So, we are really not the kid on the block on this project.

But all that is to say people, ourselves included, are very eager to get some early detection systems in place to look at the effects of this on kids, but, equally important, to set in motion some long-term processes for generating highly credible, valid data to help us understand how this will affect children.

CHAIRPERSON BERRY: Well, I noted in the press that even a proponent of the legislation indicated that unfortunately some children may be hurt in the short-run, but in the long-run, it was better --

MS. PHILLIPS: I think the question is going to be who are going to be the winners and who are going to be the losers.

And to think of the effects of welfare reform in any global summary sense, I think, is a misguided way to think about this legislation.

It may have some benefits. It may have some costs for different people at different stages of development in different family configurations with different immigration status. And that's more the portrait that we have to begin to pull into focus.

CHAIRPERSON BERRY: You raised a question about citizen children who are born in the United States and whether, if their families were denied benefits, would they be denied. What about the argument that they ought to be denied benefits -- that if you have instances where people are illegals and they have children in the United States, why should the taxpayers pay.

I'm asking a question. For somebody to come here to have a --

MS. PHILLIPS: This isn't referring to illegals. It's legal citizens that are being denied.

CHAIRPERSON BERRY: Well, what about even legal citizens, if there's a policy determination consistent with what Mr. Anderson said about denying services to people as an argument to let immigrants come, if I understood him correctly?

MS. PHILLIPS: That's really a political decision that at this point, I'm not -- speaking for the Academy -- not in any position to make a statement about.

CHAIRPERSON BERRY: So you don't know whether that's a valid concern or not.

MS. PHILLIPS: These two over here are probably in a better position --

CHAIRPERSON BERRY: Ask them that question?

MS. PHILLIPS: It's a political question. To the extent that we get data that can inform it, we will think about that.

CHAIRPERSON BERRY: Well, let me try to recharacterize it so it's not a political question. Suppose in your studies that you're doing, are you going to determine whether or not these children that you have cited, or defined, are in fact better off or worse off, or how they're faring?

MS. PHILLIPS: We won't be able to do that in the study that we're doing. We don't have those data.

CHAIRPERSON BERRY: Will any of the studies you know about do that?

MS. PHILLIPS: There is some work being done at UCLA by David Hays-Botista, that is looking specifically at these families with legal resident parents and U.S. born children to

see what is going on with them. If we think that that research is useful, we will incorporate it into our report, but you can get it faster by going to him directly.

CHAIRPERSON BERRY: Okay. Let me see if Commissioner Horner or anyone else is ready so that I don't hog the panel. Are you ready now?

COMMISSIONER HORNER: I have a few questions.

Mr. Anderson, you said that there are 127 million people in the labor force and I forget what you said the numbers of working immigrants are, but they were small, relative to the magnitude of that labor force. Am I correct?

MR. ANDERSON: What I was talking about is there's an argument made that somehow if you lowered the number of immigrants entering the U.S. each year, that that would raise wages and that people who are on welfare now who need to find a job because of welfare reform would then be able to find a higher paying job and we'd all live happily ever after.

But that's not the way it could possibly work because when you look at, for example -- the example I gave was a brother and sister category which is the one that seems to always be targeted by people who are opposed to immigration. There's about 65,000 people. There's a limit of 65,000 and that includes the small children.

COMMISSIONER HORNER: Is this the family reunification policy?

MR. ANDERSON: Yes. It's primarily family, right, as for a family unification. So you're looking at maybe 50,000 people who would be coming in of working age in that category, in a labor force of 127 million. The U.S. economy creates about 200,000 new jobs a month. So the idea that cutting off 50,000 people here or there is somehow going to have any impact whatsoever on the wage rates in this country makes absolutely no sense.

COMMISSIONER HORNER: Is it the case that you're not setting up a strawman here? This is -- the family reunification is the major buttress for the idea that immigration costs low wage jobs in the United States for citizens?

MR. ANDERSON: What people often don't point out is that two-thirds of family immigration is spouses and minor children, representing the spouses and minor children of either a U.S. citizen or a lawful permanent resident.

Basically no one in the debate last year was talking about cutting them out. So that's why I don't feel like I'm setting up a strawman, because who are you going to cut out then? You're going to be cutting out basically three other categories.

You have two different adult children categories that come out to about 40,000 or so each and a brothers and sisters category of 60,000. So, those are the people who are targeted to be eliminated, and my point is that you couldn't possibly see any of the labor impacts that people are talking about by eliminating them.

In addition, what economists know is that when an immigrant comes into the labor force he or she will eventually fill a job, but that person'll also create another job through consumer spending or through entrepreneurship. And they point out that a similar aspect to think of is: Why, if your son or daughter graduates high school, why doesn't unemployment increase every June? You know, it doesn't, because of the way the labor market functions.

COMMISSIONER HORNER: I know the larger argument has been raging for at least two decades.

MR. ANDERSON: Right. Hundreds of years.

COMMISSIONER HORNER: But I guess one of the observations I would make and invite you to respond to is that immigration, although it may have positive national impacts on the economy -- I don't know, but let's posit that it does -- and let's posit that the numbers are not such as to dislocate the workforce seriously. Is it not still the case that immigrants are disproportionately concentrated in the same places where low income citizens are concentrated and that there might be localized job displacement.

MR. ANDERSON: There certainly can be localized displacement but it's not of the nature that it would somehow derail efforts of other people to go work.

COMMISSIONER HORNER: Because it's entrepreneurial?

MR. ANDERSON: Yes. Because you have entrepreneurs. I mean, one of the ways to look at it is if you look at major cities in America, you find almost no mayors that go on record saying, oh, if we didn't have immigration, boy, the poor in our cities would be so much better off. That's because they see that immigrants also come in and revitalize cities. And in some cities, you would have large declines in population if immigrants weren't coming in, and very few people want to be mayors of cities where the overall numbers of people are declining.

COMMISSIONER HORNER: Thank you.

Mr. Rector, also known to me as Bob, hello. You said the Milwaukee caseload is declining by 2 percent a month. Do we know to what extent that decline represents people moving to other places where welfare is available more easily or in larger amounts?

MR. RECTOR: What we do know is that Wisconsin always used to be a welfare magnet.

COMMISSIONER HORNER: From Chicago.

MR. RECTOR: From Chicago. And they were moving up really, and you go to places like Kenosha on the border -- they just had a steady flow. And what we know now is that, no, there are very few people coming to Wisconsin.

The other thing that we do know that's very interesting is that the case workers in Wisconsin tell us that when people come in from another state, those that still do, they don't believe it. They don't believe it. And they'll say to them --

COMMISSIONER HORNER: They don't believe what?

MR. RECTOR: What is actually going on in Wisconsin. They are coming from a different welfare culture, and so when the Wisconsin case workers say to those who still come migrating from another state, that you are really going to have to work for your benefits, and if you fail to do so, you're not getting a check. They'll go, yeah, sure. Because they've been told this for about 10-15 years. But in Wisconsin today, it's actually true.

I suspect that there is probably some out-migration now occurring, but I suspect much more that what's actually happening is that what we're doing is drawing upon the capacity of these individuals to support themselves.

I spent quite a bit of time in Wisconsin a few years ago watching these programs in operation and what they seem to be able to do is very quickly motivate people to call upon the resources that they actually have. I think you're probably seeing a lot of effects. You're seeing employment effects.

You're also seeing one other good thing. We all know in this field that large numbers of women on AFDC already have jobs that for peculiar reasons they're not reporting to the welfare office. Once you put a work requirement in place, you're picking up all those people. They can no longer go to the community service site and hold the other job that they have off the books. We're picking up a lot of that.

You're picking up a lot of people that really did have other options but would take a free income if you were willing to offer one to them. This income is no longer free. They are now beginning to pick up all the other options they have; employment options, options maybe to move in with an in-law and share expenses, different things like that.

We don't have very much evidence that there is out-migration, but I wouldn't be surprised to see some if the other states don't begin to also implement reform.

COMMISSIONER HORNER: One of the great mysteries of social policy in this area is the question -- assuming that all people who are able to work do work, and assuming that young people seeing this fact begin to prepare themselves to work rather than to prepare themselves not to work, that is, they get some additional education and perhaps defer childbearing, assuming those positive outcomes, and assuming that people who are drug or alcohol addicted but capable of getting off the addiction do so, how many people are left who have IQ's too low to do any remunerable work or who are seeming irredeemably addicted?

Is anyone tracking the end game of welfare as we know it, if indeed we are in that such a thing, to answer this question for us so that we know as a humane society what it is we have an obligation to deal with as dependents? In other words, we all want to or many want to get rid of gratuitous dependence but take care of people who are unredeemably dependent. Are we trying to find that out as this process goes forward so we won't be left in five years saying, well, either welfare reform failed or everybody needed it after all or --

MR. RECTOR: Coincidentally, I was just talking about that exact topic with the Director of Work Programs in Wisconsin yesterday afternoon. And I'm very pleased to tell you that the system in Wisconsin just works much better than anyone, even an optimist about work program, such as myself, could ever have possibly imagined.

If you move outside of Milwaukee into the rural and suburban counties in Wisconsin, many of those counties have cut their caseload by 80 percent. Eighty percent. There are some counties that are now down to the point of needing to mothball their files because they have less than 20 people on their caseload. They have basically ended welfare dependence or will be ending it.

COMMISSIONER HORNER: But is anybody tracking this in a way that will allow us several years from now to speak with authority on the subject of the dependent residue that is legitimately dependent?

MR. RECTOR: What I'm saying is that the question was also -- as you brought the caseload down -- where is that barrier. And at least in Wisconsin, and even in Milwaukee, it seems to be at a much lower level.

In other words, the question was where is always the bottom of the barrel. Well, when you weren't doing anything, the bottom of the barrel was -- 70 percentage points down there -- you're not even close to talking about it. In Wisconsin we are

now beginning to talk. The caseload is down by over half and we're nowhere near any of this population.

Now, they do have some supported work systems in Milwaukee. For example, they assemble Montessori toys and things like that. But even those people seem to be making a much better effort at self-sufficiency than we would have imagined.

I don't think that -- the caseload is going to have to come down even farther for the next couple of years in Wisconsin before we begin to hit those. They are starting to look at them.

One place where this group shows up is what are called child-only cases, where the mother, basically, can no longer parent and so she's given the child over to a relative or something. Those constitute I believe about 20 percent of the remaining caseload in Milwaukee. Those are people that are very likely to have serious drug problems and so forth and so on.

But even in Milwaukee it was lower than one would have imagined. And the caseload is already coming down very rapidly and I think can continue to go down quite a bit more before you begin to hit --

COMMISSIONER HORNER: Wouldn't it be nice if it turned out to be like inflation. It's not as bad as we thought it was for years.

MR. RECTOR: I am continually favorably surprised by what they have been able to do in Wisconsin and I would simply point out that in the overwhelming scientific or liberal literature in this field -- even three or four years ago an organization like Manpower Demonstration Research Corporation would have told us that imposing a work requirement over say a five-year period, a quote "saturation work requirement," could reduce the total caseload by maybe 5 percent.

I emphasize in Milwaukee today, 2 percent per month, not 5 percent over five years. Two percent per month.

CHAIRPERSON BERRY: Commissioner Lee?

COMMISSIONER LEE: Ms. Phillips, about the new law narrowing the eligibility for disabled children to receive benefits -- have you done any, or are you planning to do any, studies on how their health status would be impacted because of this and how many children will be impacted?

MS. PHILLIPS: SSI changed?

COMMISSIONER LEE: Yes.

MS. PHILLIPS: I am looking into the possibility. I think that's a very critical issue to look at. We're not currently doing that but it's on my list.

COMMISSIONER LEE: And please announce the results.

MS. PHILLIPS: There are people who are. The National

Academy of Social Insurance has done a very nice piece of work on children and disability. There are a lot of very complicated issues around even the rationale around that program vis-à-vis kids; determining functional station for children. So there are very important issues to explore.

But I will refer you to NASI.

COMMISSIONER LEE: And one more question for Mr. Anderson.

People on talk shows, and all over the place who talk about immigrants being on public assistance, have used the elderly as the reason why we need to curb public benefits for immigrants. And your statistics seem to justify why they are saying that immigrants are taking a lot of benefits away.

Do you have any reasoning on why people aged 65 and over supposedly, or according to this, are receiving more public benefits than the native borns? What are the causes?

MR. ANDERSON: Well, I think the main cause is that it's just very practical in that someone comes in -- if they're coming in very late in life, they did not work to be eligible for Social Security payments, but they do become, depending on the income level, eligible for SSI. So literally, you have that very mechanistic formula that takes effect where someone is in the country, they're not getting Social Security payments. They do become eligible for the SSI. I mean, that's about the simplest answer you can give.

Now, I think I was alluding to somewhat tongue in cheek that Americans get Social Security payments well in excess of what they put in, hardly relatives of mine, as far as I know, but don't consider that extra portion beyond sort of a reasonable return as any sort of welfare. And it would be sort of the very brave politician who would go on and argue that it is. But clearly the SSI gets counted as welfare.

And I think the main point that gets lost in some of this when you look at just the welfare portion is that overall immigrants pay more in taxes than they receive in services. I mean, Julian Simon has done work on that and the Urban Institute has done work on that.

So, I think clearly that's not the issue but the welfare issue itself gets people very emotional. I've had people who I would consider on the left on this issue, and some of them have said to me privately I really see your point that you can't have a public perception policywise, politically, of sustainable welfare and immigration being mixed.

I mean, Robert's point on the numbers going up -- and he was using a non-linear way. Right?

I mean, you were talking about if it stayed at the same pace, how high would it go up?

MR. RECTOR: It would be a projection.

MR. ANDERSON: Right. And that was starting from a very low number.

MR. RECTOR: Just a simple projection.

MR. ANDERSON: Right. And whether that projection would have stayed the same or not, we can't tell. But the point is that the numbers zooming out there, even if they were half of what Robert is talking about, it just does not seem sustainable politically that you would have that.

And I think on Social Security, by the way, immigrants actually benefit us quite a bit in the Social Security program.

COMMISSIONER LEE: So actually, of the 13.1 percent of immigrants over age 65 who are receiving welfare, a good number of those immigrants have actually worked in this country?

MR. ANDERSON: They may have. But the welfare is almost definitely going to be SSI. Also, as we point out with the refugees being 50 percent, a lot of people when they see their neighbor next door and they speak with an accent, they don't ask them which category of the immigration system did you come in. Did you come in as a refugee?

So people are counting them as immigrants altogether, even though they came in for different reasons. And one of the things that we were talking about, the skill portion of the immigration system, is that refugees often skew the welfare numbers. They also end up skewing the skill portion.

And until we can find a way to get a "higher educated" class of dispossessed people, I think you're always going to see that when you put refugees in any statistics we have on immigration -- you're ending up where some people who might make policy recommendations on the family immigration system that would actually get skewed because of the refugee numbers getting into the mix of the number of the data.

MR. RECTOR: Could I speak to this?

CHAIRPERSON BERRY: Yes.

MR. RECTOR: The very simple reason that large numbers of non-citizens end up on SSI is because they immigrate here specifically to get them. We had very extensive testimony with both the Ways and Means and Finance Committee showing that in Taiwan and South Korean and Southern China and in Hong Kong, there are actually publications in foreign language about how to come to the United States and get SSI.

And anyone who works in this field is really amazed to find out that non-citizens coming to the United States, elderly

non-citizens, know vastly more about SSI than most Americans do. And they may not know a single word of English but they do know the letters SSI.

In California, over half of the elderly non-citizens in that state now receive SSI. It's very clear that large numbers of these individuals, most of whom are coming not from politically oppressive countries -- they're coming from the Philippines or coming from Mexico in large numbers -- know perfectly well that they are coming here in order to make a windfall off of the U.S. welfare system. And I don't fault them for this.

If I were an elderly person in a Third World country and I had an opportunity to come and receive the most comprehensive, most generous free medical care for the rest of my life at the expense of the taxpayers of this nation I was going to, as well as \$6,000 or \$7,000 a year in cash benefits, it's a great deal. But it's also a deal that the American taxpayer cannot indefinitely afford.

I would say that basically any society which has a large and generous welfare system, which this society does and will continue to do for the rest of our lifetimes, has to be very, very careful about immigration policy with regard to two groups of individuals; elderly people and people with very low skills. Because those two groups are very likely to come into society and represent a very large net burden to the society that they're immigrating into. It's not necessarily their fault. But that is the natural consequence of that policy.

I would also categorically disagree with Mr. Anderson's statement that immigrants contribute more in taxes than they take back in terms of benefits. Under the way that that calculation was set up, everyone contributes more in taxes than they take back in benefits, which is a rather paradoxical situation. All the groups do that. And it's because they're not counting most of the purposes to which tax dollars go.

In fact, immigrants do in fact receive significantly more welfare benefits. And these particular categories of immigrants are receiving vastly more benefits than they could ever possibly contribute in taxes. Not their fault. But as representatives of the citizens of this nation, this is a kind of hole in the bottom of the boat that can't go on forever.

COMMISSIONER LEE: I guess I was under the impression that elderly people come here legally through family reunification. So they just can't come and say I want to be a welfare recipient. And I'm sure we'll get more information from the next panel, but I do want to ask one more question about the

elderly because I am really quite puzzled about the stereotype that's being said out there about them coming in to accept welfare.

My understanding is the senior come here, many of them reluctantly, leaving their homeland purely for family reunification. And I am trying to get those books that Mr. Rector mentioned about teaching people to apply for SSI, but many of the service agencies from Hong Kong, Taiwan and China, the information that they gave me was they were trying to prepare older people when they immigrate here so they can get adjusted to the new country. And none of them knew that they were providing any information about how to cheat the government or whatever. But we'll get more information from the next panel.

MR. RECTOR: I could provide you with the source of that information. It's Professor Norman Matlock at the University of California-Davis who's testified repeatedly before Congress about that. He can provide you with the documents.

The fact of the matter is that what's going on here is that when the sponsor brings the elderly non-citizens into the United States, there's an implicit promise through the deeming system that this individual is not going to become a burden on the taxpayer. And it's quite clear from those of us that have examined this that that implicit promise is being very deliberately violated and that there is an intention to put these individuals onto the welfare system from the moment they're brought in.

And that is, I think, exploitation of the American taxpayer and it's very regrettable. And it's something that simply should come to an end.

MR. ANDERSON: Well, I think I should say that it has come to an end basically, Robert, because the policy has been changed. So we're actually talking about an old policy. I mean, it's now an academic debate.

On the issue of taxes, the data does show that immigrants pay more in taxes than they receive benefits because you can't just look at the welfare portion, and especially now. If they're not going to be eligible for welfare, it's hard to see how they're going to be not paying more.

CHAIRPERSON BERRY: I'm sure this will be a continuing policy debate.

Let me just say that I am most curious about the relationship between policy and academic research because very often there seems to be no relationship. And I'm wondering what the nation is going to do when we find out that many of the arguments that were made to do what we want to do, which is to

reform welfare, but all the great benefits that were supposed to come from it, when we find out that some of the relationships that were explained to us did not exist in the first place. And therefore, we're going to find that out.

To cite just one example, I had a group of students go to check all the footnotes and all the data cited in the Congressional testimony on the welfare reform in order to justify the bill. And in most cases, they found that the research that was cited did not say what the people who gave the testimony said it said.

My students were appalled. They're just naive. They were undergraduate seniors. They didn't know the policy process. And many of the studies routinely had a caveat at the beginning or the end saying my conclusions are theoretical only and it should not be used for policy purposes. And no one of the people who gave the testimony told the Congress that that was listed in the study and that it should not have been taken, and they were given this information as a pronouncement of fact that was in fact based on some scholarly research.

And in fact, the only scholar my students found who testified -- he was a scholar who testified, and he was very careful in his testimony in citing studies and saying what they said and so on. He was routinely ignored by the questioners and by everybody else when he finished. And he went away with his head down and couldn't figure out whether he was in the wrong place or not.

The only importance of this is that the history of policy is that when the American people turn out to find that things that they've been promised don't come to pass, you get even more distrust of the system. And I think there were many arguments for welfare reform, but some of these arguments about marriage and family and how everything is going to be fine and dandy if we could just rid of welfare, are not likely to come to pass, at least based on what these researchers say they didn't say.

And so, I will just leave it at that without getting into this argument. I have a lot to say about cities and dislocation and what happens to people in jobs, but that's much debated, too.

But since there are other panelists, we appreciate your coming and you came voluntarily and you were so helpful to us. Thank you very much for coming.

Could the other panelists come forward quickly because I know some of you have real time problems.

Thank you so much for coming to be with us.

While everybody is sitting down, let's get to it because I understand you, Mr. Weill, and Ms. Aviv have problems. Let's get you here. And you need that little flat microphone in addition to the other one.

Mr. Weill is the General Counsel of the Children's Defense Fund, which is, of course, a public education and advocacy organization for children. Its President is Marian Wright Edelman. And he's been at CDF since 1982 and has been a great contributor there.

I want to apologize for the delay and could you please proceed.

MR. WEILL: Certainly. Thank you, Madam Chairman. We appreciate the opportunity to testify here this morning.

Before I talk about the issues that I came to talk about, I'd like to talk briefly for one minute about some things that were said on the prior panel.

First of all, I think some of the questions you had mentioned the Urban Institute as attempting to answer some of those over the next couple of years. I wanted to respond to a couple of points Mr. Rector made. I think if your students looked at the studies that Mr. Rector was citing, at the risk of increasing their cynicism, they'd find that the data don't support some of the broad generalizations he was making.

But the other point I want to make is that the flip side of the abstractions and the numbers thrown around as Mr. Rector does is human suffering. The child who as a result of this bill won't have enough to eat; the immigrant senior in a nursing home who will lose Medicaid coverage and be faced with being thrown out of the nursing home; and all the other forms of suffering we're going to see from this bill.

We all believe in helping parents work, getting parents to work. We all believe in reducing out-of-wedlock births or, as Mr. Rector calls them, illegitimate births. But this bill is not going to get us there. The evidence is that people don't move from state to state for welfare.

It's certainly true that you can create and we're on the way to creating state systems of welfare that are sufficiently coercive in their work and other requirements that they will reduce the rolls substantially by 50 percent, 70 percent or more, moving some families into work and moving some families simply out of the system. And the question is how you balance what you want out of a system to support families, to feed children, and also get parents into work.

The new law will leave more parents in the workforce but will also increase child poverty. It will increase the

number of children in foster care. It will increase the number of families that are homeless. It will increase the number of people that simply disappear from the system. And those circumstances will all get worse during the next recession.

So I could go on, but the point is that simply saying that caseloads will go down 50 percent or more doesn't answer the question of what's happening to the people in the system, what's happening to the children, how we eliminate poverty in this country, how we get parents the skills they need for better paid jobs and into decent jobs, and how we solve these fundamental social problems this country has. And this bill doesn't do it.

Let me turn to the civil rights aspects of the bill. We agree emphatically with the Commission's September 26th letter to the President that says that implementation of the new law must include close attention to the protection of civil rights. And that's important on a couple of fronts.

One is looking at the civil rights laws that prohibit discrimination in federally assisted programs. As you know and as the Commission has pointed out, particularly in the context of Title VI, enforcement of these laws too often has been very lax. And particularly here in the case of welfare, which involves the poorest and often most voiceless Americans, aggressive enforcement is particularly important.

We also need to ensure the enforcement of the handful, the full remaining protections that appear in the welfare law. The specific provisions, for example, that require fair and equitable treatment of recipients and objective criteria for determining eligibility.

Because the new welfare law itself may restrict the ability of both HHS and the individuals affected to enforce these provisions, it's more than usually essential that the civil rights agencies of HHS, Labor and the other agencies involved in this enforce the civil rights protections. And it's more important than usual that this Commission look at how that enforcement is going and what's happening in these programs.

I want to try and be very brief, but I want to recall that the origin of the Federal role in programs for poor families was in part discriminatory action, and egregiously discriminatory action, by states and localities. Before AFDC, most of the families that were deemed fit by the states to receive aid were white. North Carolina and Florida each had one black family receiving benefits in 1931. Houston, Texas, had none; although blacks were 21 percent of the population. And white ethnic recipients, while they were more likely than blacks to get benefits, got lower benefits often than Anglo-Saxons did.

In one-fourth of the agencies studied at one point, Mexican, Italian and Czechoslovakian families received smaller amounts than Anglo-Saxons.

Now, we all know that this country has changed a lot since the 1920's and 1930's and that indisputable. But we also know that this country has not changed enough. And as the members of this Commission know better than anyone, discrimination, including discrimination at all levels of government and discrimination in the private workforce, remains a terrible scourge.

Discrimination on the basis of race, gender, national origin and disability -- and, I would point out, also age -- will occur throughout the new welfare system unless it's stopped. Indeed, stereotypes and discrimination on the basis of race, national origin, age and disability are imbedded in the very changes Congress wrote into this law. And let me give you two quick examples.

One. The law eliminates a food stamp rule that would have given families with children the same protection that food stamp households with elderly and disabled people have to recognize their real shelter costs in computing how much food stamps they get. Congress eliminated this equality, building into Federal statutes a perpetuation of hunger for children that is not visited on identically situated seniors and others.

Secondly, the Supreme Court decision in 1990 in the *Zebly* case made the SSI program disability standards roughly comparable for children and adults after many years of lack of comparability. The new law rolls this back, limiting SSI only to children who meet certain medical listings of disability. That new law could end help to as many as 300,000 disabled children and will make the program considerably more restrictive to some disabled Americans compared to others on the basis of age. It will make it more restrictive for children.

So in these provisions and many others that are embodied in the law, including, as you are probably most aware, the appalling limitations on the ability of legal aliens to get benefits, legal immigrants, the new law embodies what this Commission said had to stop. What happens to voiceless, powerless Americans when their interests are ignored and when there's awareness of this importance of civil rights is also ignored.

And as a result of that, as you no doubt have heard, the Urban Institute has estimated that one million additional American children will be pushed into poverty and many more who will already be poor who will be pushed deeper into poverty.

Let me talk briefly about a couple of aspects of what will happen at the state level that we need to stop from happening in the implementation of this law.

One. The work provisions of the bill are going to force a disproportionate number of blacks, Hispanics and women -- because AFDC had a disproportionate number of blacks, Hispanics and women as parents -- into a job market that is already riddled with discrimination against them.

The risks are not only that these new entrants will suffer substantial discrimination but that discrimination against African Americans, Hispanics and women who are not on welfare but are already in the work force will increase. And particularly in those states that apply unrealistic work rules without the supports that parents need to succeed, these dangers will be greatest, and we'll see wages for low wage workers eroding, benefits eroding and generally an increase in discrimination against protected categories of people.

Secondly, although the new law requires, as I said, states to ensure fair and equitable treatment of families, it's unclear the extent to which these provisions will be followed. And states' discretion to let counties run the program, to let lower levels of government run the program, and to turn over much of the program to private entities increases the risk that these provisions will be ignored and creates huge new opportunities for arbitrary and discriminatory practices by the states.

And third, again, I want to call attention to the importance of keeping an eye out for age discrimination, because, as you know, it's probably the least enforced of all the major civil rights laws. And our experience is that it's generally ignored by the enforcement authorities.

One such state has told HHS in its plan for the new welfare program that if a parent fails to follow the work rules on two occasions, they will end cash and food stamp help to the family but it will continue aid to the children as long as they are age 11 or under. The state has not explained to HHS why it thinks 12 year olds and others can avoid hunger and starvation while those aged 11 and under can't. But it's just one of many examples that we're going to see of wholly arbitrary discrimination that states will take based on age, as well as race and gender, in this program.

I want to say more but let me stop there because we're running late.

Thank you, again.

CHAIRPERSON BERRY: Okay. I appreciate that very much.

Ms. Aviv also has a time problem. Ms. Diana Aviv is the Director of the Washington Action Office of the Council of Jewish Federations. And we thank you very much for being willing to come to us today and we're sorry about the delay.

MS. AVIV: Thank you very much for the opportunity to talk to you today.

When I was contacted, I was asked if I would also talk a little bit about my colleagues in the Latino community and what their experiences have been. It's very presumptuous of me to do that, but I will maybe make some remarks that will reflect some issues that I think cut across all population groups.

I come to the subject as part of an organization whose responsibility it is to raise money from the Jewish community. In fact, all of the funds or most of the funds raised from the Jewish community are raised through our federation system and support all of the health and human services, cradle to grave services, that we provide in the United States and some funds to support programs in countries around the world, including Israel.

But the bulk of the funds that are raised by our community are to support programs here. Many of those programs are partnered by public dollars in order to make sure that the nursing homes, hospitals and social services can provide the scope of services that are necessary.

One of the most important programs that we have provided through the decades has been assistance to immigrants and refugees. Indeed, in the last number of years, maybe 10 or 15 years, but particularly the last five or six years, we have resettled or been responsible for the resettlement of some 40,000 refugees coming to the United States each year.

And one point I did want to make about refugees, since I know that they have been talked about briefly during the course of this morning, is that this fiscal year, there are 90,000 refugees who will be admitted to the United States -- or this past fiscal year -- 78,000 this fiscal year coming; and before that, it hovered for a number of years at about 120,000.

So of the totality of about a million legal newcomers coming to the United States each year, refugees constitute a relatively small percentage.

We have a lot of experience with that population group. And one of the points that I would like to make about immigrants and tracking them is that what makes legal immigrants more difficult to track than refugees -- and I know this also from my own personal experience, since my accent is not American-originated -- is that one can come into the United States as a legal immigrant and continue in one's life, in all aspects of

one's life, and never have contact with any institutional facilities.

And, therefore, the tracking of what happens to legal immigrants is different than what happens to refugees and asylees by virtue of the fact that the United States has a whole range of commitments to those groups of people and services. And so we can track who they are, what happens to them, and the outcome.

Having said that, I want to confine my remarks to what I think would be relevant to talking to you today and start by saying that one of the biggest problems that I see for legal immigrants and refugees as it relates to this welfare law is that it does, in a substantial way, differentiate between different categories of newcomers, legal newcomers. All of my comments will refer to legal immigrants and refugees.

We know that if refugees are here in the first five years, they will be entitled to be treated the same as U.S. citizens with respect to access to services such that they need. And then after five years, they will be barred from SSI and food stamps. Which means that any social service agency engaged in providing services to any group of people who are legally authorized to be here will, each and every year, have to assess whether they're in year one or year two or year six, and, accordingly, will have to adjust the services and so on. The same is true for certain categories of legal immigrants. Legal immigrants, for example, who are veterans or who are the spouses or minor children of veterans or active duty service people are exempt. And so that assessment will have to be made.

We know that legal immigrants who have worked for 40 quarters and paid into the Social Security system will be exempt and their spouses and minor children, but only under some conditions and not others. Which means that the body of knowledge that each and every social service agency and providers of service will need to know in order to qualify to be able to provide a range of services to this group of people will be a substantial burden.

Now, even though those social service agencies are not required to do the verification and it's not yet clear exactly how that verification is going to happen in order to provide these services -- this is something we're discussing with the Department of Health and Human Services and others -- at the same time, these agencies, and since we are the wards, we are responsible, for many of those services provided -- still may not be permitted to provide. Or, on the other hand, they may be permitted to provide.

And I think it was a comment that, Commissioner

Horner, I heard you say earlier. Or I think it was you. Perhaps it was someone else -- Commissioner George -- who said that one of the problems here is that agencies don't know what they can provide and what they can't provide. And many times then the arc that they draw in order to ensure that they're not violating the law is much larger than what it necessarily needs to be and so people then will not be receiving services that they will be entitled to.

This would be a matter not of ill intent. I don't think that the intention would be to hurt the people provided services, but a matter of lack of education. And so one of our concerns -- I think I can say with great certainty that we all feel this way -- is that it's extremely important to provide education as to what is permitted and also what is not permitted so as not to discriminate.

The second point I want to make is that this is a class of people, notwithstanding the comments that Mr. Rector made, that for the majority -- and we have substantial experience working with many of these in this population group -- are unfamiliar with the United States laws, unfamiliar with U.S. government practices and are fearful of them, and simply don't know what they're allowed to do and not allowed to do. And that our efforts to reach to them, even through ethnic newspapers and our religious newspapers, don't even begin to scratch the surface of getting folks knowledgeable about what they're entitled to do.

So, for example, even though there is no bar on Medicaid, since many legal immigrants receive eligibility for Medicaid through eligibility for SSI -- it becomes automatic -- they would then have to go in and be requalified. When they get the notice that they no longer, or they simply no longer, receive SSI, they may not know that they must go in and make application for Medicaid and that they have to then be requalified in states in different ways.

Some of our groups will spend as much time and resources as we can educating communities, but it's a very difficult prospect since legal immigrants don't have to be connected with our social service agencies, as I said in the beginning. And so it makes it difficult to know where to find folks other than advertising blind. And then, one faces the question of raising expectations of providing services to people that our human service dollars, as substantial as they are, will be no way able to meet.

And I don't believe that there have been massive funds allocated for education of what the scope of services are that are provided.

Our experience is that legal immigrants don't necessarily take advantage of what they're entitled to access, simply because their knowledge base of what the scope of the law is is much more limited and they're fearful.

I would say here that in terms of the particular concerns that we have as a community, and I think this is true also for the Latino community and for other communities as well, our biggest concern is the question of what is going to happen to elderly and disabled legal immigrants. These are people many of whom have been in the United States for 40 and 50 years. We have people -- and I will share anecdotally -- in the Jewish community who came here after World War II, refugees from the concentration camps, who simply never naturalized.

And we may engage in a long discussion as to why those folks didn't naturalize. There are many important reasons. But one of them was that if people weren't involved in political life, there weren't substantially material differences between their ability to participate in society as legal immigrants versus citizens, and it enabled them to maintain contact with their countries of origin and family members and so on, and avoid any kind of limits in being able to return to countries of origin.

There were many reasons why they didn't naturalize. Some of these people are now age 85 or over, well octogenarians, who are in nursing homes and are not in the position to be able to naturalize. They can't remember what they had for breakfast, let alone the names of the first 10 Presidents of the United States. I suspect that many people will not pass that civic exam, but certainly not people who are octogenarians -- and younger, I might say -- but I'll safely say octogenarians. Although when I get there, I'm sure I'll change my mind.

And our concern is that for those folks who have been here for a long period of time -- where it is inaccurate to say that they came here in order to go on benefits -- this law has applied a sledgehammer approach and that it's those people as well who will be barred from SSI. And if they're not in nursing homes, they may be in assisted-living facilities or living in the community independently because of the help of Medicaid, SSI, food stamps and a small pension and will now not get food stamps and SSI and simply won't be able to survive.

And so say that these people *should* naturalize -- and indeed, we are engaging in vigorous naturalization efforts, with the help of George Soros and others, to make sure that happens, and state funds and our own dollars as well -- the fact is that many of these people won't and they will fall between the cracks.

And this is our greatest area of concern.

I'll limit my comments to that at this point.

CHAIRPERSON BERRY: Okay. Thank you.

If you have to go, Mr. Weill, we're going to excuse you.

MR. WEILL: I apologize. I do.

CHAIRPERSON BERRY: And we understand that. We're going to go on to Ms. Narasaki.

Karen Narasaki is the Executive Director of the National Asian Pacific American Legal Consortium. Before that, she was the Washington representative of the Japanese American Citizens League, and she's well known to everybody in the field of civil rights for her contributions.

Before she became a major civil rights lawyer, she was in the corporate world, where I'm sure she got more money and everything else. And she is a Yale and a UCLA School of Law person.

MS. Narasaki, thank you very much for coming, and please proceed.

MS. NARASAKI: Thank you, Chair.

I am very honored to be invited to brief you today and I want to commend the Commission for bringing up this issue because I know it's not necessarily squarely within the jurisdiction. However, I think it's more within your jurisdiction than you might think.

According to the Congressional Budget Office, \$23.7 billion of the \$54 billion that's being cut out of welfare is coming out of the cuts on immigration. And that number will double if the states exercise their options to further cut assistance with TANF and also with Medicaid. So, since right now immigrants are only about 5 percent of the welfare population, you can see the enormous impact this bill has, much more than on any other population.

And just to underscore that, the Urban Institute estimated that it will push 1.2 million legal immigrants into poverty. Half of those are kids. And many of these families, as was pointed out in earlier panels, are mixed families. At least over half of the immigrant families have citizen kids. Two-thirds of them have citizens in the household.

So if you talk about cutting food stamps because of one person in the household, you're actually affecting the entire family. So those who think that they're just targeting those pesky immigrants are going to be sadly mistaken.

Also, as you know, the new law bars people from receiving SSI for the blind, elderly and disabled, even those who

are currently here and receiving those benefits. There's no grandfather clause. These are people who, by definition, are not going to be, say, your first pick in the workforce. And so the rationale behind welfare reform, which was originally to try to push people who can work into work, doesn't hold.

There was a lot of talk here about people sort of cheating the system and families not taking care of the people that they're bringing in, but almost 45 percent of the immigrants who are here never had sponsors because they came in either as refugees or asylees or they came in as employment based, but they were not sponsored immigrants.

So even if you're saying your goal was to force sponsors to take up their responsibility, as Diana pointed out, this bill goes far beyond that.

The refugee population, who are brought here under very different circumstances from most other immigrants, because they're fleeing persecution they often aren't able to bring assets with them. They often have to leave whatever they have behind, which means they have to start over in this country. For Asian immigrants, they also have the barrier of language difficulties. And for some of the communities, like the Hmong community, they're illiterate in their own language. So with the barriers, for them to be able to become self-sufficient within five years is really pretty unrealistic.

And I just want to tell you some of the stories, for example, that I've come across as I've traveled around and tried to explain to my community what's happening.

There is one man who is in Northern California who came here about six years ago. He was in a re-education camp in Vietnam, where he was tortured to the extent that he only has partial hearing in one ear and only partial sight in one eye. His wife tries to take care of him during the day, and at night she delivers newspapers to try to make money to keep the family going.

Because of the generosity and our traditions towards refugees, he came in with the government knowing that he was disabled. Yet they're telling him that you are not going to be eligible any more. He has no children. He has no one to take care of him. And unlike what many Congressmen said to me, he doesn't have the option of going back to his country unless he wants to be killed.

So a lot of the premises behind the cuts of benefits to immigrants are just simply based on false premises. Like many things, they are partially true and partially false. But the people will be people with real lives who are paying for the

misassumptions.

Diana said a lot of the people just say, well, these people can just become citizens, and as she pointed out, that's not as easy as people think. And for the Asian community, it's particularly ironic, because it wasn't until 1952 that Japanese immigrants were allowed to become citizens, just solely because of their race. Chinese, Japanese and other people from Asian countries were barred from becoming naturalized citizens. The Chinese got the right in the 1940's when China became an ally and the Japanese finally got the right in '52.

Also, one of the reasons why you see so much family reunification going on with Asians -- Asians are 40 percent of the immigrant streams right now -- is because of the historic bar on immigration from Asia. As you know, there were many years, because of the Chinese Exclusion Act, which was expanded to cover other Asian countries, when families were separated, when there were bachelor communities who were stranded, who had spouses back in China and other places who simply couldn't bring them in.

By the time they were allowed to come in, they were too old to work. And so you see, that is one of the reasons that you see the slightly higher rate of usage among foreign born.

And one of the things I want to add, another irony was -- actually one of the reasons why you saw the rise in usage among particularly Asian immigrants, elderly, is because in the late '80s the Department of HHS saw that there was underutilization by the Latino and Asian communities of SSI. They felt there were many more qualified than the number who were receiving it, and for the reasons Diana said, because people don't know what's available to them. They actually mounted an education campaign to tell the community that they had this option because it is legally available to them.

So, for all of those reasons, it's just particularly strange to us that now we're under attack for in fact using the services and benefits that were legally available that we were told that we could have.

Now, the Asian community, among many of the other immigrant communities, fully supported making sponsors more responsible -- making the affidavits of support enforceable to ensure that the promises to the extent that the sponsors could continue to keep the promises were kept. That has happened. And we submit that that could have been done, rather than to kick everybody off of SSI and food stamps who don't have sponsors who can take care of them. That could have been done in a different way to take care of that problem. And, unfortunately, Congress went a different route.

One of the things that I want to add since I notice that I was supposed to talk about civil rights -- I thought we were talking about immigrant civil rights. I didn't realize it was --

CHAIRPERSON BERRY: Talk about whatever you want.

MS. NARASAKI: -- broader. But I feel as a representative for the Leadership Conference of Civil Rights, I should sort of echo some of the comments that Jim made. And that is, there is a lot of concern about civil rights in the implementation of this welfare bill: workfare implementation; we have Title VII concerns; discriminatory placement; violations of the Americans with Disabilities Act. We're already hearing from New York, for example, that women are being tracked to clerical; that white males are getting preference; that African-Americans are getting the lesser desirable jobs. Clearly, that is a problem that's going to require a lot of monitoring.

Also, we're concerned about the enforcement of Title VI. As you know, these monies that are going to states have very few strings attached to them, and so the concern is to make sure that the states in fact are living up to their obligations under Title VI.

HHS has not been able to tell us yet how they plan to make that happen, and I think it's something very important for the Commission to monitor and ask questions about.

Finally, there's some just basic constitutional issues. The interesting thing about the welfare bill is that HHS, in its looking at plans, has no ability to stop a plan. And so they've actually sent out letters saying we note that in paragraph so-and-so this proposal seems to raise constitutional issues. Bye. Because they can't say we can't let you implement this until you sort out the constitutional issues involved. And we're very concerned about those kinds of things.

Finally, as Diana pointed out, the discrimination that we think will happen as people in their minds simplify the very complex rules -- it will be, well, immigrants can't get anything and who are the immigrants? Obviously, a lot of people will assume it's someone with an accent or someone who looks like me or someone who looks Latino. And that has already been shown to be the case when IRCA was enforced in several GAO studies. So it's not something that we are just making up in our heads.

We have already heard, for example, when there was confusion about accepting SSI applications after August when the bill passed, that some agencies when they got an application from a Latino would simply just throw it away, assuming that it wasn't worth spending any time on because that person couldn't possibly

be qualified. So you have those problems.

Also, all the states are now going to be required to put into place verification systems using computers and some kind of phone system to try to sort out who's qualified for what. Well, as we've seen again with IRCA, one of the biggest problems with those systems is government data and the inaccuracy that is inherent in any data system, even credit systems. And the biggest problem with a lot of that data is names.

I don't know if you saw the Post a couple of weeks ago. It talked about this guy who had the same exact name as somebody who had died. And the dead person's credit record showed up on his. And he's been trying for a year to get it off his record.

I have a hairdresser from Hong Kong who told me that he had been trying for a year to get the Social Security Administration to fix his name because, as often happens, they get the names switched around for Asian names. He'd been trying for a year. Couldn't get them to do it. He finally changed his name. That was easier.

And so, --

COMMISSIONER HORNER: Oh, that's horrible.

MS. NARASAKI: -- if you look at Asian names or a lot of other ethnic names with lots of syllables, with not a lot of vowels, that are difficult for a lot of Americans to spell -- I myself have received mail addressed to more variations of my name that I can even count -- you can see some of the problems that will be inherent that will particularly impact on ethnic Americans who don't have easy names like Smith. Although I would submit to you that there are enough James Smiths and Bob Smiths in the world that I think that they will come up against this problem as well.

COMMISSIONER HORNER: I hope your friend has kept evidence of his original name, since that may pop up 15 years from now and then he won't have that name any more.

MS. NARASAKI: I know. It's quite -- well, I think immigrants are very innovative in trying to figure out and deal with the strains of the government.

And so those are a lot of the concerns we have. I mean, government is government and people are people and mistakes are going to be made. And unfortunately, the impact of that will be felt primarily, we believe, on the Asian, Latino and other ethnic communities.

Finally, I want to note one concern that I have, and that is we have been hearing a lot of the volunteer agencies, like soup kitchens and shelters, saying, well, gee, if the government isn't going to help legal immigrants and we're going

to be inundated with this new bigger population of welfare people who, once they lose their benefits, their last resort is going to be to us, then we are going to stop serving legal immigrants as well. So it's not simply the case that the public community will take over.

And again, I would submit to you, now that you have civilians out in the world who aren't necessarily immigrant experts who are going to be trying to sort people through, as people come through the line: And who are they going to kick out and not serve? I think the answer is pretty clear.

Now, finally, obviously a lot of us are concerned about the finances and budget and those are real questions. But the United States has always had a very strong tradition of caring about their fellow people, about human rights. And some of these restrictions on immigrants I think really rise to the level of becoming a violation of human rights. If you are saying to someone you will get nothing, whether you have someone to take care of you or not, and you may or may not be able to leave this country, what exactly is that person going to do?

We believe that many of the provisions in the immigrant welfare provisions in the bill are in fact unconstitutional. The bar on SSI, we don't believe even meets the rational basis test. Certainly there is a Supreme Court case saying states don't have the right to violate the 14th Amendment and discriminate against people on the basis of alienage. And we believe that will be upheld in this situation.

But there are many other instances where there are going to be problems that we have not even yet thought of. And we urge the Commission to continue to monitor the situation and to call on Congress and the Administration to do the right thing and to correct the excesses of this bill.

Thank you.

CHAIRPERSON BERRY: Okay. Thank you very much, Ms. Narasaki. I forgot to mention that you're a Chairperson of the Compliance Enforcement Committee of the Leadership Conference on Civil Rights and that you are here representing also the Leadership Conference.

Our last presenter is a Penn graduate. You wonder why I say that. It's because I went to Penn -- I mean, I teach at Penn.

COMMISSIONER HORNER: And I went to Penn.

CHAIRPERSON BERRY: So I have to say that. Not that it makes any difference but --

MS. HONG: It's a alumni party.

COMMISSIONER HORNER: Should we have a rendition of

"Drink a Highball at Nightfall"?

(Laughter.)

CHAIRPERSON BERRY: That would be great.

On this very serious subject, Ms. Chung-Wha Hong. She is now the National Korean American Service and Education Consortium Executive Director.

And we want to thank you very much for your patience and we very much appreciate your being willing to come to talk to us today.

Please proceed.

MS. HONG: Thank you.

I thank members of the Commission for giving me the chance to address you on this important issue.

I'm very impressed that my name is spelled completely correctly, so with that --

(Laughter.)

My presentation is kind of informal. I'm going to give you like the nine big reasons why welfare reform is anti-civil rights. And for the points that other speakers have covered, I'll just pass on and not elaborate. I know it's been a long day for all of you. My organization, the National Korean American Service and Education Consortium, is working to educate the Korean American community, and we have programs in social service, culture and advocacy to organize and empower Korean Americans to get more involved and fully participate in the political and social process.

First big reason is equal protection. People talked about the whole block grant concept. And what would happen to immigrants is that states would have vast new powers as to whether to allocate funds for Medicaid or TANF for immigrants or not. So that, in effect, the new state option will lead to profound inequities among legal permanent residents who happen to live in different regions across the Nation. In addition, there is the Supreme Court decision in 1971, *Graham v. Richardson*, that ruled that state-funded welfare benefits could not be denied to certain categories of immigrants. So welfare reform is in contradiction to that ruling.

There's also a state supreme court ruling, the Michigan State Supreme Court ruling, from 1987. *Alsori v. Department of Social Service* said that the state of Michigan could not impose deeming requirements on legal immigrants because it would infringe upon a suspect classification, which is that of lawful alienage.

So we're talking about equal protection of immigrants, different categories of immigrants. And Congress taking certain

categories and saying that they're qualified and certain other lawful categories and saying they're not qualified.

The second big reason is the obligation versus rights of legal permanent residents. There is not statutory enumeration about what legal immigrants are entitled to in terms of benefits and that's why we ended up with this kind of welfare reform. But, traditionally, certain obligations have come with certain rights; namely, permanent residents are required to pay local, state and Federal taxes, and also serve in the military, which are the main obligations of a citizen also.

And accompanying those responsibilities are the right to have access to public benefits. And this is after a certain amount of deeming and other requirements.

So the recently enacted welfare reform bill will fundamentally redefine the obligations and rights of legal permanent residents in the United States, and I think it's just heading in a very dangerous direction for immigrants and permanent residents for the future.

The third big reason is that welfare reform law hurts U.S. citizens. And the statistic was brought up about U.S. citizen children, but if you look at mixed family households that contain a native born citizen, it's even higher. Sixty-seven percent of immigrant families contain a native-born citizen and 52 percent contain a native-born child. These figures indicate that the welfare reform bill will unduly punish U.S. citizen children whose own family members will be denied benefits.

The fourth big reason is that there will be so many spill-over effects of this welfare reform bill because it's so complex. People are going to think that they're enforcing the bill, but, in fact, they will be doing something else. There's a lot of vigilante efforts that are very scary. There is a group called U.S. Citizen Patrol in San Diego Airport checking everyone's ID to see if people are legal or illegal. There are bus drivers, school teachers and drug store cashiers who are asking people for ID's and citizenship papers.

I myself am a naturalized citizen, yet during the recent Federal elections poll workers questioned me about my immigration status several times. They didn't do that to anybody else who was at the poll site. But I know that that's nothing compared to having SSI or basic subsistence assistance pulled out from under one.

The fifth big reason is economic survival, obviously. The most recent figure that we have for legal immigrants receiving SSI is over 817,000 people for 1996. And the Congressional Budget Office estimates that over 500,000 will have

their benefits terminated.

The effects of this on the Korean American community are embodied in the tragic case of Mr. Choy, who is 87 years old. He immigrated to the United States with high hopes of being reunified with his children. He sold his land -- he was a farmer -- and brought \$50,000, which he lent to his daughter to start a small business. And they worked hard at it, 12-15 hours a day. But after several years, it failed and so he was left with no money. And he's been attending ESL classes to try to become a citizen for almost a year, but he's just too old, since he's almost 90, to be able to learn English. And it's a similar case to one that Diana Aviv mentioned.

There is absolutely no alternative. One of the characteristics about the welfare reform bill is that it leaves two categories of people with absolutely nothing.

And even if they do qualify for general assistance programs on the state level, it's unclear what will happen in each state. And also, the benefit levels are much lower and it's not enough to cover even the rent in most cases. Forget the utility bills, food costs and other necessities.

The sixth big reason is the question of states rights. That's the one that Mayor Guiliani is suing the Federal Government for. But the ironic thing is that the welfare reform gives unprecedented power to the states to do whatever they want. But for immigrants, it really restricts and requires that states enact new laws if they want to give benefits to certain immigrants designated by the Federal Government as "unqualified." Everything before is nullified, and they must take affirmative action and pass a law in the state legislature in order to give benefits to certain legal immigrants.

Seventh big reason is the rights of disabled permanent residents. Disabled immigrants face a big problem. There are existing exemptions for citizenship test requirements in English and civics. But the exemptions are so narrow and so rigid that only very few people will be able to meet those requirements. As a result, many, many disabled legal immigrants will not be qualified.

One compelling example is one where Congress exempts certain disabled people from those tests, but excludes them from becoming citizens because they are judged to be incapable of taking a meaningful oath. And so the very people who are exempted from the first requirements cannot become citizens because they don't have the capacity to take a "meaningful" oath.

And so we have this woman who is a client who has been suffering from domestic violence from her husband, who is a drug

addict, for over 10 years. As a result, she has developed very severe psychological and physical disorder. So she's exempted from the testing requirements but she's so severely damaged psychologically that she is designated as incapable of taking a meaningful oath.

She is currently living at a halfway house where her assistance was funded by SSI. But now with the new law, she is left out, kind of caught in a catch-22 situation.

So basically what we have is that legal immigrants can't get benefits and then there's talk of higher barriers and difficulties in becoming citizens. And so there's a lot of people caught in the middle with nowhere to go. So that's where we are, which really needs to be addressed and remedied before next Summer.

My next big reason is the reporting and verification requirement. I think enough has been said about that. But I have this example of a Korean American woman who was severely burned. She herself is a legal immigrant, but after Proposition 187 was passed, she thought her family might be deported if she went to a hospital, that they'd ask her information about her family and that her family would be deported. As a result, she didn't go and she died. This was an 87-year-old woman who did not know that Proposition 187 was under court injunction and that it wasn't law. And besides, she would have been eligible for those benefits.

But all this talk about reporting requirements is going to lead to those kinds of incidents.

The last big reason is naturalization. This may not sound like a civil rights issue but it's quickly becoming a civil rights issue because people are talking about raising the barriers to naturalization. It's an issue that has become highly politicized also in the presidential campaigns as well as some alleging that criminals are becoming citizens and there is no control-led system of naturalization.

Because legal permanent residents are not guaranteed equal protection of benefits, naturalization has emerged as a really important issue. I add that the recent attacks on naturalization is reminiscent of the times when -- as Karen Narasaki mentioned -- Asian Americans could not become citizens. And based on their ineligibility to become citizens, they couldn't own land and testify in court and were prohibited from other rights.

They didn't say Asians can't own land but they said those who are not eligible for citizenship can't do such and such. That was in the 1880's, but that's what we see happening

right now.

So naturalization is something that needs to be looked at with a civil rights lens.

So I want to conclude by saying that these problems are obviously not easy to remedy. Yet the welfare reform that has been passed has actually emboldened anti-immigrant advocates. And so they are further fueling public sentiment to increase hostility toward immigrants, and that's going to have spill-over effects in increasing discrimination, anti-Asian violence, and other areas.

And so it is very essential that we reframe the immigration debate and make it a civil rights debate and apply strict civil rights standards in terms of treatment of immigrants.

And in my testimony, I have a list of recommendations, which I won't read. It's submitted in a written format.

CHAIRPERSON BERRY: Will you leave that for the record?

MS. HONG: Yes. I hope that my comments are helpful in the Commission taking on a bigger role both with other government agencies and with the public and the non-profit sector in promoting civil rights for immigrants.

Thank you.

CHAIRPERSON BERRY: Thank you very much.

And I hope you all have a little more time because I need to ask some questions, and maybe others do. I don't know.

Does any Commissioner have any question before I ask?

COMMISSIONER HORNER: I have just one. I could have a lot but in the interest of time.

Ms. Narasaki, you used a figure that startled me and I think I may have misheard you. Did you say that 45 percent of legal immigrants are not sponsored because they are either refugees or have been admitted under skill shortage occupations?

MS. NARASAKI: I said 45 percent of the immigrants in this country were not sponsored.

COMMISSIONER HORNER: Because they've been admitted either as refugees or skill shortage?

MS. NARASAKI: I mean, there are different reasons for it, but the main reasons are because they came in as employment-based or they came in as refugees or asylees or there's some family unity people.

COMMISSIONER HORNER: It startles me because Ms. Aviv said there were only 90,000 this year and historically only about 125,000 a year -- which I know from my personal experience at HHS -- were admitted under refugee status. Does that add up?

MS. NARASAKI: Well, I think part of it is also --

again, you have the employment-based and then you have a lot of the legalization program where those people didn't come in sponsored.

COMMISSIONER HORNER: Oh, the illegals who under IRCA became legalized?

MS. NARASAKI: Yes.

COMMISSIONER HORNER: Oh, I see.

MS. NARASAKI: Right. In fact, a lot of those numbers are what makes it look like --

COMMISSIONER HORNER: Okay. That must be a big part of it.

MS. NARASAKI: Yes. A lot of those numbers are what makes it look like legal immigration is ballooning when in fact a lot of it is just those people who under the law now have the right to legalize and are now bringing in their spouses and other family members.

COMMISSIONER HORNER: Just one other quick question.

You indicated that you thought that the legislative denial of benefits previously permissible may rise to the level of a violation of human rights. Are you suggesting that if a state does not grant benefits of some sort to some immigrants that previously were granted, that if the immigrant were back in his or her country of origin and that country of origin did not provide those benefits simply because they had never decided to provide them, that that would constitute a violation of human rights?

For instance, in Korea or Japan or China?

MS. NARASAKI: I'm not referring actually to the states' responsibility. Actually, I'm referring to the Federal Government's responsibility. And my feeling is there are different conventions, some of which the U.S. hasn't signed, that have to do with the treatment of migrants. In Beijing, in fact, in the UN convention, there were some provisions talking about migrant women and girls and that treatment that they should receive.

And my point is that if you get to the point where you are letting someone who cannot go back to where they came from lay in the United States starving --

COMMISSIONER HORNER: You mean a refugee now, not an immigrant?

MS. NARASAKI: No. I'm talking about -- there are a lot of immigrants -- you know, there's a lot of mixing. To me, these statuses are very difficult because there's a lot of mixing. Because in the Southeast Asian community, first you had the wave of refugees; then they brought their family members over. Some

of those family members suffered and could not go back to Vietnam or Laos or Cambodia for I think reasons that are apparent to this Commission. But they came in as family people.

I'm just saying the status, their ability to return to their country for whatever reason, isn't there. And so, what do you do with this person? Are we as a nation going to say, well, it's okay? Let me put it another way.

If England was doing this and said we're going to take this class of people and we're just going to let them die in the streets, would the United States be saying, oh, well, that's fine. I mean, I think there would be an international outcry about how these things are happening. That's my point.

COMMISSIONER HORNER: But you are setting up potentially two classes of human rights; those for people who've come to the United States and can't go back from countries that won't let them back and that either do or don't provide such benefits; and then those who simply live here.

MS. NARASAKI: No. I'm actually not. I'm just trying to use that to illustrate the point. I think even if you could go back to your country, if you're here legally and the United States has basically changed the rules -- one of the things we argued for is, look, maybe you should at least grandfather the people who are already here who came in with a certain set of understandings. Their family members made certain judgments to bring them in in the first place. That is a different circumstance from the new people who are coming in who know the rules.

COMMISSIONER HORNER: I think of a human right as a right that is inalienable from all people in all conditions. I think we may be using this term differently.

MS. NARASAKI: No. But what I'm saying -- I agree with you. And what I'm saying is I think there's a human right not to starve, wherever that may be. And I'm saying that if that person -- whether that person be starving in the United States or be sent home to starve in China, it's still the same problem. I think we agree there.

I did want to add, though, on something that Chung-Wha said. And that is, we are very concerned about how these kinds of dialogues, because some of it has been a little bit irresponsible, are playing out in terms of affecting anti-Asian violence. And many of you may be familiar -- we do an annual audit and we did one for '95. And one of the findings we had was that -- and I'll leave this for you.

CHAIRPERSON BERRY: Thank you.

MS. NARASAKI: It had become -- from '94 to '95 -- the

severity of the kinds of incidents, going from name-calling to assaults, had markedly increased, and that a lot of it was driven by anti-immigrant sentiment. So that is an additional concern.

CHAIRPERSON BERRY: I just had two points that I really feel I need to make, or questions I need to ask.

Ms. Aviv, many of the things you described in your testimony, except for the octogenarian in the nursing home example, were things that I think people who are proponents of the measures against legal immigrants would say were simply more burdensome administratively for organizations like yours - such as people who deal with these issues having to do more checking, a lot of things you described -- that these were just more administratively burdensome, that they were not reasons not to have the reform take place. Although clearly, the example you gave of the woman who can't become a citizen because she doesn't know how to do this, she's 80-something, well then I think most people would say that if that happens because of this reform, they didn't intend to have this happen to some woman -- I would hope that that's what people would say. There must be some solution for this woman who's in her '80s, because I don't think most Americans are that cold-blooded and heartless that they would say, you know, the hell with the woman who's in her '80s. Let her go starve.

Yes, Ms. Aviv?

MS. AVIV: Just in short informal remarks or not formal record, there are so many things one doesn't say and just illustrates it maybe with some vivid examples to make a point. The fact of the matter is that we're not just talking about administrative issues.

Let me illustrate with an example. And I know it's been corrected because we screamed a lot about it, and so maybe it would have been corrected without screaming. But immediately after the enactment of the law, immediately, when refugees who ought to be treated for the first five years of coming to the United States exactly the same as United States citizens -- they are affected after the first five years in the United States -- when a number of refugees in about eight different states that I know of since it was reported to me, and I have that information, went to the SSI office to qualify for SSI, their applications were put on hold and there were told that they are not eligible at this point in time.

Now, in some cases they were told that they couldn't even apply, and in other cases they were told that their applications were put on hold.

Now, since then we have met with the Social Security

Administration and some of those problems have been corrected. And since the budget agreement between the Congress and the Administration agreed that notices would only go out beginning next February, all those people have been put back.

Let me illustrate with a different example. I serve as a member of the Board of the Emergency Food and Shelter Program. I'm a member with colleagues from the Salvation Army, Catholic Charities, Red Cross and so forth, the seven national institutions that are members of this Board.

I mentioned to Karen, who mentioned it here, but let me be specific. Sitting at an Emergency Food and Shelter Program Board meeting last month the question came up from a local food and shelter group, private not-for-profit group in Texas, that had decided that they would no longer provide any kind of emergency meals to immigrants, legal or otherwise. And the question was what was our position, did we have any legal authority.

And I made the point at the time that I hope we have legal authority but I certainly want to talk on the moral authority. This is the last place that people go to get a bowl of soup. And if we are now going to support institutions being allowed to turn away people on the basis of their immigrant status when that is not what the law says but that that's what they're electing to do and we're supporting that, that's a problem.

My concern -- and I can't document it yet because the implementation of SSI and food stamps is only beginning next year, beginning April 1 for food stamps, and the notices for SSI will only begin to go out in February, and then move from there; plus, states' actions are only going to begin January 1 affirmatively to what they do and what they don't do -- so we can't document it yet other than initial reactions. And in the initial reactions, we see agencies not only having burdensome administrative requirements but also simply not serving people and engaging in a variety of practices that may in fact be legal and that they can provide.

And I think this relates to just the last point that I want to underscore. And I say this in a way that may sound unreasonable. I have an accent and I've never found my accent to be an impediment because most people think that my accent is Anglo-Saxon of some kind. If not British, a derivative of that. I know that for other people who have accents, their treatment is different. So that while mine is seen as an asset perhaps at some times, it's not true for other people. And so the services that they're provided if they look or sound foreign in some kind

of a way are different.

And when we have laws that differentiate -- not discriminate but differentiate -- between classes of people, the effect could be discriminatory. And that's the concern that I bring to you that we would want to see monitored so that that doesn't happen.

CHAIRPERSON BERRY: Let me -- so what you're really saying is that what may seem to me to have just been a description of administrative burdens, in fact taken together, all this does discourage people from providing services.

MS. AVIV: And more than that. Just to give you one example where we have a community that is deciding about -- you know, we're facing a serious issue right now of how one plans services for the baby boom generation, because if one doesn't build the services now for 2010 and '20, by the time we get there, it will be too late, and then our children and grandchildren will be saying to us, what the heck were we doing in the 1990's in regard to that. So as a community that's interested in cradle to grave services and demographics and so on, that's one that we're looking at.

We have communities saying now -- our own community -- that maybe we shouldn't have immigrants come in because there is no way that we can provide services for them, that the Jewish community, which funds and creates for our own community and for many others a lot of these services, cannot afford it. So if we simply don't provide them, we don't create them, then it's not our responsibility.

There are people in my communities saying that. I've worked as hard as I can to argue against that because we have a responsibility to do that. And that's for people living in the United States already, not only immigrants who will come in in the future.

CHAIRPERSON BERRY: In the reform debate, there were arguments made that private charities like your organization and Catholic Charities will take up the slack and that all of these sad cases that we hear about will be taken care of by your organizations. Catholic Charities, I noted, responded by saying, as you have, that they have partnerships with Federal programs and the like and that they didn't have the resources and that no one should expect them to take care of this problem.

I guess what you're saying is the same thing. That it's a difficult problem.

MS. AVIV: I can document -- unfortunately, I can document because immediately once the changes happened, not so much in the welfare law but when there were questions about

reductions in projected spending on various programs, the question was what would our position be. And we have many members of our community who supported Republican initiatives, as we do Democratic initiatives -- we're a nonpartisan organization. So I didn't want to scream and shout about things until I was sure that there was evidence that it was important for us to do.

We sent out a questionnaire the beginning of last year to all of our community affiliates and asked them to find out from the social service agencies that they fund, which there are thousands and thousands, many thousands of social services agencies, what percentage of their budgets came from government funding and what percentage came from the private sector. And since most social service agency budgets are funded by three main streams of funding -- one is fees for service, which constitutes about 40 percent of funding, and then the others are government and private -- I was interested whether it was corporate, individual giving or institutional giving like ours to those social service agencies.

We were sure that from our community, since we raised close to a billion dollars a year to support these programs from our own community, that we would find that the match, the public/private match would be much higher in our community than in other communities and would constitute the lion's share of the funding outside of fees for service.

What we found is that on average in the large city communities -- the 20 largest communities we heard from, but we also heard from about 55 major communities -- that 55 percent of the funds came from Federal and state government funding and the rest came from fees for service and charitable giving, that if individuals had to make up the difference in the projected cuts just for 2002 as reflected in the budget agreement or the budget that was sent to President Clinton that he vetoed, that individual donors would have to increase their gifts by 127 percent. In fact, if all government funding was missing, then they would have to increase it by 236 percent.

What we also know from the independent sector is that the average increase in donors, philanthropists -- even with all the tax breaks and so on which we're working to increase for those donors -- that the average increase has been in the last five years at the rate of 1.2 percent.

And so the reason that Catholic Charities and the Jewish communities and the Asian communities and others say that they can't make up the difference is if the average is 1.2 percent and it would require a 127 percent increase -- the facts speak for themselves.

CHAIRPERSON BERRY: Okay. And my last question is -- and boy, I could stay here all day but I guess nobody else can, so let me ask the last question.

It is a great puzzle to me why in the Asian American community in particular this problem has occurred. Because isn't the target the -- insofar as immigration is concerned -- the Latino community or the Hispanic community, and somehow Asians got caught up in the downdraft. Because we know from all of our studies and from the media and so on that the public generally has a view of Asians that they are, quote, the "model minority." I know folks hate to hear that.

And our studies at the Commission have shown that there are a lot of things about the Asian American community -- and that there are many communities in the Asian American community -- that are not model minority status. There's discrimination. There's violence. There are all the things that we find with other communities. But the general overall public perception is that the Asians come, they work hard, they make contributions.

Is it that Asians got caught up in this? Because in the examples you gave me, I mean, I was particularly impressed with the connection you made between the exclusion of Asian Americans from the whole immigration policy, and adding up years, I can see where since '52 or '48 you might have people who are now in their 80's and so on who were caught up in that inability to put families together and who are here now.

How did this happen and where did all this anti-immigrant -- if it is anti-immigrant -- attitudes motivating and guiding all this -- to what do you folks attribute this? And is there anything we can do about it?

MS. NARASAKI: I long for the days when the only thing I complained about was the model minorities stereotype.

(Laughter.)

You know, I think that there is in this country a very just concern about economic dislocation. Obviously the globalization of the economy, the changing nature of jobs, the movement to service sector. For the first time, you have middle managers being laid off and not just the line people. It has created a real and justifiable concern.

The problem is that people are looking for things to blame that don't require any complicated explanation. In the '80s it was Japanese investment and in the '90s it's immigrants.

It's one of the things that I had a hard time explaining to my community, because they'd say, well, if we just explain to them how hard working we are and we've invented these inventions and we've created these companies. But the problem

was that at the same time that people were saying, oh, well, these Asians are dropping off their elderly parents out of their BMW's to the senior center, they were also saying, and by the way, those Asians are taking your jobs.

And so we found when we looked at public research, any time when you talked about how immigrants were doing, people felt threatened by that because they perceived it as a one-for-one. Well, if they're doing well, then what's happening to me.

So my bottom line is I really feel that unfortunately a lot of our public leaders have been less than responsible in trying to deal with the very real concerns that Americans have and trying to basically look for easy answers.

As you know, for Asians in particular, there's always a struggle because somehow we're never seen as legitimately American. I'm fourth generation. And on the cab ride coming back here, the driver asked me where I was from. And I said, well, I'm from Seattle. And he said, well, where are you really from. I mean, I get that all the time.

And so there's this perception. When they see you, no matter what, they think you're foreign.

COMMISSIONER HORNER: I hope that was a foreign cab driver.

MS. NARASAKI: I couldn't tell.

Sixty percent of our community is foreign born and so it's not like it's a wildly misplaced assumption, but there is a lot of that.

You'll see in our report, for example, last year one of radio talk show hosts in LA, Bill Handle, on air said, you know, I'm just really sick of seeing these Kristi Yamaguchi's and Michelle Kwan's. I want a real American to win that championship. I don't want to see those Orientals on our Wheaties boxes. And they're both native born citizens.

So, I think that that is unfortunately the inherent truth about Asian existence here in this country. We're still not accepted as real Americans, as real players.

And so when the immigrant things come up, we immediately get caught up in it.

CHAIRPERSON BERRY: I want to thank you for coming and tell you that our State Advisory Committees will be monitoring in their states the process of this and we as a Commission will be monitoring it. The information you've provided to us will be very, very helpful to us in this regard.

(End of Briefing)

Understanding the Welfare Reform Bill

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This month Congress passed historic welfare reform legislation which President Clinton has promised to sign into law. The legislation reforms the current welfare system in four ways.

1. Eliminating Perverse Financial Incentives for State Government.

The Aid to Families with Dependent Children (AFDC) program is currently funded on an entitlement basis. This means that the more persons a state enrolls in AFDC the greater will be the funds received from the federal government. Conversely, if a governor reduces the number of persons on welfare, federal funding to his state is reduced. Clearly the current "entitlement" funding structure of AFDC creates perverse incentives for state government, penalizing states which reduce dependency and rewarding states for allowing their welfare caseload to grow. The welfare reform legislation will eliminate these perverse incentives; it creates a new funding system in which each state will be given a fixed dollar grant which will be gradually increased from year to year. If a state reduces its AFDC caseload its federal grant will not be cut. Instead, the state will be permitted to keep any surplus federal funds that are generated by caseload reduction and apply those funds to other efforts to aid the poor. On the other hand, if a state permits its AFDC caseload to grow rapidly, the state, not the federal government, will bear the added cost.

2 Slowing the Growth of Welfare Spending.

Contrary to reports in the press, the bill will not cut welfare spending. Instead it merely slows the rate of growth in spending. There are seven major programs affected by the legislation: Aid to Families with Dependent Children; Food Stamps; Supplemental Security (SSI); School lunch and other child nutrition programs; Foster Care; Social Services Block Grant; and the Earned Income Tax Credit (EITC). Under prior law aggregate spending in these programs was scheduled to grow by nearly 50 percent over the next seven years (an annual growth rate of roughly 6 percent). The reform bill will slow the rate of growth to around 35 percent over seven years (an annual growth rate of roughly 4.5 percent). Thus the reform will state permit future aggregate spending in these programs to expand at faster than the rate of inflation.

3. Work Requirements.

Under the reform bill, welfare will no longer be a one way hand out. Specified percentages of the AFDC caseload will be required to take private sector jobs, or if a private sector job cannot be found, will be required to perform community service work in exchange for welfare benefits. When working in a community service job, the welfare recipient must be in a "pay after performance" system: this means the beneficiary will not receive AFDC benefits until after the community service work has been satisfactorily completed. If the individual fails to perform the prescribed number of hours of work, benefits will be reduced pro rata. However, because of numerous loopholes, the actual number of recipients who will be required to work is quite low. For example, by 1999 the typical state will be required to have only 18 percent of the AFDC caseload working.

4 Reducing Illegitimacy

At the present time, one third of all American children are born out of wedlock. The collapse of marriage and the rise of out-of-wedlock births is the cause of growing welfare dependency, as well as crime, and many other racial problems. The welfare reform bill contains three provisions to combat illegitimacy. First, it will focus the attention of state governments on the illegitimacy problem by requiring each state to set numeric goals for reducing illegitimacy over the next ten years. Second, it will provide extra bonus funding to states which reduce illegitimacy without increasing abortion. Third, the bill creates a new program to provide abstinence education.

Conclusion

While there are weaknesses in the reform legislation, particularly the low level of required work, the bill is a significant step in the right direction and does represent the largest in change in the welfare since the early years of the War on Poverty.



Written Statement of Karen K. Narasaki
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U.S. Commission on Civil Rights
Civil Rights, Immigrant Rights and Related Issues in Welfare Reform
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Good afternoon. Thank you for the invitation to brief the Commission on this important issue.

The National Asian Pacific American Legal Consortium and its Affiliates, the Asian Law Caucus, the Asian Pacific American Legal Center and the Asian American Legal Defense and Education Fund, were active in the policy debate over the recently passed welfare and immigration bills. Both have devastating impacts on the Asian Pacific American community, 60% of who are foreign born, and both raise serious civil rights issues. We commend the Commission for holding this briefing.

Background

According to the Congressional Budget Office, \$23.7 billion of the \$54.2 billion cuts to government benefits in the welfare law comes from the elimination of eligibility of legal immigrants for benefits. The cuts in benefits could double if states exercise their options to institute further restrictions. Even without states exercising these options, 44% of the benefit cuts come from the immigrant restrictions even though immigrants are only about 5% of the population receiving these benefits.

According to the Urban Institute, an estimated 1.2 million legal immigrants and their families, many of whom are citizen children, will be pushed below the poverty level by the immigrant welfare cuts. Almost half of the over one million children being pushed into poverty will be because of the harsh immigrant restrictions.

As you have heard, the new welfare law bars noncitizens from receiving Supplemental Security Income (SSI) for the blind, elderly and disabled. The SSI bar has no grandfather provision so that immigrants currently receiving benefits will be summarily cut off by August. An estimated half million blind, elderly or disabled adults and children will be cut off.

The general premise for welfare reform was that people able to work should be encouraged and assisted to find employment so that they will not have to remain dependent on government assistance. By definition, the individuals on SSI are the least likely to be able to find employment sufficient to sustain them.

AFFILIATES
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Asian Pacific American
Legal Center

New York
Asian American Legal
Defense & Education Fund

San Francisco
Asian Law Caucus



One rationale offered for this harsh action was that immigrants have sponsors who promise to make sure they do not become a public charge and those sponsors who are not meeting their commitment should be made to do so. We agree that sponsors should be held responsible, but the new law ignores the facts.

Fully 45% of all legal immigrants *never had sponsors*. They came in as refugees, asylees, or as employment based immigrants. Others have sponsors who have since died. Yet they are being cut off despite the lack of sponsorship. Moreover, about 200,000 immigrants became severely disabled *after their entry into the U.S.* It does not seem consistent with our nation's principles to say that we welcome your hard work and you or your son must register for the draft, but if you become disabled in an accident, or as a result of a hate crime, before you become a citizen or have worked here for 10 years, we will abandon you and your family. Yet that is what the welfare law does.

Much has been made of the economic progress of many Asian Pacific Americans. But the aggregate numbers mask the diversity within the community. Refugees have only an extremely limited exemption from the new welfare restrictions.

The Southeast Asian community, which immigrated largely as refugees, have a extremely high poverty rate. Their per capita income falls below the Hispanic and African American populations. Indeed, the Hmong ethnic group has the highest poverty rate in the U.S. Some refugees come to this country older, and in some cases, disabled from torture or war. We welcome them because of our strong values in assisting those fleeing political and other persecution in their home countries. In the case of Southeast Asian immigrants, we believe the U.S. has a special moral responsibility because of its historic involvement in that region. A responsibility that Congress has chosen to ignore.

It is not enough to say that these immigrants simply have to become citizens in order to enjoy equal rights and human rights. The English and civics requirements are an insurmountable bar to many elderly and disabled immigrants. Children are not able to become citizens on their own. These are the very immigrants most vulnerable to these cuts.

As I have traveled around the country explaining the new law to the Asian Pacific American community, I have heard many tragic stories. One Vietnamese immigrant who was an officer for the South Vietnamese army was imprisoned in a re-education camp where he was tortured so that he is almost blind and has only partial hearing in one ear. He suffers from Post Traumatic Stress Syndrome and his wife takes care of him during the day and than delivers newspapers at night. He is unlikely to be able to pass the citizenship test or be able to find employment.

The law deals even more harshly with undocumented immigrants, driving them further into an underground economy. Whatever one believes is morally required in dealing with any human being, regardless of their immigrant status, the impact of these new policies on citizen children are extreme. If undocumented family members risk deportation if they seek food, shelter or emergency care for other members who are legally here, the results will be predictably tragic. Last year, because of the passage of Proposition 187 in California, an elderly Chinese immigrant woman died from burns because the family hesitated in seeking medical care until it was too late.

Civil Rights and Human Rights Concerns

The immigrant provisions of the new welfare law raise serious equal protection issues. The law eliminates the eligibility of legal permanent residents and other lawfully-present immigrants for Supplemental Security Income for the elderly, blind and disabled and for food stamps. We believe that the alienage discrimination clearly would not pass the strict scrutiny test and is not rationally related to a legitimate state purpose so that it couldn't even pass that level of constitutional scrutiny under *Mathews vs. Diaz*.

The law purports to give states authority to make additional restrictions on Medicaid, Temporary Assistance to Needy Families and state funded programs. This is clearly discrimination based on alienage, which we believe violates the constitutional guarantee of equal protection under the Supreme Court's decision in *Graham v. Richardson*.

We also believe that the Commission should be concerned about the disparate impact of this law on racial and ethnic minorities. Approximately 80% of the immigration to this country over the past two decades have been from Latin American and Asian countries.

Not only is there direct disparate impact, but there is an extremely *high probability that the law will be discriminatorily applied* to Americans of Latin American and Asian descent as some will assume that anyone who is Latino or Asian is an immigrant, and therefore, not eligible. We believe that close monitoring of Title VI compliance is essential as these programs become implemented. The Administration has expressed concern about this issue.

The new law also contains provisions which will have a disparate impact on women. For example, there is an exemption for those who serve in the military and their dependents. However, this exemption is lost to the spouse if the immigrant serving in the military is killed. In addition, the law recognizes families as an economic unit and appropriately allows a spouse to count his or her spouse's work towards the 40 quarters work exemption, but only if they do not divorce. If a husband decides to leave an immigrant spouse who has worked in the home and raised the kids, she will not be eligible for the exemption. A woman suffering abuse would not be able to leave under many circumstances. She will be eligible only if they remain married or if he dies. However, even widows will face problems because they will need to get access to their dead husband's social security information to prove their eligibility, but may be barred by existing privacy laws.

Immigrants are likely to lose benefits for which they are eligible if they don't understand the process. The drastic cuts in legal services at a time when welfare recipients in general and immigrants in particular are facing radical changes in the law will exacerbate the problem.

Finally, these new government sanctioned distinctions give official sanctions to anti-immigrant discrimination, a practice that will also hurt citizens. This discrimination is taking different forms.

Some shelters and soup kitchens have already indicated their intention to discriminate against noncitizens. Since their volunteers and staff are unlikely to be experts in immigration and the new benefits laws, the likely implementation of this policy is to deny anyone with an accent or who looks "foreign" which in America, means Asian or Hispanic.

Other Americans have taken this as evidence that immigrants need not be treated as fellow human beings. After all, if our government says that these individuals are less deserving of basic food and shelter than citizens, than it is not a far stretch. The Consortium and its Affiliates monitor anti-Asian violence and we have seen a rise in hate crimes and a rise in the severity of the violence committed.

We urge the Commission to call on Congress and the Administration to do the right thing and correct the excesses of this bill.

**Statement of Chung-Wha Hong
Executive Director
National Korean American Service and Education Consortium
Before the
U.S. Civil Rights Commission
Civil Rights, Immigrant Rights, and Related Issues Presented by Welfare Reform**

December 6, 1996

Good morning. My name is Chung-Wha Hong and I am the Executive Director of the National Korean American Service & Education Consortium, Inc. (NAKASEC). NAKASEC was founded by five Korean American community organizations located in major cities across the United States. The organization seeks to address the critical needs and concerns of the Korean American community on a national level through programs in education, social service, advocacy and culture. NAKASEC also coordinates the *Immigrant Rights Project*, established to educate and organize the Korean American community around issues related to immigrant rights.

Let me first thank the members of the U.S. Commission on Civil Rights for inviting me to participate in this important panel. While the recently-enacted welfare reform law is controversial for a number of reasons, this morning I will focus on the civil and human rights concerns raised by the bill. Specifically, I am referring to the impact of this bill on America's immigrant communities.

Equal Protection

One of the key provisions in the welfare law is the state option to deny TANF (Temporary Assistance to Needy Families, formerly AFDC), Medicaid and other benefits to legal permanent residents. This provision creates profound inequities among legal permanent residents who happen to live in different regions across the nation. In effect, this provision enables states to discriminate against legal permanent residents, unrestrained, due to the absence of any uniform guidelines regarding the treatment of legal permanent residents. The 1971 U.S. Supreme Court decision in *Graham v. Richardson* ruled that state-funded welfare benefits could not be denied to immigrants under the Fourteenth Amendment (which also prohibits a state from denying equal protection to any person within its jurisdiction). In addition, the Michigan State Supreme Court ruled in 1987 (*El Souri v. Department of Social Services*) that the state of Michigan could not impose deeming requirements on legal permanent residents as it would infringe upon a suspect classification, namely, lawful alienage.

Obligations and Rights of Legal Permanent Residents

Traditionally, the United States has demanded that legal permanent residents fulfill obligations similar to those of U.S. citizens, including the paying of federal, state and local taxes and serving in the military. At the same time, legal permanent residents have been able to access public benefits. The welfare reform law through its deeming until citizenship provision will fundamentally redefine the obligations and rights of legal permanent residents in the U.S.

I would add that such provisions serve as a precedent for future, and possibly more harsh, restrictions imposed on legal permanent residents. And given that these provisions were introduced somewhat arbitrarily, one may assume that future legislations could just as easily pass into law with little or no rationale.

Welfare Reform Law Hurts U.S. Citizens

Immigrant communities have never been defined by their immigration status. A given family may contain U.S. citizens, permanent residents and undocumented immigrants. In fact, 67% of immigrant households contain a native-born citizen and 52% contain a native-born child (Urban Institute Analysis of U.S. Census 1990 Survey of Income and Program Participation, 1996). These figures indicate that the welfare reform bill will unduly punish U.S. citizen children whose own family members will be denied benefits.

Discrimination and Other Spill-Over Effects

The passage of the welfare reform bill has already and will certainly continue to result in severe and possibly fatal consequences for American society. There are also reports of dangerous vigilante efforts such as U.S. Citizens Patrol, a group that searches San Diego airport for illegal immigrants. Even government agency officials and staff have begun to mistakenly inform legal permanent residents that their benefits have been cut off before the implementation dates and without providing them with due appeal process. There are also many documented cases of bus drivers, teachers and even drug store cashiers who demand that those who "look foreign" show their citizenship papers.

These cases of discrimination or harassment have affected Asian Americans and Latinos disproportionately because of their appearance and accents. I myself am a naturalized citizen yet during the recent federal elections, poll workers questioned me about my immigration status several times.

Economic Survival

One of the most immediate and severe impacts of the welfare reform bill will result from the denial of SSI and Food Stamps to current recipients. As of July, 1996, approximately 817,890 legal immigrants were receiving SSI, out of whom the Congressional Budget

Office estimates that over 500,000 will have their benefits terminated. In the case of the Korean American community, approximately 26,000 elderly and disabled Korean Americans are receiving SSI. The majority of them are heavily dependent on SSI for their rent and other basic living expenses.

For example, we are now handling the case of Mr. Choi, now 87 years old. In 1991, Mr. Choi immigrated into the United States with \$50,000. With his daughter and son-in-law, he invested in a small business that eventually went bankrupt. Meanwhile, he unsuccessfully prepared for naturalization by attending ESL classes for over 8 months. Yet because of his old age, Mr. Choi says that he forget everything almost as soon as he learns it. If his SSI is cut off, Mr. Choi will not be able to make his monthly rent payments and his children are not in position to help him economically. These days, he gathers with other seniors in his apartment complex and together they pray for the retention of their benefits. He adds that some of the elderly are even considering suicide. Individuals such as Mr. Choi may qualify for state-funded General Assistance programs but most states offer substantially less benefits.

State Rights

In general, the welfare reform law grants states unprecedented power to administer welfare programs. At the same time, this would require states to enact new laws should they wish to continue providing state and local benefits to certain categories of immigrants excluded in the federal law. We believe that there are serious 10th Amendment constitutional concerns because this provision violates the state's right to control its own legislature. In addition, the Supreme Court ruling in *New York v. United States* states that Congress may not force states to adopt any laws.

In New York, the welfare reform bill's reporting requirements prohibit the city from implementing its Executive Order 124. Executive Order 124 prohibits any New York city employee from reporting undocumented immigrants to the INS unless required by law, authorized by the individual or the individual is suspected of criminal activity. The current local law provides reasonable grounds for when a city officer or employee can report an alleged undocumented immigrant to the INS. The federal law is an unnecessary prohibition of local decisionmaking and could lead to inappropriate reporting to the INS. It could also discourage legal permanent residents from contacting city agencies such as the police for fear that their family members may be deported.

Rights of the Disabled Permanent Residents

Many disabled permanent residents stand to lose SSI benefits next year should they fail to naturalize. However, the initial draft of the proposed regulations regarding disability exemptions for the English and civics exams are too narrow and rigid that many potentially permanent residents will not be included in the exemptions. Citizenship tests are an insurmountable barrier for many disabled immigrants. Of particular concern is the requirement that applicants prove their legal capacity to take an oath of citizenship. As a

result, disabled legal permanent residents who may be deemed exempt from English and civic test will still be denied citizenship for failure to take the oath. In addition, guidelines on which disabilities may be exempt mean that those who are deaf, blind or suffer from moderate physical and mental impairments may not be exempt. To illustrate, I refer to the case of a mentally disabled Korean woman whose residence and care at a halfway house in Chicago is funded by her SSI. Ms. Lee's mental illness is primarily a result of many years of domestic violence at the hands of her drug-addicted boyfriend. A legal permanent resident for more than fifteen years, yet too disabled to naturalize, Ms. Lee is in a catch-22 case. She does not have any family members to rely on nor is she able to work and care for herself independently.

Naturalization

Because legal permanent residents are not guaranteed equal treatment in the area of benefits, the current naturalization process has emerged as an important issue. Anti-immigrant advocates are now calling for greater barriers to naturalization. Such demands are reminiscent of the times when Asian immigrants were excluded from citizenship and, by extension, rendered ineligible to own land, testify in court and other basic rights. The more extreme portions of these proposals includes the denial of citizenship status to U.S.-born children to undocumented parents.

Naturalization is possibly the most important and decisive step for immigrants hoping to fully integrate into American society. Should anti-immigrant advocates have their way, legal permanent residents would not only be denied benefits until naturalization, but also have greater barriers imposed on their ability to naturalize. Should we maintain such stances, the government is, in essence, indicating that legal permanent residents should remain an underclass and will never receive equal treatment.

Reporting

In addition to the concerns raised by others by immigrant rights advocates regarding confidentiality, overriding state and local authorities, and the feasibility of implementing a uniform verification system is the issue raised about meeting the health care needs of all individuals living in the United States. Because the welfare reform law requires hospitals to verify the immigration status of all those unlawfully present, many individuals may not seek medical attention for fear of deportation. To illustrate, I cite the case of an elderly Korean woman who chose not to seek hospital care after the passage of Proposition 187 in California, for fear that her family members would be deported. She died as a result.

Conclusion

The civil rights problems raised above are not easy to remedy. And outside of the law, we have seen that anti-immigrant advocates have become emboldened by the Congressional debate and will continue to fuel public sentiment against immigrants. It is essential that we begin to re-frame the immigrant debate, and apply strict civil rights

Standards when assessing the treatment of immigrants. To this end, the Commission can make great steps to respond to the anti-immigrant and anti-civil rights provisions in the bill.

In closing, I would like to make a few recommendations that address some of the more critical and pressing issues.

1. New legislation should be introduced to restore as much benefits as possible to legal immigrants, particularly to those who face imminent homelessness and hunger due to the termination of SSI and Food Stamp benefits.
2. States should not be given the option to discriminate against legal permanent residents; uniform federal government benefits should remain.
3. Related government agencies should expedite and promote naturalization for all those who are qualified and impose no additional barriers to naturalization.
4. Citizenship testing requirements should be exempted or modified in a way that fully facilitate fair chance at naturalization for all disabled and the aged who are otherwise qualified for citizenship.
5. Strictly monitor possible cases of discrimination as a result of the welfare reform bill.
6. Conduct on-going impact studies on how immigrants in the United States will be and are affected by the welfare reform bill.
7. Continue holding testimonies, panels and roundtables and expand efforts to raise awareness.
8. Communicate the concerns of the U.S. Commission on Civil Rights to federal, state and local governments.

In highlighting some of the civil rights concerns as they relate to the new welfare law and immigrants, I hope to bring a more human and realistic perspective to this debate.

Thank you.