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4 MEETING OF THE ARIZONA ADVISORY COMMITTEE
5 TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS
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11 TRANSCRIPT OF PROCEEDINGS

12 Volume I

13 August 27, 2004

14 Nogales Arizona
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20 The following proceedings commenced at
21 10:00 a.m. on August 27, 2004, at the Holiday Inn
22 Express Hotel, 850 West Shell Road, Nogales,
23 Arizona.

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A P P E A R A N C E S

ARIZONA ADVISORY COMMITTEE

Dr. June Webb-Vignery, Chairperson
Tucson

Ms. Isabel G. Garcia
Tucson

Mr. Paul J. Gattone
Tucson

Ms. Lorraine Lee
Tucson

Mr. Jose R. Matus
Tucson

Mr. James M. McKenzie
Tucson

Mr. Jones Osborn
Yuma

Mr. Ramon M. Paz
Tucson

CALIFORNIA ADVISORY COMMITTEE

Dr. Fernando A. Hernandez
Long Beach

Honorable Gilbert C. Alston
Pasadena

NEW MEXICO ADVISORY COMMITTEE

Stanley Agustin
Albuquerque

TEXAS ADVISORY COMMITTEE

Honorable Adolph Canales
Dallas

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P R O C E E D I N G S

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3 DR. WEBB-VIGNERY: Good morning. This
4 meeting of the Arizona Advisory Committee to the
5 United States Commission on Civil Rights will now
6 come to order.

7 I am June Webb-Vignery, chairperson of
8 the Arizona Advisory Committee to the U.S. Commission
9 on Civil Rights.

10 The Commission on Civil Rights is an
11 independent agency of the United States government
12 established by Congress in 1957 and directed to
13 investigate complaints alleging that citizens are
14 being deprived of their right to vote by reason of
15 their race, color, religion, sex, age, handicap or
16 national origin or by reason of fraudulent
17 practices.

18 Number 2: Study and collect
19 information concerning legal developments
20 constituting discrimination or denial of equal
21 protection of the laws under the Constitution.

22 Number 3: Appraise Federal laws and
23 policies with respect to discrimination or denial of
24 equal protection of the laws.

25 Number 4: Serve as a national

1 clearinghouse for information about discrimination.

2 And Number 5: Submit reports,
3 findings and recommendations to the President and
4 Congress.

5 Advisory committees were established
6 in each state and the District of Columbia in
7 accordance with enabling legislation and the Federal
8 Advisory Committee Act to advise the Commission on
9 matters pertaining to discrimination or denial of
10 equal protection of the laws because of race, color
11 religion, sex, national origin, age, handicap or in
12 the administration of justice, and to aid the
13 Commission in its statutory obligation to serve as a
14 national clearinghouse.

15 Commission regulations and the Federal
16 Advisory Committee Act call for each advisory
17 committee to advise the Commission in writing of any
18 information it may have respecting any alleged
19 deprivation of citizens' right to vote and to have
20 the vote counted; to advise the Commission concerning
21 legal developments constituting discrimination or
22 denial of the equal protection of the laws under the
23 Constitution; to advise the Commission upon matters
24 of mutual concern in the preparation of reports of
25 the Commission to the President and to the Congress;

1 to receive reports, suggestions and recommendations
2 from individuals, public and private organizations,
3 and public officials about matters pertinent to
4 inquiries conducted by the state advisory committee;
5 to initiate and forward advice and recommendations to
6 the Commission about matters that the advisory
7 committee has studied and to assist the Commission in
8 the exercise of its clearinghouse function.

9 The purpose of the hearing today is to
10 obtain information and public comment on immigration
11 issues impacting the border region of northern Mexico
12 and southern Arizona.

13 Based upon the information collected
14 at this meeting, a summary report will be prepared
15 for the United States Commission on Civil Rights.

16 I'd like for the advisory -- the
17 Arizona Advisory Committee members at this time to
18 introduce themselves, starting at this end of the
19 table with Ramon.

20 MR. PAZ: Ramon Paz, Tucson, Arizona.

21 MR. OSBORN: Jones Osborn from Yuma,
22 Arizona.

23 MR. GATTONE: Paul Gattone from
24 Tucson, Arizona.

25 MS. LEE: Lorraine lee, Tucson,

1 Arizona.

2 MS. GARCIA: Isabel Garcia, Tucson
3 Arizona.

4 MR. McKENZIE: James McKenzie, Tucson,
5 Arizona.

6 DR. WEBB-VIGNERY: And the forum is
7 being conducted today --

8 MS. GARCIA: We have another member
9 that's not been introduced.

10 DR. WEBB-VIGNERY: Is he here?

11 MR. MATUS: I'm here.

12 DR. WEBB-VIGNERY: I'm sorry, Jose.

13 MR. MATUS: Jose Matus, Tucson,
14 Arizona.

15 DR. WEBB-VIGNERY: The forum is being
16 conducted today as part of a four-state project, and
17 so we have present with us the regional director of
18 the Rocky Mountain region and also the chairs of the
19 New Mexico, Texas and California state advisory
20 councils, and I'd like to have them introduce
21 themselves.

22 DR. HERNANDEZ: My name is Fernando
23 Hernandez. I'm chair of the state advisory committee
24 for California, and I reside in Long Beach,
25 California.

1 DR. WEBB-VIGNERY: And you also have
2 with you --

3 DR. HERNANDEZ: I have with me --

4 JUDGE ALSTON: My name is Gilbert
5 Alston. I reside in Pasadena, California. I'm a
6 member of the Southern California Advisory
7 Committee.

8 MR. AGUSTIN: I'm Stan Agustin from
9 New Mexico. I'm the chair, and I'm from
10 Albuquerque.

11 JUDGE CANALES: Adolph Canales, the
12 chair of the State of Texas Advisory Committee, and I
13 reside in Dallas, Texas.

14 DR. WEBB-VIGNERY: Also present with
15 us today are the staff from the regional office of
16 the U.S. Commission on Civil Rights, and I'd like to
17 ask that they introduce themselves.

18 MR. PALACIOS: My name is Arthur
19 Palacios. I'm with the Los Angeles regional office
20 which covers Arizona, Texas and -- not New Mexico,
21 and California.

22 MS. HERNANDEZ: Grace Hernandez, and
23 I'm Los Angeles staff.

24 DR. WEBB-VIGNERY: This meeting is
25 being held pursuant to Federal rules applicable to

1 state advisory committees and regulations promulgated
2 by the U.S. Commission on Civil Rights.

3 All requests regarding these
4 provisions should be directed to Commission staff.

5 I'd like to emphasize that this is a
6 fact-finding meeting and not an adversarial
7 proceeding. Individuals have been invited to come
8 and share with the Committee information relevant to
9 the subject of today's inquiry.

10 Each person who will participate has
11 voluntarily agreed to meet with the Committee. And
12 since this is a public meeting, the press and radio
13 and television stations as well as individuals are
14 welcome.

15 Persons meeting with the Committee,
16 however, may specifically request that they not be
17 televised, and in this case we will comply with their
18 wishes.

19 We are concerned that no defamatory
20 material be presented at this meeting. In the
21 unlikely event that this situation should develop, it
22 will be necessary for me to call this to the
23 attention of the persons making those statements and
24 request that they desist in this action. Such
25 information will be stricken from the record, if

1 necessary.

2 Finally, many of you may have
3 questions regarding why certain persons were invited
4 to participate while others were not.

5 The Committee would like to
6 acknowledge that this has been a very important issue
7 in this state, and many individuals possessing
8 particular knowledge, expertise and experiences have
9 been involved in moving this discussion forward.
10 These issues have many voices. Because of time and
11 budget constraints under which we operate, the
12 Committee simply could not accommodate everyone who
13 wished to participate today.

14 The Committee's goal in assembling the
15 individuals who all of us will hear from today was to
16 ensure that information is obtained from the broadest
17 and most diverse cross-section of voices on these
18 issues as possible.

19 Each of the persons you will hear from
20 today has knowledge on the issues that we felt were
21 important to include in the record.

22 This not to say that others do not
23 have opinions and viewpoints that are just as
24 important. This is simply to say that as a group, we
25 have attempted to do the best that we could under the

1 circumstances, and we thank you for your
2 understanding.

3 In an effort to hear from others
4 having differing points of view, we have allocated
5 time to hear from anyone who wishes to share specific
6 information with the Committee about the specific
7 issues under consideration.

8 At that time each person or
9 organization will be afforded a brief opportunity to
10 address the Committee.

11 Those wishing to participate in the
12 open session, which will take place from 4 to 6 p.m.
13 today, must contact the Commission staff or Mr. Art
14 Palacios.

15 In the event that we are not able to
16 hear from you in the open session, the record of this
17 meeting will remain open for a period of 30 days
18 following its conclusion tomorrow.

19 The Committee welcomes additional
20 written statements and exhibits for inclusion in the
21 record. These items should be submitted to the
22 western regional office of the U.S. Commission on
23 Civil Rights, 300 North Los Angeles Street, Suite
24 2010, Los Angeles, California 90012.

25 Any member of the Commission staff

1 should be able to assist you in the process for
2 submitting information.

3 Now, let us proceed. And the first
4 person on the agenda today is Diego Padilla
5 representing Governor Bours from Sonora, Mexico.

6 And there is an eight-minute time
7 limit, limit on presentations. And Mr. Jones Osborn
8 will be notifying you when the -- a minute before the
9 time is up.

10 MR. PADILLA: Good morning to all of
11 you. Thanks for inviting us this morning.

12 My name is Diego Padilla Ramos and I
13 am the official state government representative of
14 Sonora in Arizona. I'm based in Phoenix.

15 And I'm glad to represent this morning
16 Governor Bours. I have spoken to him yesterday, just
17 spoke to him. And he was not able to attend, but he
18 says sorry, he sends his regards to you, and he's
19 going down to Mexico City today, I believe.

20 But I will be brief in my presentation
21 as far as what Sonora's point of view is regarding
22 human rights and immigration.

23 As you know, immigration as such is a
24 noble worldwide phenomenon. It's not wrong, it's not
25 bad. People always look for better ways of living.

1 And what we're witnessing here in the
2 Sonora-Arizona border is a unique case worldwide.
3 It's a unique social phenomenon, very sad at the same
4 time of what's going on at the border, especially in
5 the summer.

6 The government of Sonora -- I have to
7 emphasize here, it helps -- the government of Sonora
8 lends support and help to the federal government.

9 All immigration issues, as you know,
10 fall within the Federal structure. And in this case,
11 in Mexico have the minister of the interior through
12 the immigration department, and of course, seems that
13 it is the government's goal to -- and this has been
14 emphasized, Governor Bours told me yesterday to say
15 this to you -- that his government is supporting the
16 human rights and is defending our --
17 (unintelligible).

18 I mean, for the first time the
19 governor of Sonora signed an MOU with the federal
20 government not too long ago, to the immigration
21 office, to protect Mexican citizens along the
22 Arizona-Sonora border.

23 How do we do this? Well, the health
24 department, the education department, social
25 development office, they all help and assist the --

1 the -- let's say the candidates to be illegal aliens
2 crossing or attempting to cross the border, mainly
3 through Sasabe, which is west of here.

4 Three main crossing points in Sonora,
5 Sasabe being the main one. Then we have San Luis
6 Colorado, and also Naco and Agua Prieta, that
7 region.

8 But of all the illegal aliens who
9 attempt to cross the border every year, this is a --
10 we are in a unique situation along the Arizona-Sonora
11 because almost 50 percent happening here. I mean, we
12 talk about all the states in Mexico combined, they
13 amount to what Sonora represents alone, Sonora and
14 Arizona.

15 And why are we seeing so many deaths
16 along the desert? There are several reasons because
17 of that. And the state government is helping the
18 federal government to ease the burden of what's going
19 on through assisting with the health, with
20 information booths along the border, especially where
21 many cross.

22 But the thing is most of them come
23 from south Mexico and they don't know how the weather is
24 like.

25 We're a bridge also for Central

1 American illegal immigrants that attempt to cross.
2 They don't know how the weather is like. Even though
3 they are warned what's going on here, they attempt to
4 cross. Why? Because they are looking for a
5 different way of living, improve their standard of
6 living, and that's something that happens worldwide,
7 and we have seen this throughout history.

8 It is a federal issue but the
9 government of Sonora is helping the federal
10 authorities, both sides of the border, to ease the
11 pain. Every death in the desert is very painful not
12 only for us as government but for you as well.

13 We ask for civil rights of our
14 citizens to be protected while they cross the
15 border. And both governments have work -- we have --
16 the Arizona-Sonora relationship, as you know, is
17 very -- very well. We have been getting together for
18 the past 40 years, Arizona and Sonora, through the
19 Arizona-Sonora Commission, or Arizona-Mexico
20 Commission. And in that Commission, which is held
21 every six months, we always talk about what's going
22 on along the border. And of course immigration is
23 one of the keys to -- (unintelligible).

24 But I just want to emphasize before I
25 conclude because of the time constraint, that the

1 state of Sonora is highly concerned. Governor Bours
2 has given instructions to the health department, to
3 the social economic -- social office and to the
4 educational office to assist and wait for -- on these
5 people in both ways, it run both ways.

6 Of course this represent social
7 problems for the communities, but at the same time
8 immigration as such sometimes benefits the county or
9 municipality that they're staying at. Of course it's
10 a social problem because it brings much more people
11 and needs more services, but we have to sometimes
12 take a look at the positive side of this.

13 But again, the State of Sonora is
14 helping the federal authorities with the burden of
15 the pain. This falls entirely on the federal
16 authorities. And even when they are repatriated back
17 to Sonora in this case, we help the immigration
18 office to receive the people. There were two types
19 of repatriation, voluntary and involuntarily, which
20 is the green patrols you see outside. And the
21 voluntary, as you know, has been in effect for --
22 (unintelligible).

23 Half of the people who are asked to go
24 voluntarily refuse. Half of them choose to fly back
25 because of the government, both state and federal,

1 are helping them to get back as close to home as
2 possible. But half of them refuse. And many of them
3 say see you in two weeks.

4 Well, this is a very, very delicate
5 issue, a unique problem worldwide, and the state of
6 Sonora is actually helping the federal government,
7 and we look forward to the American authorities to
8 protect the citizens and to defend their civil rights
9 because they are human beings, and we are in a unique
10 situation worldwide.

11 The largest border in the world along
12 a developed country, the most developed country of
13 all bordering a less developed one. It's a unique
14 situation worldwide, which the border of a developed
15 country borders a less developed country. There's no
16 similar phenomenon seen worldwide. So this is a
17 unique situation. And as the authorities in the
18 States get tougher and tougher because of security
19 issues -- we understand that -- well, immigrants are
20 looking for new ways to cross the border and that
21 brings with it negative effects.

22 I will close for now. And if you have
23 any questions, please go ahead.

24 DR. WEBB-VIGNERY: Okay. The chair
25 recognizes Paul.

1 MR. GATTONE: Thank you. Paul Gattone
2 from Tucson.

3 Sir, appreciated your comments. I
4 know that you had mentioned the need to defend the
5 rights of -- the civil rights of Mexican nationals
6 who are coming to the United States.

7 I wonder, does your office in Phoenix,
8 or maybe an office -- other offices you have, receive
9 reports of what sort of civil rights violations
10 Mexican nationals are experiencing when they come
11 into this country, and could you give this committee
12 some examples?

13 MR. PADILLA: Well, the office that I
14 run in Phoenix, it's more of a trade office. It's --
15 we promote investments and tourism and we do business
16 liaisons and -- but we get calls sometimes from
17 people who are being detained. Not very often,
18 however. And we turn those to the Mexican consulate
19 in Phoenix. The Mexican consulate is the right, is
20 the correct government agency in charge of that.

21 And we have not received reports so
22 far -- I been there only five months -- but only a
23 couple of times we've gotten calls that -- the most
24 perhaps important issue is in communication, of
25 being -- a lady called about two weeks probably

1 ago -- he was probably being detained here -- and not
2 letting him call. But that's very seldom.

3 So we don't deal with federal issues
4 as such. But sometimes they call, and we just turn
5 them to the Mexican consulate.

6 MR. GATTONE: So the consulate, sir,
7 would be the one who might have more information
8 about the specific rights -- or specific violation of
9 rights that may be being experienced by Mexican
10 nationals?

11 MR. PADILLA: Yes. If we -- now, if
12 we do get some -- I would like before I leave this
13 room today, I would like -- June, hopefully in the
14 future you can give me a report of all the
15 conclusions so I can be in my office and I can report
16 to Governor Bours down in Hermosillo of what --
17 what's in here and what we discuss here, and yes, to
18 be in touch with you in case civil rights of Mexican
19 nationals are violated.

20 DR. WEBB-VIGNERY: Yes. June Webb-
21 Vignery, chair.

22 Yes, once these proceedings are put
23 together by the regional office and this panel has
24 reviewed it, it will have a final copy, and that can
25 be sent from the regional office to you.

1 And you have that address? Does the
2 regional office have the address to send the
3 information?

4 MR. PALACIOS: Yes.

5 DR. WEBB-VIGNERY: Okay. Chair
6 recognizes Isabel.

7 MS. GARCIA: Isabel Garcia from
8 Tucson, Arizona.

9 As a representative of Governor Bours,
10 I'd like to know what the governor has done in
11 relation to advising the federal government, the
12 Mexican government, about the impact that the border
13 strategy is having on this particular border.

14 My understanding is that in February
15 of this year, Mexico signed an agreement with the
16 United States to try to protect lives, is what the
17 statement was; however, in looking at the details, it
18 calls for more and more and more structure on the
19 border; more agents to save migrants, more walls,
20 more equipment, and that is when we've seen the
21 growth of the deaths.

22 So as the state that's the most
23 impacted, Sonora, as well as Arizona, what has the
24 governor done to relay this information to the
25 federal government?

1 MR. PADILLA: Okay. Well, first,
2 Governor Bours created a whole government structure,
3 a secretariat, called the security -- public security
4 secretary back in October -- well, actually it was
5 January of this year when the changes took place.

6 And this security office -- I want to
7 call it office -- has given advice to immigration
8 officials and the immigration department especially
9 to concentrate resources and personnel in Sasabe.

10 I don't know the specifics of
11 technical advice as far as avoiding deaths in the
12 desert and -- because the immigrant inflow is amazing
13 and it's difficult to control.

14 But right now the state government of
15 Sonora and to this office, with the federal
16 immigration offices that belong to the ministry of
17 interior, has placed booths along many of the --
18 Sasabe, Naco, Agua Prieta, San Luis Colorado, to
19 protect and assist the citizens, the Mexicans
20 attempting to cross. And also Central Americans.
21 Sometimes difficult to know the difference.

22 But a large amount of resources
23 devoted to --

24 MS. GARCIA: No, I understand the
25 State of Sonora has provided substantial assistance.

1 I'm talking social and humanitarian.

2 My question is more on the political
3 situation, which is that Sonora has seen the vast
4 number of deaths since the growing militarization of
5 the border.

6 My question is not what Governor Bours
7 has done in regards to humanitarian aid, which I
8 applaud and acknowledge; I'm talking about giving
9 political advice to the federal government regarding
10 these strategies on the border.

11 MR. PADILLA: Well, President Fox is
12 very well aware of what's going on. And both
13 Governor Bours and President Fox have gotten together
14 several times to discuss these issues.

15 But as far as a political advice to
16 face this problem, I cannot tell right now what --
17 how far they have gone between themselves.

18 What I do know, however, is that state
19 government of Sonora and the federal government have
20 gotten together to face this problem, which again is
21 a very difficult problem to face, but we're working
22 with that.

23 Again, it's not our particular job for
24 my office, but -- but I was told by Governor Bours
25 himself personally yesterday of what has been done.

1 But of course, the political advice here, it's beyond
2 my reach. But the famous -- I think, you know, in
3 order to solve this, we hope that this so-called
4 guest program will eventually be true one day to make
5 them legal in the States, although it's temporary.

6 DR. WEBB-VIGNERY: Chair recognizes
7 Ms. Lee.

8 MS. LEE: Lorraine Lee, Tucson,
9 Arizona.

10 You mentioned at the beginning of your
11 present an MOU, and I don't know if -- I just need
12 some clarification. That is something separate from
13 what Isabel had mentioned.

14 Could you elaborate a little bit more
15 about what that MOU entails? You mentioned in terms
16 of protecting Mexican citizens. What specifically
17 was in that MOU or contained in that MOU?

18 MR. PADILLA: Well, I never read the
19 document myself, but I have spoken to the -- this
20 morning I spoke to the lieutenant governor --
21 (unintelligible). Actually he call me from Colima.
22 And this was not just to sign MOU as such, it was to
23 do something.

24 But before doing that, the federal
25 government and the state government has to sign a

1 document which they both work together, they
2 cooperate, they put resources together to assist
3 illegal or attempting to be illegal immigrants along
4 the Sonora border with Arizona, especially in Sasabe.

5 Now, this document called for
6 assistance in health, in tourist aid, in information,
7 warnings, how the weather is like. Because like I
8 said, most of them are from south Mexico and they
9 ignore what the weather looks like or is like.

10 So this is the type of agreement that
11 was dealt between both states. It doesn't go beyond
12 that as far as a political agreement. We don't want
13 too much politics to be involved here. I believe
14 this is something that is happening every day, and we
15 have to do something. I mean, one less death in the
16 desert is a win for us.

17 So this is the kind of education.
18 Shelter homes, we have shelter houses as well that
19 falls within the agreement.

20 DR. WEBB-VIGNERY: Okay.

21 UNIDENTIFIED SPEAKER: We have a
22 question. Is it possible for us -- are we going to
23 have time after --

24 DR. WEBB-VIGNERY: Yeah, we'll have
25 time after the--

1 UNIDENTIFIED SPEAKER: The only thing
2 is that I don't know what -- I know that you guys
3 have an agenda, and I would really like to ask you a
4 question.

5 DR. WEBB-VIGNERY: Yes, and there's
6 rules that govern this hearing, and so it has to
7 go -- we can talk informally afterwards or you can
8 talk with the staff from the U.S. Commission.

9 Yes. Are there any other from the
10 questions panel?

11 MR. PAZ: Ramon Paz. Buenas dias.

12 I know the -- perhaps -- I do know the
13 operation of the Consultorio Mexicano, but is the
14 State of Sonora -- does the State of Sonora maintain
15 records, data, on reports provided by undocumented
16 people in the United States when they return to
17 Sonora and talk about abuses or complaints? Does the
18 State of Sonora have a database for complaints?

19 MR. PADILLA: Not that I'm aware of
20 really. That's -- the Mexican consulate, it's a
21 federal authority, and they depend on the foreign
22 office or foreign relations office, and they normally
23 don't disclose this information.

24 This information sometimes is a --
25 (unintelligible) -- because you have the same people

1 attempting to cross several times, and sometimes it
2 doubles, they double the amount.

3 But not that I'm aware of, really.
4 They don't give this information to the state
5 government. But I will find out for you, but I'm
6 almost sure they don't give the information.

7 It would be a good idea to have it,
8 though. Most people, like I said, are not from
9 Sonora. Very few are from Sonora, really. Very
10 few. Most of them are from Chiapas, Puebla,
11 Zacatecas, south of Mexico, where poverty conditions
12 are higher.

13 But as far as I know, it does not keep
14 a record on who was sent back, who was sent back to
15 Mexico.

16 MR. PAZ: Any sort of complaint, huh?

17 MR. PADILLA: Well, and the
18 complaints, sometimes they go public, you know. When
19 something bad happen, these go public, and that's one
20 source of information.

21 But the Mexican consulate is the first
22 office where Mexican immigrants will go to for
23 complain or for help or for advice.

24 They could come to my office in
25 Phoenix or the one Tucson. We have an office in

1 Tucson, mostly for tourism promotion. But we attend
2 people there. And they can certainly help to give me
3 the information or direct it to the Mexican consulate
4 in Tucson or Phoenix.

5 DR. WEBB-VIGNERY: Okay.

6 MR. MATUS: Jose Matus, Tucson.

7 Senor Padilla, can you tell us how
8 federal law and policies have helped the trade office
9 or hurt the trade office? Has it been very helpful
10 in doing what you need to do as far as Sonora is
11 concerned and the United States trading?

12 MR. PADILLA: You mean the -- excuse
13 me, the federal help?

14 MR. MATUS: Well, the laws. The
15 policies that are implemented here at the border
16 area, has it helped the trade with Sonora and the
17 United States, or Tucson for that matter? Or has it
18 been --

19 MR. PADILLA: U.S. policy?

20 MR. MATUS: U.S. policy, yes. U.S.
21 immigration policy --

22 MR. PADILLA: It is very difficult,
23 especially since 9/11, because security's tighter,
24 and we understand that.

25 Again, we are a state government. We

1 just help when we're asked to. But the flow is
2 people is slower at the border because of these
3 stricter measures. Of course illegal immigrants are
4 looking for new places to cross, and that brings a
5 higher risk involved.

6 And border crossing has been slower,
7 not only for people but also for normal commercial
8 traffic and exports/imports, and that has certainly
9 been detrimental.

10 But again, one of the main issues
11 behind -- actually we were less than three weeks ago
12 in Santa Fe, New Mexico, attending the Board of
13 Governors Conference, and one of the main
14 fundamentals of this conference is to increase the
15 security of border citizens.

16 And we understand how -- considering
17 what's going on worldwide, I think it pays off to
18 have this increased measures.

19 I mean, if you ask me, we would like
20 to see more common sense by immigration officers
21 right on the border because they have full powers to
22 do anything. More common sense towards Mexicans. We
23 would like to see more common sense when Mexicans are
24 getting the I94 permit, way more common sense, and we
25 ask for better treatment.

1 But that's understandable on some
2 points. It seems we need to find a balance between
3 both sides. Because security is number one issue,
4 and we understand that, and we want to help you, help
5 the States feel more comfortable, more secure,
6 especially nowadays.

7 DR. WEBB-VIGNERY: We have time for
8 one more --

9 MR. MATUS: I have a real quick
10 question.

11 The state of Sonora have -- we saw
12 Derechos Humanos in the border area. Why wasn't this
13 person invited to address this council?

14 MR. PADILLA: You know, there is a
15 statewide human rights commission, but right now
16 they're in the process of changing the new
17 president. I guess that's why they send me here.

18 But the new president will be
19 appointed by the congress in the next two weeks or so
20 because it's been a very difficult appointment
21 because it gets politics in the middle.

22 But we do have a statewide human
23 rights commission for the State of Sonora, and this
24 comes from the federal human rights commission, and
25 each state has its own. This goes back to President

1 Salina's time. And mostly to internal issues, not
2 necessarily for -- well, it does also protect any
3 human rights violation, and we try to defend, but it
4 doesn't get involved too much on deported
5 individuals, per se. But we do have one.

6 MR. MATUS: Thank you.

7 DR. WEBB-VIGNERY: We have time for
8 one more question.

9 MS. LEE: Lorraine Lee, Tucson.

10 I'm going to go back to the MOU issue
11 that you had mentioned, and that's the memorandum of
12 understanding.

13 Within Mexico in terms of how to
14 become more human or treat individuals in terms of
15 those that are wishing to cross and going through,
16 there seems to be a bit of contradiction in terms of
17 viewing some of the stuff that I've read and looked
18 at. Isn't there in fact an agreement between Mexico
19 and the Border Patrol in terms of the use of
20 pepper -- of the pepper spray or pepper balls? I'm
21 not quite sure what the actual term --

22 MR. PADILLA: Pepper balls.

23 MS. LEE: That's right, that are being
24 used, that in effect really truly use in a physical
25 way in terms of being used on crossers.

1 Could you address that, because there
2 seems to be a bit of contradiction, and give us a
3 little bit of Mexico's perspective on that?

4 MR. PADILLA: Well, again, I cannot
5 talk for the federal government, but I've -- the only
6 thing I know is what I've read in the papers.

7 We don't agree that much with the use
8 of pepper balls because they can be dangerous. And
9 you've seen that. I mean, it's like -- you might
10 compare it to treating -- (unintelligible), really.

11 We object to the use of pepper balls.
12 I mean, what's next? What's going to be next after
13 this?

14 We just want the U.S. authorities,
15 Department of Justice, immigration, to be aware of
16 what's going on in the border, to -- on notice that
17 this is a unique phenomenon worldwide.

18 And of course, protect your borders,
19 but do so in a good way, protecting human rights.
20 And I don't think pepper balls are the correct way.

21 So far this is the new fairly new
22 issue. I don't have too much information about it.
23 But so far in Mexico, as far as I know, we don't
24 support at all that measure because it can be
25 dangerous.

1 MS. LEE: Then are you saying there is
2 not an agreement between --

3 MR. PADILLA: As far as I know,
4 there's not. That goes to federal issues. As far as
5 I know, there is no agreement between the government
6 of Mexico and the U.S. to use that.

7 I don't see how the government in
8 Mexico can sign AN MOU or an agreement to use that,
9 no. There is no such thing.

10 DR. WEBB-VIGNERY: I want to thank you
11 very much for coming and meeting with us this
12 morning. And you've been very helpful.

13 MR. PADILLA: Thank you. You're
14 welcome. And I will leave some business cards here
15 in case you need to get in touch with me.

16 MR. GATTONE: Paul Gattone from
17 Tucson.

18 Just a follow-up point of order, if I
19 could. I know that Jose had asked the question about
20 the human rights commission in Sonora. I assume they
21 might have some information that would be relevant to
22 this body. You said that a new president would be
23 appointed in two weeks.

24 Could you potentially provide that
25 person's name and a contact address to this

1 committee?

2 MR. PADILLA: Sure.

3 MR. GATTONE: Because it will be
4 within the 30-day period, and perhaps it would be
5 useful in --

6 MR. PADILLA: I need your information
7 so I can get that information to you.

8 DR. WEBB-VIGNERY: It would go to --
9 and he's right behind you. It would go to the
10 regional office for the U.S. Commission on Civil
11 Rights.

12 MR. PADILLA: And the appointment has
13 been delayed because like 50 different people sign up
14 and state congress is evaluating each case. So it
15 will take two weeks.

16 Thank you very much.

17 DR. WEBB-VIGNERY: Thank you.

18 We have as the second person on the
19 agenda this morning -- or I believe there's two
20 people here who represent Proposition 200?

21 MS. GARCIA: Anti.

22 DR. WEBB-VIGNERY: Anti-200. Thank
23 you.

24 Could we ask that they come to the
25 seats here to present for the committee?

1 Could you please identify yourself?

2 MR. MEDINA: I'm Pancho Medina.

3 MR. SALAZ: I'm Carlos Galvan Salaz.
4 I go by Charlie.

5 DR. WEBB-VIGNERY: Want to thank you
6 for coming and meeting with us this morning. And
7 this is for information for the full committee as to
8 what the proposition contains, and then the
9 objections to Proposition 200.

10 MR. SALAZ: Me and Pancho are working
11 with the coalition in Tucson and surrounding Pima
12 County, the City of Tucson, the City of South
13 Tucson. Those cities and county has submitted
14 documentation against Proposition 200.

15 And we are trying to educate our
16 community on the real attack on the Proposition 200
17 that is -- they're using the immigrant situation, and
18 we believe they're infringing on our civil rights as
19 citizens of the United States of America by trying to
20 impose that we have to show proof of citizenship,
21 even though we're born and raised in the United
22 States. And we are citizens of United States.

23 And just to put a blanket over the
24 Hispanic people, to show that we have to be
25 citizenships to obtain health services or benefits

1 from different agencies or whatever, to me it's a
2 vile initiative.

3 So Pancho, I'll take a break.

4 MR. MEDINA: Again, I'm Pancho
5 Medina. And Proposition 200 to me is -- I really
6 call it nightmare on -- (unintelligible) --
7 Boulevard. It's an insult to all people of color.
8 And it isn't just this violation of human rights,
9 civil rights and people of color, it also includes
10 people of noncolor, and violating our civil rights on
11 voting, registering to vote.

12 I'm myself am a human being, a brown
13 person, a Mexicano, you know. I always have to prove
14 my citizenship when I was a little kid, American
15 citizen, American citizen, American citizen.

16 Going to school, don't speak Spanish,
17 or else you'll be slapped around and stuff like
18 that.

19 They are singing, singing the Battle
20 Hymn of the Republic, from the Halls of Montezuma,
21 that's killing my ancestors who fought in the
22 Mexican-American War. So there's a contradiction
23 there.

24 And so I really grew up thinking
25 something is wrong here but yet a very proud American

1 citizen. I was so proud of being a member of this
2 country and stuff.

3 So to me this Proposition 200 is a
4 nightmare. All of a sudden it seems like we're on
5 the right path and, you know, correcting abuses of
6 civil rights, human rights in this country, and all
7 of all of a sudden, I mean, we have a proposition
8 here in Arizona that's based on racism, really based
9 on racism.

10 We have Virginia Abernethy coming
11 here, lobbying, appointed to come here, and she's a
12 white supremacist, and she was against the civil
13 rights initiative back in the '60s.

14 For her to be appointed to lead this
15 campaign and protect Arizona and campaign is a slap
16 on Arizona's face. On everybody's face. Not just
17 the people of color, but all of us here, white any --
18 it's just on every citizens' face.

19 And we don't want Arizona to be known
20 as a white state, a racist state, a clan state like
21 it was known back before the Martin King holiday was
22 established here.

23 And so I am really working really hard
24 to get people to vote no on this initiative.

25 I'll pass it on to Carlos now. Maybe

1 he can start on a different subject on the same
2 issue.

3 MR. SALAZ: Yeah, we've been working
4 real hard on that initiative and trying to get the
5 committee to vote no on this proposition, and we're
6 doing everything we can. We're holding forums
7 throughout the community. We have one tomorrow at a
8 community center in South Tucson and we're expecting
9 to have more throughout the community before November
10 2 when we go and vote against it.

11 And even the person that brought up
12 the issue on this initiative, which is a Randy
13 Graf -- and I forgot the others guy's name that
14 seconded the bill or the initiative -- are really
15 infringing -- they're trying to get immigration laws
16 passed and push a national ID card program eventually
17 as a possibility.

18 It's just that to me, it's a vile
19 initiative. It's centering, as Pancho says, on
20 people of color. And we need to really educate our
21 communities. It's a statewide issue, it's not just
22 Pima County. We've got people working in Phoenix and
23 Maricopa County on the initiative. And we try to do
24 everything we can to educate the voters.

25 It's not just the immigration issue,

1 it's the expenditure that -- we don't get 16
2 minutes?

3 MR. OSBORN: You have a minute to go.

4 MR. SALAZ: We have to really educate
5 the public, the voters.

6 And we got one minute, Pancho. You
7 wanna take the last minute?

8 MR. MEDINA: Yeah, okay.

9 We cannot -- Arizona cannot afford to
10 pass this piece of legislation. Not at all. We have
11 to really defeat it.

12 What comes to mind is not only abuse
13 of human rights, civil rights, but also for the
14 longest time I never really felt included as part of
15 the community. Now with a more racist attitude in
16 this country, how can I really feel part of the
17 community?

18 No way. No way. Something is wrong
19 here. It's not the melting pot. I don't belong to
20 part of this community because the law enforcement
21 agency, emigre, is looking at me, looking at my face.

22 The other day I was in a restaurant
23 drinking a coffee and an emigre bus happened go by.

24 Just a couple weeks ago I saw the
25 movie the Piandist, where they were building a wall

1 in Poland, excluding the Jewish population from the
2 rest of the population. And I really felt -- you
3 know, I felt that myself. The emigre bus, they're
4 not looking for my friends who are a part, they're
5 looking for me, at me.

6 And that isn't the only issue, but
7 monetarily-wise, financially-wise, we who have the
8 biggest tourist industry, we depend on the tourist
9 industry here in Arizona.

10 What would really happen if all these
11 tourists decided not to come here to Arizona? We
12 need the finance, we need their monies to be spent in
13 Arizona.

14 What if it's known as a fascist state,
15 just a white state only? Immigrants need not apply.
16 What would happen to tourism here in Arizona?

17 So this is really mean-spirited
18 legislation and it's against people of color, it's
19 against people of color, and I really resent that
20 it's even an initiative. I resent this whole thing
21 and I'm tired.

22 You don't realize what it is coming up
23 to the me take, proving your citizenship and
24 answering questions all your life, all your life.
25 And America wants me to be part of society?

1 I am an angry person and -- but I
2 still -- I'm an American and I still feel part of
3 society. Thank you.

4 DR. WEBB-VIGNERY: Thank you.

5 Now the Chair recognizes Isabel.

6 MS. GARCIA: Isabel Garcia. Hello to
7 my friends here.

8 You had mentioned being stopped by the
9 emigre also. You see this statewide proposition
10 as -- I want to know two things: Whether you see
11 this proposition as related to border policy and INS
12 enforcement, that's number one.

13 And number two, you've talked about
14 Ms. Virginia Abernethy. What has been shown to be
15 the links of this proposition, the founders and such,
16 and the hate groups in this country. So it's a
17 couple of questions, I'm story.

18 MR. MEDINA: Well, kind of right now,
19 because in this country it's in a mode of
20 antiimmigration sentiment, and 9/11 and the war in
21 Iraq, I really think it was kind of a -- not a
22 conspiracy but a plan of, kind of thought, said well,
23 we're going to ride with the sentiment of society, so
24 we're going to plan some kind of legislation,
25 antiimmigrant legislation.

1 So this is -- I think this is what's
2 happening to us right now, so...

3 And the second part of your question
4 was about Abernethy. Yes, Virginia Abernethy, she's
5 this the leader of an organization called the Council
6 of Conservative Citizens. And they oppose the 14th
7 amendment, the civil rights piece of legislation
8 which was passed by Congress.

9 And she's also a writer for the
10 Occidental Quarterly, which promotes -- they state
11 that immigration to the U.S. should be restricted to
12 selected people of European ancestry.

13 And she does have the credentials as
14 a -- she's also an individual who is part of the
15 Journal for Historical Review, and this is a -- they
16 look at the Jewish situation back in the first and
17 second world war, and they really feel that the
18 Jewish population did not -- I mean the Holocaust
19 never really happened.

20 So she does the have credentials. And
21 this type of person coming to Arizona is a no-no.

22 MS. GARCIA: Are there other groups
23 involved -- Isabel Garcia again -- other than
24 Virginia Abernethy, has there been any evidence that
25 other hate groups are also involved with this

1 movement targeting here Arizona?

2 MR. MEDINA: Well, FAIR is involved,
3 and I think that American Patrol is also part of
4 FAIR. And FAIR also has put a lot of money to
5 registering voters and get them to sign on to this
6 antiimmigrant legislation, and of course, you know --
7 let's see.

8 FAIR has been designated by the
9 Southern -- what is it? -- Southern Poverty Law
10 Center. It's a hate group, it's a racist group.

11 MS. GARCIA: Thank you.

12 DR. WEBB-VIGNERY: Chair recognizes
13 Paul Gattone.

14 MR. GATTONE: Thank you. Paul Gattone
15 from Tucson.

16 I have by way of question -- and
17 actually something I'd like to get -- hopefully we
18 can get into the record -- about two weeks ago there
19 was an article in the Tucson paper, the Arizona Daily
20 Star, on the issue of Proposition 200 and its impact.

21 I'd note for the record -- and maybe
22 we could get a copy of that article attached to our
23 eventual -- and I apologize for not having the date
24 of that article -- indeed one of the main points of
25 the Proposition 200 supporters is their allegations

1 of widespread voter fraud and voting by people who
2 are not citizens of the United States.

3 Point out for the record -- and that's
4 why I would like us to get a copy of this article --
5 is that the public officials involved, county
6 attorneys -- and I note that we have a county
7 attorney from this county coming in -- were unable to
8 provide any substantive proof of these allegations of
9 alleged voting by undocumented people.

10 As a matter of fact, I -- just for the
11 record, I think there was only one instance in -- I
12 think it was the late '90s -- if someone out here
13 recalls that article -- only one instance in the last
14 10 or 15 years in which there's actually been a
15 prosecution for voter fraud.

16 So I would hope we could submit that
17 article for the record. It had some valuable
18 information about -- also I believe the article had
19 some information about the governor's office had
20 estimated that it would cost conservatively like \$10
21 million a year for the State of Arizona to put in
22 place the bureaucracy necessary to carry out the
23 mandates of Proposition 200.

24 And as an attorney, I -- no one has --
25 also pointed out that there was also a new crime

1 being established, the crime of -- if a public -- say
2 the person who was registering you to vote didn't ask
3 for proof of citizenship, they could be prosecuted.

4 We -- no one, I believe, has done any
5 study to show what the impact might be on the already
6 overburdened court system having to now prosecute
7 another crime.

8 I wondered if you have received any
9 information one way or another about this alleged
10 widespread voter fraud or voting by undocumented
11 people.

12 MR. SALAZ: All I have heard is -- all
13 I've heard is hearsay but no proof that any fraud
14 voting process has been taken. It's all hearsay. I
15 have no proof.

16 MR. MEDINA: Can I answer that? And
17 also it will cost the state tons and tons of money.
18 It's unreal, it's unbelievable. People don't want to
19 listen to that fact. And as taxpayers, it's going to
20 come from our pocket. That's what's going to be
21 happening.

22 DR. WEBB-VIGNERY: We have time for
23 one more question.

24 MS. LEE: Lorraine Lee, Tucson.

25 This is going to be more in terms of a

1 statement and a point of information question, Madam
2 Chair. The idea that what we as a body are about, we
3 are called members of an advisory group to the U.S.

4 -- the Civil Rights Commission that has its focal
5 point on civil rights.

6 Based on what you have said this
7 morning, based what we have read and what we know
8 about this particular proposition, it has the
9 potential for enormous, enormous, violations of civil
10 rights of a huge number of people, of every person in
11 this country.

12 And that I believe that if we look at
13 it and we look at the impact of what that means, just
14 on civil rights violations, I would hope that this
15 body would put it upon itself to put together,
16 whether it's a letter, a resolution -- and Madam
17 Chair, you may be in a better point of view in terms
18 of what we as an entity could do to make a very
19 strong statement to the State of Arizona and the
20 powers that be that this is an enormously risky
21 proposition to put into law and to make every person
22 in a position that receives public funds to become an
23 enforcement officer.

24 MR. MEDINA: Can I make one more
25 statement?

1 And this initiative isn't just based
2 on immigrants and immigration people, it's also
3 antipeople of color. And this is what I'm really
4 afraid of. It's a personal slap on my face. So
5 society's telling me you're not welcome here.

6 I was born here in the U.S. And
7 society again is telling me you're not welcome,
8 you're a person that comes -- psychologically it does
9 a lot of damage, it really does a lot of damage to
10 Mexican-Americans. Although we don't really talk
11 about it, when we see anything about illegals, you
12 know, illegals and aliens and stuff, we take it
13 personal. It's about us also.

14 DR. WEBB-VIGNERY: I want to thank
15 you --

16 MR. SALAZ: In closing, I want to
17 reaffirm what Lorraine Lee has stated. There is a
18 potential of a lot of civil rights violations if this
19 vile initiative passes in Arizona. It's a part of
20 187 that was in -- passed in California, but was
21 declared unconstitutional.

22 So on that, I'll close. And thank you
23 very much.

24 DR. WEBB-VIGNERY: I want to thank you
25 for coming and sharing your thoughts with us this

1 morning.

2 At the end of this hearing the second
3 day, this panel will take under advisement all the
4 recommendations that have come up during the
5 proceedings, and we will probably take a position on
6 Proposition 200.

7 MR. SALAZ: Thank you.

8 MR. MEDINA: And I want to thank you.
9 Let's have a nice day today. Bye.

10 DR. WEBB-VIGNERY: Thank you.

11 Moving on, we have with us Carlos
12 Gonzalez, who is a consul of the Mexican Consulate.

13 Could you please come and take a seat.

14 Mr. Gonzalez, we have eight minutes
15 for presentation. And Jones Osborn will give you a
16 signal at the end of seven minutes, and then it will
17 be time for questions from the panel.

18 MR. GONZALEZ: Well, first of all,
19 thank you for inviting me. I am here on entirely a
20 personal basis, although there are many people that
21 there's no such a thing, that a member of a consulate
22 corps in Arizona is always on an official basis.

23 But what I would do, what I would try
24 to do is put forth some of my personal views on this
25 extremely delicate matter. And I will be preaching

1 to the corps, or, as we say in Mexico, teaching
2 eagles to fly by stating some of the facts that are
3 common knowledge for everybody.

4 First of all, I always talk about the
5 border between Mexico and the U.S. as being unique in
6 the world. I mean, there's no -- there is not
7 another border such as the one that we share, Mexico
8 and the U.S.

9 Now, I've experienced very interesting
10 things lately, that German parliamentarians have
11 shown some interest in our border because they say
12 that they now have similar things between Poland and
13 Germany, and so they come and we show them what the
14 interaction between the U.S. and Mexican border is,
15 and they come across with some startling revelations.

16 But of course the panel is now
17 interested in things, issues such as immigration, and
18 I will try to address myself to this particular
19 issue.

20 First of all, I wish there could be a
21 way that we could all, people from both sides of the
22 border, discuss issues without -- with these terrible
23 issues without becoming emotional. And that, of
24 course, is impossible.

25 I myself cannot be objective, and I

1 stand accused, and I accept that I'm not objective,
2 because I deal with personal tragedies every day in
3 my work.

4 But anyway, when we try to address the
5 issue, there's always -- and I will say this very
6 frankly -- oddly reactions, again on both sides of
7 the border.

8 I wish that, first of all, we could
9 try to tackle issues that are common knowledge and
10 that are accepted by all of us, namely, again that
11 this is a border unique in the world, that separates
12 the richest country in the world from a developing
13 one.

14 I would always say that if Mexico
15 would be bordering Peru or Colombia, we wouldn't have
16 such reactions. Of course those countries don't have
17 those type of issues.

18 The lure of people that come from a
19 developing country to a rich one is here, and I hope
20 will not always be here, because one day -- and I can
21 say that without any equivocation -- one day we will
22 become a developed nation. And I probably won't see
23 it, but we will.

24 There are other countries that were
25 told and were condemned to poverty like, Spain,

1 Greece and Italy, southern Italy, but now look at
2 them.

3 But in the meantime, we will have
4 these issues, and there's no two ways about it. But
5 what we must do, first of all, is, as I said, make a
6 tremendous effort to tackle in a more objective
7 manner what's going on.

8 For instance, a year ago or so, we
9 were told that there was a raid on undocumented
10 people in a very well known department store that is
11 huge, that is very near us, and a hundred or so
12 people were caught. And among them, there were
13 people from the Czech Republic.

14 And to the ones that we been to that
15 country, we are amazed. Because I would certainly
16 not think of the Czech Republic as a developing
17 country, but yet -- I mean, you have this lure of
18 people that will come to your country. And you must
19 be doing something that is right to have all these
20 people coming to the U.S. Why would the Mexicans not
21 come to cross the border?

22 But anyway, we are doing many things
23 on our part -- and I'm talking about the Mexican
24 government and the Mexican side, Mexican society, we
25 are doing things that are not enough -- and I would

1 say that very frankly -- not enough in addressing the
2 human tragedies that we see every day. But we are
3 doing them, and we keep doing them.

4 What we do is, for instance, here at
5 the border is we have this (unintelligible) of trying
6 to prevent some of these tragedies. We are taking
7 them through the secretariat of foreign affairs in
8 Mexico City to those very states that are -- from
9 which the largest number of Mexicans come.

10 We are telling them what is to be
11 expected at the border, especially of course between
12 Sonora and Arizona, and what the coyotes do to them.
13 But again, it's not enough. It's really not enough.
14 We must do more.

15 On the U.S. side, many of my
16 colleagues are doing likewise. For instance, in
17 Phoenix and Tucson, my colleagues are trying to warn
18 paisanos to be especially careful when they hire, for
19 lack of a better word, the services of a coyote. To
20 be very careful in whom they would trust the fate of
21 their loved ones. And again, this is not enough.
22 But we are doing this with the help of the media,
23 especially around this type of decision.

24 Also, my thoughts are again going back
25 to what I said at the beginning, what to do about

1 trying to be a bit more objective when we talk about
2 the issues that are -- you know, that we share, the
3 U.S. and Mexico.

4 First of all, we must do more to
5 educate the people, you know. What it is about the
6 border that is unique. Why is it that, unavoidably
7 we are going to have Mexicans coming. And if we are
8 a bit more successful in doing this, I think that we
9 would be able to at least start a serious
10 conversation.

11 Because again, the root of the matter
12 for me and for many Mexicans and for the Mexican
13 government is to have an agreement on immigration.
14 There is no two ways about it.

15 But when we have all this atmosphere
16 of mistrust and outright -- how should I put it
17 mildly? -- outright condemnation of this phenomenon
18 on both sides of the border, I don't think that we
19 are ever going to succeed. Thank you.

20 DR. WEBB-VIGNERY: Thank you. Now we
21 have time for questions.

22 And the chair recognizes --

23 MR. PAZ: Ramon Paz, Tucson.

24 In an official capacity now -- you
25 know, you were talking more in terms of a personal

1 perspective of what your office does -- one way to be
2 objective is to have documentation, to have data, to
3 have reports.

4 Does your office have -- maintain in
5 your office information that we can use to further
6 document what you see on a daily basis so that we can
7 perhaps bring about that discussion, dialogue that
8 you're talking about?

9 But we're looking for hard facts,
10 data. Because I think as far as your personal
11 perspective, it's been very well documented through
12 the media, through individual reports. We heard
13 stories about what happened in Cochise County. But
14 the data what is we're looking for. Can your office
15 provide us with that?

16 MR. GONZALEZ: Well, I'll give a very
17 diploma answer. Yes and no.

18 We do have data, but some of this data
19 cannot be shared but it's of a confidential nature.
20 It deals with human beings, and as such, we of course
21 have to be careful in divulging some of the details
22 of -- when I look at it, I see it as a personal
23 tragedies. So I hope you understand why I'm saying
24 that.

25 We have figures, they are called

1 figures, and of course that can be provided. We
2 have -- for instance, we deal a lot a lot with
3 minors, minors that come cross the border and then
4 they are caught, mostly by the Border Patrol. They
5 are given to us so that we have custody of them.

6 We have persons who have several type
7 of ailments or that have been injured while jumping
8 the fence. And we can always provide that.

9 But as I said, when it comes to
10 specific cases, we have to go on a case-by-case
11 basis, but of course, I mean, the Mexican consulate
12 here and the consulates throughout Arizona are always
13 at your disposal.

14 MR. MCKENZIE: James McKenzie from
15 Tucson.

16 You talked a little bit about an
17 immigration agreement. What do you think that the
18 State of Arizona and the United States government
19 should do or should be doing to address this issue?

20 MR. GONZALEZ: Well, this is a federal
21 issue, of course, between the two countries and --
22 well, what should we do? We should immediately start
23 going about having some type of discussion.

24 I wouldn't go into the details or what
25 should we have or what should not we have, but I

1 think that it's of the utmost urgency to begin once
2 in a while serious discussion about migration issues
3 that are there for everybody to see how important it
4 is for us to -- to at least start the discussion on
5 an agreement on this.

6 DR. WEBB-VIGNERY: Mr. Canales?

7 JUDGE CANALES: Yes, Adolph Canales
8 from Dallas, Texas.

9 On a related matter, related issue,
10 the United States and Mexico have both signed a
11 treaty convention with respect to notification of the
12 consulate in general whenever a Mexican citizen is
13 arrested. And there have been many instances,
14 complaints nationwide where Mexican citizens have
15 been arrested and prosecuted and the consulates have
16 not been contacted. And I wonder what is your office
17 and the federal government doing in that regard to
18 make sure that you're notified and you can come and
19 help, for example, an undocumented alien who is
20 caught and prosecuted?

21 MR. GONZALEZ: Well, I would say
22 that -- I do not know if I speak for my other
23 colleagues, but I have to say, I must put it on the
24 record, we are very lucky that here in Nogales,
25 Arizona, Santa Cruz County, and the federal agencies

1 do respect the Vienna Convention on consular
2 notification.

3 I have to go back several years before
4 I find the particular case by which a Mexican
5 national has asked to contact the -- specifically the
6 Mexican consulate in Nogales, Arizona, in which this
7 has not been the case.

8 But of course, this is a huge issue in
9 other places, like -- particularly when we have the
10 death penalty that has been involved.

11 And this is an issue, the way I see
12 it, that has to be respected and applied to everybody
13 at the local, state and federal level. And this is,
14 again, an issue that is of the utmost importance to
15 the Mexican government.

16 DR. WEBB-VIGNERY: We have time for
17 one more question.

18 Mr. Hernandez?

19 DR. HERNANDEZ: Fernando Hernandez,
20 chair of the state advisory committee in California.

21 I read an interesting article in the
22 Los Angeles Times a while back on the importance of
23 the remittances, that is, the money that immigrants
24 from Mexico send -- who are working in the United
25 States send back to Mexico.

1 And I don't remember exactly the
2 figure, but it was in the billions of dollars. And
3 the article said that it was -- that the amount of
4 money sent back to Mexico by Mexican immigrants,
5 legal and illegal, was substantial, and that had a
6 major impact on the economy of Mexico.

7 Is that true? Is that something that
8 you can substantiate or -- and what's the Mexican
9 government's position on that?

10 MR. GONZALEZ: Well, that's absolutely
11 true. I would say that this year alone, the
12 remittances from Mexicans, particularly in the U.S.,
13 would surpass for the first time ever the income from
14 oil.

15 So I think that there in itself you
16 have your answer. How hugely important it is for the
17 Mexican economy -- and I'm not talking about the
18 government -- the economy, society, all this huge
19 amount of money.

20 I think that -- I don't want to put
21 figures because I may be mistaken, but I think that,
22 if you're forcing me -- which you're not -- but
23 anyway, I would say that this year alone there would
24 be more than \$14 billion coming from Mexicans
25 abroad.

1 MS. GARCIA: Isabel Garcia. I have an
2 important question. There's a lot of them,
3 obviously, but we're limited, unfortunately.

4 I want to know what your experience
5 has been with the newest U.S. INS border policy of
6 the repatriations into Mexico, what you're doing and
7 what -- if you're being allowed to interview all of
8 the people and see all of the people that are going
9 to be repatriated.

10 MR. GONZALEZ: Well, I guess, Isabel,
11 that you're asking the right person.

12 I may fall asleep here while I talk
13 because every other day I have to be at 4 a.m. in
14 Tucson. There are two flights going every day to
15 Mexico City, one at 9 o'clock, the other at 4 p.m.

16 And I can assure you, first of all, I
17 put forth my reputation of 30 years-plus in the
18 Mexican foreign service -- it's an honor and a
19 privilege to be a member of the Mexican foreign
20 service. And we have the foremost, as you know,
21 Isabel, what we call the protection of the rights of
22 the Mexicans.

23 So I can assure you that I personally,
24 or my colleagues, Mr. Calderone, would go and
25 interview the hundreds of people that come every

1 day.

2 And I can assure you also that none of
3 them would go on the plane without putting forth his
4 willingness to be on the plane.

5 There are many difficult issues
6 there. But also we went through with the U.S.
7 government this particular way in which we had to
8 conduct the interviews so that we would be, for
9 instance, granted privacy when we interview
10 paisanos. We make a selection. First of all, we ask
11 who would be willing to fly.

12 Those that are willing to fly, we then
13 take them to our mobile unit, as I said, which is
14 insures privacy. No one from the Border Patrol is
15 there but us. Not until we are satisfied that this
16 person, this particular person is willing to go on a
17 plane, then we would allow them to go.

18 MS. GARCIA: How many people a day?

19 MR. GONZALEZ: Well, I would say that
20 on average, there are about a hundred people on each
21 flight. So, you know, roughly 200. But it comes up
22 and down.

23 Supposedly, we're supposed to have a
24 hundred and fifty on each flight, but this has not
25 been the case because we are respecting the

1 willingness of everybody that goes on that plane.

2 DR. WEBB-VIGNERY: I want to thank you
3 very much for the information you have provided us.

4 MR. GONZALEZ: Thank you.

5 DR. WEBB-VIGNERY: And we have now
6 Mr. George Lopez, who is assistant chief, Border
7 Patrol.

8 And if you could say your name for the
9 record.

10 MR. LOPEZ: Sure. Good morning. My
11 name is George Lopez. I am an assistant chief for
12 the Tucson Sector Border Patrol.

13 I am here representing Chief Patrol
14 Agent Mike Nicley, who is unable to be here today.

15 I have spent my entire career of
16 approximately 24 years in the Tucson sector, so I am
17 very familiar with the issue we're here to discuss
18 today.

19 The Border Patrol, as you know, is
20 part of the customs and border protection within the
21 border and transportation directorate of the
22 Department of Homeland Security.

23 We are the uniformed entity charged
24 with safeguarding the homeland by securing these
25 nation's borders between the ports of entry.

1 With illegal immigration, we have
2 always encountered people that become injured, fall
3 into distress or die in the process of crossing the
4 border.

5 The Border Patrol has implemented
6 several initiatives to try to prevent these
7 occurrences or provide needed medical attention.
8 These initiatives are intended to prevent deaths and
9 injuries and violation of civil rights to those who
10 choose to enter the United States at a location
11 outside of a port of entry.

12 Even before the inception of the
13 Border Patrol people crossed into the United States
14 from Mexico and were subjected to injury and even
15 death.

16 The Border Patrol has long recognized
17 that included within our mission is our obligation to
18 make the border area safe and secure.

19 At this time I'd like to just mention
20 those initiatives.

21 We have the -- our BORSTAR unit, which
22 is the Border Search Trauma and Rescue.

23 The BSI initiative, the Border Safety
24 Initiative, which employs components such as rescue
25 beacons and the like.

1 We also have the ABCI, which is the
2 Arizona Border Control Initiative.

3 And as was mentioned earlier, the
4 Interior Repatriation Program.

5 Our BORSTAR unit was created in 1998
6 as part of a bi-national border safety initiative.

7 Tucson set up their program in 1999.

8 Their mission is to provide a rapid
9 response to medical calls and search and rescue
10 requests involving Border Patrol agents, civilians
11 and illegal aliens throughout the border areas.

12 There is no other entity that is
13 capable of performing this type of search, rescue and
14 medical operations along the border.

15 Local, state, federal and
16 international law enforcement and rescue personnel
17 call upon BORSTAR to perform search and rescue
18 operations due to this expertise.

19 Currently we have approximately 45
20 members in our BORSTAR unit. 35 of them are EMT
21 certified.

22 The Border Safety Initiative, the
23 mission is to secure our nation's border, which
24 includes saving lives.

25 In June of 1998, the then Immigration

1 and Naturalization Service first announced the Border
2 Safety Initiative, a strategy designed to make the
3 border safer for everyone.

4 The United States and Mexico agreed to
5 conduct joint training operations in search and
6 rescue techniques and aquatic safety, exchange
7 intelligence related to migrant smuggling, enhance
8 the effectiveness of their joint outreach efforts to
9 would-be migrants on the dangers of unauthorized
10 border crossings, especially in remote areas during
11 the hot summer and the cold winter months.

12 The Border Safety Initiative is
13 composed of four elements: Prevention, search and
14 rescue, identification and tracking and recording.

15 Working together with Mexican
16 officials, we identify dangerous crossing points
17 along the entire Southwest border, discouraging
18 illegal crossings and addressing safety problems.

19 From a search and rescue perspective,
20 we target hazardous areas where migrants may become
21 lost, abandoned or in distress due to difficult
22 terrain and the willingness of alien smugglers to
23 lead them into dangerous territory.

24 In the identification element, we
25 establish procedures and resources to help officials

1 identify those who have died attempting to across the
2 border.

3 In our tracking and recording we have
4 a repository where data is collected on all
5 BSI-related activity.

6 We work closely with the Mexican
7 consulates to discourage illegal crossings and to
8 assist illegal aliens who have been apprehended by
9 us.

10 We post warning signs in high-risk
11 crossing areas to warn would-be migrants about border
12 dangers.

13 We have an annual cold and a hot
14 weather public outreach campaign to warn about the
15 dangers of crossing the desert in mountainous areas
16 along the border during the summer and winter.

17 We also produce and distribute public
18 service announcements on television, radio and fliers
19 that are used to reach out to potential immigrants
20 entering illegally from Mexico and Central America
21 and to educate them and inform them about the
22 environmental, geographical and climate dangers
23 associated with illegal entries.

24 Our emergency vehicles have been
25 equipped with first aid kits and medical supplies and

1 every one of our enforcement vehicles carries with
2 them water.

3 We have deployed 10 rescue beacons, of
4 which we have had this year seven incidences and have
5 rescued 61 subjects.

6 We provide medical care. That is our
7 first priority when encountering an individual or a
8 group is to provide medical attention.

9 We are responsible for the care of
10 those we arrest and that we have in our custody.

11 The Arizona Border Control
12 Initiative: The mission of the ABCI is for the
13 Department of Homeland Security, the border -- the
14 border and transportation agencies, to bring them
15 together collaboratively to achieve operational
16 control of the Arizona border and support the
17 priority mission of antiterrorism, detection, arrest,
18 prosecution and deterrence of all cross-border
19 illicit traffic.

20 The agencies seek to significantly
21 impair the ability of smuggling organizations here in
22 Arizona, to reduce the effects of illegal smuggling.

23 The last initiative, of course, is the
24 interior repatriation, as you heard. It is a
25 voluntarily program for Mexican nationals, with the

1 primary goal of saving lives by taking people out of
2 the dangerous environment and the harsh summer
3 climate.

4 In addition to being voluntary, we
5 identify those we consider at risk. These are people
6 who have been recently rescued, females with
7 children, the elderly, and those found in distress or
8 sick.

9 Many of those we apprehend are
10 destitute and if returned to Mexico could not afford
11 to return to their hometown. They are virtually
12 obligated to try to cross again. So our intent is to
13 provide an opportunity for these people to go home
14 and remove themselves out of the dangerous terrain.

15 All the participants, as was stated
16 earlier, are interviewed by the Mexican consulate and
17 then they opt to return either to Mexico City or to
18 Guadalajara.

19 Thank you. And if I can answer any
20 questions.

21 DR. WEBB-VIGNERY: Yes.

22 MR. GATTONE: Thank you, Madam Chair.

23 Paul Gattone.

24 Sir, prior to the imposition of the
25 Border Patrol's Operation Gatekeeper, many people

1 coming to this country looking for economic
2 opportunity came through more populated areas. And
3 the imposition, my understanding is the imposition of
4 Operation Gatekeeper was to cut off those more
5 accessible populated routes and so people would be
6 forced to go through the desert and would hopefully
7 not do so.

8 In effect, aren't your mitigating
9 programs that you just described an indictment of
10 Operation Gatekeeper and essentially an indication of
11 its failure and it's causing people to be put in
12 dangerous situations?

13 MR. LOPEZ: I believe that our
14 reaction to address this situation on this border
15 here, because of the fact that it is a desert and
16 that it is very hot in the summer, and that in the
17 winter it turns very cold, and it catches a lot of
18 these people off guard, is a testament that we are
19 aware that these people can in fact fall into this
20 type of distress.

21 But we operate like any other law
22 enforcement organization in which you address the
23 crime where the crime exists.

24 We do not control where these people
25 choose to cross, but we can react and make the border

1 safer by attempting to get specialized units into
2 those areas once those people are in -- are in
3 distress.

4 MR. GATTONE: But, sir, it is true
5 that the Border Patrol in recent years has
6 specifically focused its enforcement efforts on
7 populated areas, more urban areas that people used to
8 cross, so that those would be less accessible to
9 people entering this country; is that correct?

10 MR. LOPEZ: That is correct. That is
11 where those people were initially deciding to cross
12 and that's where the Border Patrol focused its
13 resources first.

14 MR. GATTONE: And as such, those
15 people then who continue to come into the country
16 looking for economic opportunity were forced into
17 less urban areas and more dangerous areas; isn't that
18 also correct?

19 MR. LOPEZ: I believe it was an
20 adjustment on the part of the smugglers that were
21 bringing these people in, to choose to try to come in
22 in areas that they perceived to be easier to cross.

23 MR. GATTONE: And these are in fact
24 the areas that you said produce a greater danger to
25 the border crossers?

1 MR. LOPEZ: Some of these areas are
2 pretty desolate, they are very hot. They not only
3 are affected by weather, but there's snakes,
4 scorpions and a dangerous place to try to trek
5 across.

6 MR. GATTONE: And despite these
7 dangers, people continue to come; is that also your
8 perception?

9 MR. LOPEZ: Yes.

10 MR. GATTONE: And just a final
11 question, sir. When we talk about smugglers and
12 about border security, you said you've been 30 years
13 in the Border Patrol, it's true, is it not, that the
14 majority of people coming here looking for economic
15 opportunity.

16 MR. LOPEZ: 24 years.

17 MR. GATTONE: I'm sorry.

18 MR. LOPEZ: The majority of the people
19 that -- the majority of the people that we encounter
20 state as their reason for coming to try to better
21 their lives and earn better wages.

22 MR. GATTONE: And so indeed, when you
23 talk about a threat and closing off the threat, these
24 people, their only crime is trying to come here for
25 economic opportunity?

1 MR. LOPEZ: On the majority's part, I
2 would say that's accurate. However, those criminal
3 elements that choose to introduce narcotics or
4 possible terrorism, with terrorism intent, take
5 advantage of a chaotic situation on the border, of a
6 boarder in disarray, they take advantage and they're
7 able to hide amongst some of these people in order to
8 enter the country. And that is why it becomes
9 important for the Border Patrol to protect the
10 borders of this country.

11 MR. GATTONE: Thousands of people are
12 stopped -- well, almost on a daily basis coming in
13 from Mexico, correct?

14 MR. LOPEZ: Yes.

15 MR. GATTONE: Just very briefly, how
16 many -- in the past, like say five years, how many of
17 those individuals have been charged or suspected of
18 terrorist activity rather than just coming in for
19 economic opportunity?

20 MR. LOPEZ: Well, I don't know that we
21 can accurately say exactly who's coming in and would
22 tell us they're coming in for one reason and actually
23 coming in for another. But we have identified what
24 we call special interest aliens, aliens coming from
25 countries that have known terrorist activity, and we

1 have in fact apprehended at least six of those this
2 fiscal year.

3 DR. WEBB-VIGNERY: Isabel?

4 MS. GARCIA: Yes, I have a few
5 questions.

6 Operation Gatekeeper began in the fall
7 or so of 1994; is that right?

8 MR. LOPEZ: I believe you're correct.

9 MS. GARCIA: And isn't it correct that
10 prior to that there were really no deaths to speak
11 of, just a few people that got lost, we did not have
12 the record number of deaths; isn't that right?

13 MR. LOPEZ: I don't think I can answer
14 that question accurately simply because the Border
15 Patrol did not start keeping statistics on deaths in
16 crossing the border until the Border Safety
17 Initiative.

18 MS. GARCIA: But you would agree that
19 the deaths increased after Operation Gatekeeper
20 began? You would not agree that that's true in spite
21 of the --

22 MR. LOPEZ: I just couldn't -- I just
23 don't have that information to provide you an
24 accurate answer.

25 MS. GARCIA: That's fine.

1 In 19- -- well, you've been around for
2 a long time. The United States Civil Rights
3 Commission published a document called the Tarnished
4 Door back in nineteen eighty -- eighty-something.

5 Then the Commission held other
6 hearings in '93, eventually came out with a report in
7 '97 documenting serious problems within your agency
8 about how to document abuse, public awareness,
9 inadequate public awareness, complaint mechanisms,
10 inconsistent, confusing, inaccessible, no standard
11 complaint form, no appeals process, no procedure for
12 independent external review, complainants having fear
13 of reprisals, complainants not being notified of
14 status or disposition of their case, officers rarely
15 being disciplined for abusive behavior and statistics
16 that are incomplete, inaccessible and never being
17 published on a regular basis.

18 So the Commission made certain
19 recommendations and again reiterated that they had
20 done these during the Tarnished Door one, and then
21 again, what have you done to comply with these
22 recommendations, if anything?

23 MR. LOPEZ: I'm not familiar
24 specifically with the recommendations. I'm familiar
25 with the report you speak of but not with the

1 recommendations.

2 I can tell you that -- what our policy
3 is today. When we receive a complaint from an
4 undocumented alien or from another third party,
5 immediately several things happen.

6 The Joint Intake Center under the new
7 Department of Homeland Security gets a report from
8 the office, the Office of Professional
9 Responsibility, and the Office of the Inspector
10 General's office get notified.

11 They are the ones that have the
12 authority to investigate allegations of abuse and
13 civil rights violations against Border Patrol.

14 Border Patrol themselves do not do the
15 investigation; therefore, we do not initiate that
16 full investigation. That investigation is reported
17 to these authorities who have the jurisdiction and
18 the authority to investigate. We detain the
19 individual making the allegations so that he is able
20 to make a full report.

21 We also notify --

22 MS. GARCIA: So the person is held in
23 detention while they --

24 MR. LOPEZ: Initially, until we can
25 get an investigator to speak to him. Once the

1 investigator speaks to him and the Mexican consulate
2 or the consulate of the country from which the alien
3 is from, we can then decide whether his continued
4 custody is necessary to fulfill the investigation.

5 MS. GARCIA: So if a complainant --

6 DR. WEBB-VIGNERY: I'm sorry, we're
7 going to have to move on.

8 MS. GARCIA: We have a lot of
9 questions --

10 DR. WEBB-VIGNERY: I know you do, but
11 we have a time limit here --

12 MS. GARCIA: Well, can we -- being the
13 only representative of the Tucson sector and being
14 the primary area in this country, I think we need
15 more questions --

16 DR. WEBB-VIGNERY: I understand all
17 that, but we have people who are lined up to speak,
18 and we only have a certain amount of time --

19 MS. GARCIA: Then can we ask if
20 they're willing to delay? Because we have some vital
21 questions that -- really, if we don't ask these
22 questions now, it's really an inadequate --

23 DR. WEBB-VIGNERY: I understand that.

24 MS. GARCIA: -- procedure today.

25 DR. WEBB-VIGNERY: But we need to move

1 on.

2 And I want to thank you very much.

3 MS. LEE: Madam Chair, if I could, I
4 could make a request -- and again, I'm not sure in
5 terms of the proceedings and what is usually done --
6 but given the nature of the subject -- and I
7 recognize people's limited time -- but given the
8 nature of the subject and the people that are here
9 before us, that we as an entity don't usually have
10 the opportunity to address, I would request --
11 whether we need to vote or if we can make a vote or a
12 motion that we suspend the rules at this particular
13 point in time in terms of the questioning in order to
14 be able to address the issues that we have come here
15 for this morning.

16 DR. WEBB-VIGNERY: I have to ask the
17 advice of the staff on this. We have an agenda.

18 MR. DULLES: Is there a procedural
19 question?

20 DR. WEBB-VIGNERY: Yes, there's a
21 procedure question, and I prefer have some advice on
22 this.

23 The request has been made that we
24 suspend the proceedings so that we can spend more
25 time in questioning the present presenter. And that

1 means that we are going to be throwing all the others
2 who appear here this morning --

3 MR. GATTONE: Well, not so much to
4 suspend the proceedings with all respect, madam chair
5 but just to modify the agenda such as -- I think
6 maybe more specifically, could we allocate another 15
7 minutes to Mr. Lopez to ask him some questions?

8 MR. DULLES: I really think it would
9 be the call of the chair on how to proceed. What we
10 can do is we can try to contact whomever might be
11 following on the agenda, see if they have the ability
12 to maybe at least postpone their departure by several
13 minutes, and then the committee will of course have
14 to maybe not have a full recess for lunch. But
15 certainly --

16 DR. WEBB-VIGNERY: I think that's
17 going to absolutely be the case.

18 MR. DULLES: But you have the
19 authority, if you wish, to extend the agenda and our
20 staff can determine whether the subsequent presenters
21 have the ability to stay a little longer. And then
22 maybe during the lunch recess the Committee should
23 get together and, you know, agree on what the
24 procedures will be for this afternoon. But you have
25 the authority to make the decision. And you have the

1 authority to overrule any other recommendations as
2 well.

3 DR. WEBB-VIGNERY: Thank you very
4 much.

5 I think we have both persons who are
6 on the morning agenda here in the audience, if I'm
7 right, the EEOC and from Congressman Grijalva's
8 office. Would this be okay with you?

9 DR. HERNANDEZ: Madam chair, could I
10 have a point of order? I think -- and having gone
11 through a number of these hearings as chair of the
12 California committee, I recommend that one of the
13 ways we handle this -- and we have handled it this
14 way in the past -- is time is of an essence because
15 some of us will have to catch flights, and what that
16 means is that if we overextend the hearing, then the
17 Committee will shrink and many of the questions that
18 a lot of us have won't get asked.

19 One of the ways we've handled this in
20 the past is that members of the Committee that have
21 pressing questions could submit those questions to
22 the agency to go in the record, and so some of -- and
23 I know it's an -- it's not always the best way to
24 handle it, but time is a concern. And I do want to
25 support you in trying to keep us on track and trying

1 to keep us in some time.

2 We will not be able to explore in a
3 day and a half every one of the issues in any great
4 depth.

5 I would recommend that those members
6 of the Committee that have additional questions,
7 especially extensive questions, submit those
8 questions through the staff to the agency so that the
9 agency could answer those questions and have those
10 answers inserted in the record.

11 DR. WEBB-VIGNERY: I'd like to say
12 like that we will extent this for 10 minutes, and
13 then ask that those who have questions, that you
14 submit those and we will submit them to the agency
15 for answers to submit into the record.

16 MS. GARCIA: If I could proceed, I
17 have two quick questions then, and I will submit all
18 the other questions.

19 I'd like to know on this repatriation
20 program why the Border Patrol changed its policy and
21 began to fingerprint children going on the planes,
22 those that are 14 years old and older.

23 And the second question is regarding
24 the death of a young man about four or five weeks ago
25 in the cell. We've not heard anything about that.

1 And if you could tell us about those
2 two things, the fingerprinting and the death of this
3 young man.

4 MR. LOPEZ: Okay. On the
5 fingerprinting, just from my personal knowledge, is
6 that according to the Immigration and Nationality
7 Act, we are authorized to fingerprint anyone 14 years
8 of age or older for immigration purposes. And I am
9 not certain that this -- that all of these are being
10 fingerprinted. But if you say they are, then I'll
11 take --

12 MS. GARCIA: For visa processing or
13 enforcement procedures?

14 INS allows for immigrating procedures,
15 visa, but this is a change as far as I know, this is
16 a change of policy.

17 MR. LOPEZ: Well, we've never
18 fingerprinted anybody under the age of 18 for
19 criminal prosecution.

20 MS. GARCIA: Right.

21 MR. LOPEZ: And we have always
22 fingerprinted anybody having an immigration
23 administrative issue, be it an arrest at 14 -- 14 to
24 17. And so I believe we are adhering to that if we
25 are doing this.

1 MS. GARCIA: This is a change. I
2 didn't know if you knew.

3 MR. LOPEZ: On the second issue, the
4 alien who died, you say, in custody --

5 MS. GARCIA: The gentleman, yes.

6 MR. LOPEZ: Okay, the gentleman who
7 died in custody.

8 As you know, the immigration service,
9 when it was reorganized, the individuals who are at
10 the Tucson sector are under the Bureau of Immigration
11 and Customs Enforcement. They are not customs and
12 border protection officers. So I would submit that
13 the investigation is being conducted by ICE, and
14 therefore I would not be the person to be able to
15 answer you at this time.

16 DR. WEBB-VIGNERY: Yes?

17 MS. LEE: Lorraine Lee.

18 It's no secret in terms of vigilante
19 groups that have been coming together in the state of
20 Arizona. I would like to know what is the
21 relationship between the Border Patrol and the
22 vigilante groups? How do they interact together and
23 what is -- how does the Border Patrol handle
24 situations where vigilantes have in fact gone out,
25 detained individuals, and then call upon you and --

1 how is that handled?

2 MR. LOPEZ: What we do is on every
3 citizen of this country, or any person that is
4 calling to report illegal activity, we respond. The
5 Border Patrol responds. In this sector, that's one
6 of the chief's priorities. We will respond to any
7 and all calls.

8 And when we have arrived in places
9 that there are people there detaining, or what
10 appears to be detaining people, we have a protocol;
11 an immediate report to the local authorities, to the
12 sheriff's office, a call to the county attorney's
13 office, a call to the consulate where these people --
14 you know, of the country of origin.

15 And all of these people got involved
16 in the process. And they then will look at the
17 incident and decide whether the county authorities,
18 who have jurisdiction, if there is a prosecutable
19 case. That's how those things are handled.

20 DR. WEBB-VIGNERY: Yes, Paul.

21 MR. GATTONE: Paul Gattone from
22 Tucson.

23 There's been significant controversy
24 between the United States and Mexico in recent months
25 over the use of these pepper balls, pepper spray

1 balls, and my understanding is they're like a paint
2 ball that's filled with some sort of irritant.

3 Granted, that there may have been some
4 misunderstanding in Mexico as to the exact nature of
5 the instrument, but there's been reports that they're
6 being used by Border Patrol agents in an offensive
7 capacity rather than a defensive capacity.

8 And how long -- I'd ask two questions:
9 One is how would you respond to that; and two is, how
10 long have they been in use and are there any written
11 protocols for when and how these pepper balls are to
12 be used against undocumented individuals.

13 MR. LOPEZ: There is written protocol,
14 and the protocol is to use to de-escalate a situation
15 that could lead to lethal force.

16 The policy is in place. I would say
17 that to our knowledge, these weapons are not being
18 used for anything other than defense, when the agent
19 is in fear of his life. And this is a tool that we
20 use to not force us into using lethal force.

21 MR. GATTONE: Sir, are the pepper
22 balls being used against unarmed or clearly unarmed
23 individuals?

24 MR. LOPEZ: If by armed you're just
25 meaning with guns or with -- we would consider

1 somebody with a rock attacking one of the agents on
2 the line as being armed.

3 MR. GATTONE: Well, do you know -- do
4 you have any documentation of how many times during
5 maybe the past -- well, I'm sorry, sir. How long has
6 the pepper ball been in use? It seems to be recent.

7 MR. LOPEZ: Well, I believe that we
8 began either in 2001 or 2002.

9 MR. GATTONE: Do you have any
10 documentation as to how many times they've been used
11 by officers that have been attacked and how many
12 times they have been used by people who turned out to
13 not have any weapons?

14 MR. LOPEZ: We have documentation
15 that I believe it's -- we've used it over 70 times
16 since its inception, and there is documentation to
17 that effect. And I haven't seen each and every
18 piece, each and every case, but I would have to say
19 that according to policy, it would have had to have
20 been used in a defensive manner or the agency would
21 have taken corrective action.

22 MR. GATTONE: Would you be able to
23 provide maybe a copy of the policy and those -- some
24 sort of material on the circumstances under which
25 they've been used to this body?

1 MR. LOPEZ: From a sector perspective
2 we could probably provide you information to that
3 effect. And I believe that we could also provide a
4 copy of the policy, yes.

5 MR. GATTONE: If you could provide it
6 to the --

7 DR. WEBB-VIGNERY: Yes, that
8 information would go to our district -- the regional
9 office in Los Angeles. And our staff member is
10 Mr. Art Palacios who is right behind you.

11 And I want to thank you for coming and
12 meeting with us this morning and sharing your
13 insights.

14 MR. LOPEZ: We're welcome.

15 DR. WEBB-VIGNERY: We have with us
16 Jason Brown, who is an investigator with the EEOC.

17 And you've been here and so you know
18 you have eight minutes.

19 MR. BROWN: I'm going to change seats
20 because that seems to be the hot seat.

21 I like to use word "colleagues"
22 because really we're all colleagues, the people that
23 are present here for one issue, and that is civil
24 rights.

25 And my name is Jason Brown and I'm a

1 bilingual federal investigator for the U.S. Equal
2 Employment Opportunity Commission for the Phoenix
3 district office.

4 But to qualify that, I have served in
5 the Peace Corps for three years prior in which I
6 learned Spanish and have been able to utilize that
7 skill to work with the Hispanic community, and
8 particularly in the area of civil rights.

9 But what I'd like to do is just to
10 share a quote. We just had a -- the 40th anniversary
11 of the Civil Rights Act of 1964. And it's a quote
12 from an individual here in the state of Arizona,
13 actually from an individual that I investigated his
14 case.

15 And it goes, This is a quote from a
16 letter a charging party sent to me. I have this
17 hanging in my office. This was an excellent cause
18 case in which we found cause for a large group of
19 individuals.

20 But he states, I quote, I wish I would
21 have documented every incident that happened to me
22 and to others but I really had no intentions of doing
23 anything like this and did not really think anyone
24 cared about us Mexicans.

25 Thank you for taking the time,

1 Mr. Brown. Your name will be passed down in my
2 family as a friend of Mexicans and other ethnic
3 groups.

4 So that's a quote that was sent in
5 from an individual from a case I investigated. It
6 made Washington and our publications that was sent
7 out.

8 But I think the interesting point here
9 is that he says thank you for taking the time. And
10 for people to actually take the time within the
11 community to know that individuals have civil
12 rights. The EEOC does not have a policy on
13 immigration. We really don't ask an individual what
14 their immigration status is in the United States.
15 The issue is that of discrimination.

16 For example, just because an
17 individual is a female, therefore, does that give an
18 individual the right, an employer, to sexually
19 assault her? Of course not.

20 Just because an individual is Mexican-
21 looking in descent, does that give the employer the
22 right to exploit them or to discriminate against them
23 based on their national origin, Mexican? And the
24 answer to that is no.

25 So the issue for us is an individual's

1 race, color, national origin, and so based on that,
2 of discrimination issues.

3 At times employers have threatened
4 their workers in factories with calling INS in order
5 to report them for protesting their civil rights of
6 sexual harassment.

7 There was a particular case -- and I
8 do have copies of this for everybody -- but it is a
9 publication the EEOC puts out. It's called Hispanic
10 Workers in Arizona, Know Your Rights.

11 We publish this both in English and
12 Spanish. And it specifically does state in here:
13 EEOC will not on its own initiative inquire into a
14 worker's immigration status or consider an
15 individual's immigration status when examining the
16 underlying merits of a charge.

17 So it gets to the issue of the
18 charge. We had a case against Quality Art
19 Manufacturing, and the court approved a stipulation
20 judgment to settle a lawsuit alleging that 35 female
21 and Hispanic low wage workers were subjected to
22 widespread sexual harassment, national origin
23 discrimination and retaliation. Acts of retaliation
24 included firing, forced resignations and reporting
25 employees to the INS.

1 And so an employer does not have the
2 right to contact INS as a form of retaliation to
3 discriminate against its employees for voicing their
4 civil rights.

5 So by having antidiscrimination laws
6 in place, we deter employers that if they think that
7 they are going to bring workers here into the United
8 States from Mexico and that they can exploit them,
9 they are wrong because there are laws in place that
10 govern that we will not discriminate against our
11 employees based on their national origin.

12 So we have a lot of instances too with
13 farm workers, because we cover Arizona, Utah and New
14 Mexico, so we have a very large territory. We do a
15 lot of outreach in the areas of the farm workers, the
16 migrant worker coming over to start the seasons. We
17 educate them about their rights.

18 It is not uncommon in that industry
19 that females are left out of positions in which they
20 will not be considered for supervisors because they
21 are females, even to the fact to where they are
22 sexually harassed out in the farm fields because they
23 are females.

24 And so it's like, well, if you want
25 the job, well, you know, you have to perform a sexual

1 act and -- or if they don't submit to the sexual
2 passes of the supervisor, or possibly the farmer,
3 then therefore they are terminated or they won't be
4 rehired in the new season when it comes around.

5 So those are types of things and
6 immigration issues that we do see.

7 Recently there's been a lot of
8 training on the human trafficking that has been
9 coming into the United States. It seems to be of
10 interest.

11 And with that training -- because
12 oftentimes in employment situations in these
13 factories, individuals there could be victims of
14 human trafficking. And we do work in conjunction
15 with other agencies that if any of these do come
16 about, then we go through the proper channels to
17 report it so they can look into that.

18 And that's an idea of what our issues
19 are on immigration. We don't have anything about
20 border crossings or any of those other types of
21 issues.

22 DR. WEBB-VIGNERY: Any questions?
23 Paul?

24 MR. GATTONE: Thank you. Paul Gattone
25 again.

1 Sir, there are two actual agencies,
2 the EEOC but also the attorney general's office,
3 civil rights division, that maybe an undocumented
4 person who felt they were discriminated against could
5 report to, correct?

6 MR. BROWN: That's correct.

7 MR. GATTONE: We have heard earlier
8 today that one of the provisions of Proposition
9 200 -- and obviously wouldn't affect you as a federal
10 employee -- one of the requirements of Proposition
11 200 is that if a State of Arizona employee has
12 information that leads them to believe that a person
13 who is undocumented is attempting to access
14 government services, they have an obligation under
15 penalty of threat of criminal charges to report that
16 person.

17 Do you envision that this would
18 discourage Mexican nationals, undocumented persons,
19 from reporting employment discrimination to maybe the
20 attorney general's office?

21 MR. BROWN: Well, you know, possibly,
22 in the event -- we do have work share agreements
23 between the both the Arizona civil rights division
24 and also for the EEOC. You know, I mean, in the
25 event -- there's always ways to get around the issue,

1 and one is people get referred over to the EEOC.

2 And so, you know, until that bridge is
3 built with the proposition passing, then it would
4 probably be addressed at that time, but that doesn't
5 affect the federal government from doing business the
6 way that we do.

7 So we do have a unique situation in
8 which we can utilize both laws from the state and the
9 federal government for that of discrimination
10 issues.

11 But in reality, that is actually a
12 good question, and I will present that to our acting
13 director.

14 MR. GATTONE: Do you think that your
15 agency has the -- if the Mexico nationals could not
16 go to the attorney general's office, do you feel that
17 your agency has the present capacity to handle the
18 greater influx?

19 MR. BROWN: Oh, absolutely. In
20 reality, I think the majority of Hispanics that come
21 over from Mexico that are undocumented usually don't
22 report anything. They're probably the least on the
23 totem pole as individuals coming to report. Because
24 in Mexico, a lot of them do not have civil rights,
25 and in the United States we are the premier country

1 for civil rights. So the policies that we set, it
2 sets the precedents for other countries to see how
3 they need to treat their people. So a lot of times
4 they don't even know that they even have rights or
5 the postings.

6 So it is a unique situation. But when
7 they do come, it's because the employer owes them \$25
8 for some job that they did and didn't realize that
9 they had some rights and they had been sexually
10 harassed or, you know, a lot of the racially
11 derogatory words of being referred to because of
12 their national origin, Mexican.

13 DR. WEBB-VIGNERY: I have a question.
14 For the record, do you have statistics
15 on undocumented workers and their filing of
16 complaints with your agency?

17 MR. BROWN: No, we do not.

18 DR. WEBB-VIGNERY: You don't?

19 MR. BROWN: We don't keep those
20 statistics that I know of because we don't ask an
21 individual's status, whether they are documented or
22 undocumented, at the time of filing charges.

23 DR. WEBB-VIGNERY: And do you have any
24 literature on a chilling effect for an undocumented
25 working filing such a complaint?

1 MR. BROWN: I think that's an
2 excellent question, and I think that would probably
3 be something that would be -- need to be addressed
4 because I imagine there is a chilling effect for
5 undocumented workers in filing because we are the
6 federal government, and for them to take the time to
7 come in to complain to us, once again, is because
8 they have gone through so much, and it's oftentimes
9 the employer owing \$25 to the individual and they end
10 up going to the Department of Economic Security
11 looking for help and then they start divulging this.
12 And then because of work share agreements they say,
13 well, come over to the EEOC, I'm sure they can help
14 you with your issue, and then we do get involved.

15 DR. WEBB-VIGNERY: Okay. Lorraine?

16 MS. LEE: Lorraine Lee.

17 I just want to make sure I understood
18 what you just said to -- your answer to Mr. Gattone's
19 question. Did I understand in terms of Proposition
20 200 that has the potential for a large number of
21 potential civil rights abuses, possibly hundreds of
22 people that may come forward, do I understand you
23 correctly saying that your office that represents the
24 number of states that you stated earlier would be
25 able to handle that?

1 MR. BROWN: Well, we would have to. I
2 mean, we would never --

3 MS. LEE: Let me just -- because it's
4 different from you can take a person's name, write
5 down, or they can write it down, very different from
6 I will take your case, investigate your case, see it
7 from beginning to end. It's very, very different.
8 Because anyone can take down a piece of paper and a
9 name and number.

10 MR. BROWN: Right. But the reality of
11 it is we're never going to know unless the individual
12 divulges to us that they are undocumented, so we
13 don't have any way to determine, and so when they do
14 come in to file, they're going to be filing as if
15 anybody else was coming to exercise their rights.

16 MS. LEE: Let me just -- I wasn't
17 specifically saying in terms of undocumented; I was
18 talking in terms of general citizens.

19 MR. BROWN: Yeah. Well, based upon
20 the last that we have, you know, for the fiscal year
21 2002, we took over 3,000 thousand new charges on top
22 of the current pending charges that we have for this
23 office.

24 And the reason why we work with the
25 state agencies is they -- we work the territories so

1 they can carry some of that burden, but in fact if it
2 does pass, then I'm sure that they will address that
3 issue and with the impact of possibly other people
4 coming to file.

5 MS. LEE: So you are being hopeful
6 that they would provide the similar -- somehow,
7 somebody is going to provide your office with the
8 financial resources and wherewithal to be able to
9 address these potential problems?

10 MR. BROWN: Financial resources?

11 MS. LEE: That's what we're talking
12 about here.

13 MR. BROWN: I mean, in reality, I
14 mean, what financial resources does an individual
15 need to file a charge?

16 And if the public demands that much
17 more of it as a law enforcement agency on
18 discrimination, then therefore we will put the effort
19 into it to meet those demands.

20 And, I mean, so what's it mean?
21 Working a couple of extra hours a day? What's it
22 mean? But as long as justice is administered.

23 And in those particular cases, when
24 justice does come out, such as at Quality Art, that
25 sends the public message to the individuals. So it's

1 that we are still enforcing these and that we are
2 going through.

3 MS. LEE: Just for the record, Mr.
4 Brown, having gone through the process before myself,
5 I know it takes more than just a couple extra hours.

6 DR. WEBB-VIGNERY: We have time for
7 one more question.

8 MR. MCKENZIE: Thank you. James
9 McKenzie from Tucson.

10 My question is dealing with
11 individuals who get caught up in the INS and is
12 looking to be deported.

13 Does EEOC get involved in the
14 possible -- they've got to initiate the complaint;
15 but if they don't initiate the complaint that they've
16 been abused by a worker, is there any other mechanism
17 to catch that one -- I should have been paid next
18 week, but now that they caught me, so to speak,
19 and/or my employer called on me and I'm being sent
20 out of the country, is there any way to catch those
21 kind of abuses?

22 MR. BROWN: You know, in my experience
23 of being with the EEOC, I've only seen maybe the
24 Quality Art issue in which INS was called, an issue
25 in Utah in construction where INS was called for an

1 individual's protesting rights, and one other one, a
2 few females had called in for sexual harassment.

3 So that's three over my -- over a
4 period of -- going on my sixth year with the
5 Commission, so that's -- it's very small in
6 comparison.

7 And the issue of them getting paid,
8 usually those issues are referred over to the
9 Department of Labor, unless they are not getting paid
10 for -- based on their national origin being that of
11 Hispanic or Mexican.

12 MR. MCKENZIE: I guess my question
13 really is, I'm hearing that the complaint has to be
14 initiated by the employee; is that correct?

15 MR. BROWN: That's correct.

16 MR. MCKENZIE: But what if they don't
17 want to step forward? Is there any sort of mechanism
18 to protect their rights even though they don't want
19 to step forward? Because like you know, in sexual
20 harassment, most of those are never reported.

21 MR. BROWN: Right. Well, there are
22 mechanisms that are in place. Sometimes an advocacy
23 group can come forward and make a third-person,
24 third-party charge.

25 Also, too, there is usually always one

1 individual that comes forward, and that one
2 individual that does come forward, other individuals
3 can become class members in which they're umbrella'd
4 in and they don't have a charge.

5 Also, too, the EEOC can do -- we could
6 do a director's charges where the Commission has a
7 Commission charge where we initiate it if we feel
8 that are serious violations.

9 MR. MCKENZIE: Thank you.

10 DR. WEBB-VIGNERY: I want to thank you
11 for coming and sharing with us this morning.

12 MR. BROWN: Thank all of you.

13 DR. WEBB-VIGNERY: And our last person
14 for the morning is representing Congressman Grijalva.

15 Could you state your name?

16 MS. SKIDMORE: Yes. My name is
17 Boralina Skidmore. I would like to extend the
18 sincere regrets of Congressman Grijalva. He really
19 wanted to be. Unfortunately, he's at the other edge
20 of his district at this time. And as you know, he
21 has the largest border area of any other congressman.

22 I have a statement that he has
23 prepared and I'd like to read it.

24 Every year hundreds of people die
25 making their way across the U.S. Mexico border in

1 search of work to take care of their families. This
2 is in part due to an impractical and irrational
3 policy with regard to the border and immigration.
4 Until the need for just and sustainable development
5 throughout the Americas is addressed, the flow of
6 people embarking on a desperate journey of hope will
7 continue.

8 Furthermore, it is an undeniable fact
9 that undocumented immigrants make an economic
10 contribution to the U.S. economy. If every
11 undocumented worker in the U.S. were to be deported,
12 we would literally not be able to feed ourselves for
13 lack of workers to pick our lettuce, tomatoes and
14 other produce. Hotels would close for lack of
15 dishwashers, cooks and busboys. Thousands of
16 children would be left without daycare. The role
17 these workers play in our economy is an integral part
18 of our nation's way of life.

19 I am deeply disturbed by these
20 senseless acts of violence justified by a feigned and
21 misplaced sense of patriotism. My opposition to
22 vigilante practices and my letter to Attorney General
23 Ashcroft regarding this same issue made me a target
24 of these groups and their Web sites promoting hate.

25 I have firsthand experience with

1 vigilante treats and actions and am concerned that
2 these groups impart this same hate to those crossing
3 the border.

4 The reason for concentrating on the
5 vigilantes is not just the threat they pose but also
6 the arrogance with which they're doing it. For us
7 not stand up to that arrogance would be a big
8 mistake. They're intensifying and bringing
9 considerable danger to an area that's already in the
10 grip of a crisis, with huge numbers of migrants being
11 forced through the desert.

12 The deaths in the desert are connected
13 to the vigilante issue. Both are occurring as
14 results of a failed border policy. If federal policy
15 is driving this, causing these problems with
16 immigration, and it is, then there has to be federal
17 intervention.

18 The bottom line is this: You just
19 can't allow vigilantes and hate groups to exist
20 without a consequence. They need to know that they
21 cannot take the law into their own hands; they cannot
22 violate people's civil liabilities or violate
23 people's human rights.

24 When there is the appearance of an
25 official sanction by law enforcement authorities, a

1 blind eye turned it to, vigilantism breeds.

2 I am just as equally disheartened
3 regarding our federal government's skirting of this
4 issue. Attorney General Ashcroft's response to my
5 January letter was less than adequate and did not
6 indicate the Administration's actions on this issue,
7 if any.

8 I am also concerned with Border Patrol
9 and their procedures of apprehension in the Tucson
10 community and the other border communities. The
11 increased militarization on our border is not
12 creating solutions to the immigration issue in our
13 community. Recent reports in local and national
14 papers regarding raids in our neighborhoods, stores,
15 and other locations raise concerns as to the impact
16 on the quality of life of our communities near the
17 border.

18 We are receive numerous reports from
19 our constituents that cite Border Patrols' lack of
20 concern in our neighborhoods, creating more dangers
21 rather than improved security.

22 Among the various complaints from our
23 constituents are verbal abuse by both Border
24 Protection and Customs at the Port of Entry, lack of
25 concern for safety, and abuse of power. "I felt

1 degraded" is all too common a phrase shared by
2 several abuse cases.

3 We receive numerous reports citing
4 that Border Patrol agents use excessive force,
5 randomly harass community members, invade residents'
6 private property, or speed dangerously through
7 neighborhoods where children play outdoors.

8 Too often, Border Patrol and the
9 police collaborate on domestic violence calls and
10 victims are being deported without being informed
11 about the possibility of immigration relief through
12 the Violence Against Women and Children Act.

13 When detained, they're denied basic
14 human needs, such as water, food and hygiene. This
15 is an issue of training, as it is also an issue of
16 the lack of resources.

17 I believe those responsible for border
18 enforcement duties should be adequately trained and
19 given the resources to do their job in a humane
20 manner.

21 I will continue to advocate for sound
22 and responsible immigration reform and border
23 enforcement policies as well as budgetary and
24 personal requirements needed to carry out the mission
25 in a safe and knowledgeable manner.

1 I am very well aware of the dangerous
2 pattern of life which has been developing among the
3 border communities since 9/11. As an immigration
4 advocate, I believe we need to address the problems
5 on our border with immigration reform, not
6 militarization.

7 Immigration is a complex issue. I
8 support comprehensive immigration reform as well as
9 an international dialog in the dealing with
10 immigration.

11 Congress must acknowledge the reality
12 of our border situation and consider the push-pull
13 factors of immigration when discussing this issue.

14 As Americans, we must be aware of the
15 bureaucratic process of traveling to the United
16 States, either as a visitor or immigrant, in order to
17 begin to address the fundamental problems with
18 immigration.

19 I thank the U.S. Commission on Civil
20 Rights for bringing the issue of the border and civil
21 liberties to the forefront. I urge you to join me in
22 continuing the work by disseminating this information
23 in a timely manner, so that we can craft responsible
24 and comprehensive immigration policies that ensure
25 fairness for immigrants and legal residents, as well

1 as a guarantee of civil liberties and equal
2 protection of the laws for all: Citizens, immigrants
3 and visitors.

4 DR. WEBB-VIGNERY: Thank you. And I
5 would like to ask, could you please present that to
6 our regional staff.

7 MR. PAZ: Ramon Paz. I have a
8 question.

9 You heard our representative from the
10 Border Patrol earlier this morning, sort of like the
11 Red Cross organization right, the Border Patrol?

12 What would Representative Grijalva,
13 how would he react to the comments he made?

14 MS. SKIDMORE: He would have a lot of
15 comments, although I can't replicate them.

16 You know, the issue of Border Patrol
17 abuse is something that we have been continually -- I
18 don't want to say fighting, but dealing with.

19 And it's fine, it's great to have
20 policy. It's much more important to be able to
21 enforce it rather than just say that there's policy.

22 MR. PAZ: What we heard today was
23 primarily their efforts to safeguard the person
24 crossing over, which is really a facade for homeland
25 security and all that, correct?

1 MS. SKIDMORE: Correct.

2 DR. WEBB-VIGNERY: I have a question
3 as well. The chair of our California SAC is
4 particularly interested in the economic implications
5 of our border issues, and I'd like for him to ask the
6 question because I know that Congressman Grijalva has
7 a statement, has a position on this, how we're going
8 to treat undocumented workers. But perhaps I can
9 turn it over.

10 DR. HERNANDEZ: Thank you, June.

11 Fernando Hernandez, California State
12 Advisory Committee.

13 Our committee has been especially
14 concerned about the impact that the immigration has,
15 not only on Mexico -- and we had testimony earlier
16 from the Mexican consulate that remittances sent back
17 to Mexico account for a very large -- a substantial
18 part of the Mexican economy.

19 Has the -- has your office
20 investigated or gotten any kind of information on the
21 impact that the immigrants, both legal and illegal,
22 have on this community and your district in this
23 state?

24 MS. SKIDMORE: We definitely have
25 received academic reports, such as one that the

1 Thunderbird -- and I didn't bring the copy of the
2 report, but --

3 DR. HERNANDEZ: Can you make that
4 report available?

5 MS. SKIDMORE: Definitely we can.

6 DR. HERNANDEZ: And maybe then we can
7 get it in the record?

8 MS. SKIDMORE: Of course.

9 And as that report states, the
10 benefits of undocumented residents here in Arizona
11 far outweigh the costs in terms of the benefit to the
12 economy of the state.

13 DR. HERNANDEZ: I just wanted to have
14 a follow-up question maybe by my colleague on our
15 state advisory committee, Judge Alston.

16 JUDGE ALSTON: I simply was going to
17 ask that question about how the -- the money goes,
18 the benefits as opposed to the obligations.

19 MS. SKIDMORE: Of course. And we'll
20 go ahead and provide you with a copy of the report
21 and you'll see it in the numbers and the data.

22 JUDGE ALSTON: Okay.

23 DR. WEBB-VIGNERY: And could you
24 please state Congressman Grijalva's position on
25 undocumented workers in the United States?

1 MS. SKIDMORE: Well, Congressman
2 Grijalva is very supportive of complete revamping of
3 immigration policy. He does -- he has supported
4 several bills to deal with what's going on now with,
5 for example, workers that have been here for many
6 years and deserve and have worked hard and have kept
7 a clean criminal record and deserve to have
8 legalization. So he's for legalization.

9 Also, any type of guest worker program
10 that he would support would have to have protection;
11 would have to have protection from any type of
12 abuse.

13 DR. WEBB-VIGNERY: Yes.

14 MR. GATTONE: Thank you. Paul
15 Gattone.

16 I really appreciate the congressman's
17 comments as someone who is only one generation
18 removed from people who came to this country looking
19 for economic opportunity.

20 But I'm also wondering -- I know in
21 the last few years there's been obviously a
22 heightened concern about security, and I wondered if
23 since September 11, if the number of reports of abuse
24 have increased to the congressman's office.

25 MS. SKIDMORE: Since he is still

1 technically a freshman -- our office opened last
2 January -- we have gotten several reports. I think
3 people are not comfortable enough to come to a
4 federal office for help. But as the congressman
5 continues his work and people get to know him, they
6 feel more comfortable in coming to us, or they see
7 how we have referred complaints.

8 And what we do, our process is, we
9 take a complaint and we refer it to our congressional
10 liaison for the Bureau of Customs and Border
11 Protection, or if it's a little higher, we go
12 directly to the Department of Homeland Security.

13 So have we seen an increase since last
14 year? Of course. It's -- it's going to keep
15 continuing.

16 Unfortunately, when we do refer the
17 complaints and we receive letters back, the responses
18 are not necessarily what we expect them to be.
19 Hopefully that will stop.

20 MR. OSBORN: Madam Chair?

21 DR. WEBB-VIGNERY: Yes.

22 MS. SKIDMORE: Jones Osborn, Yuma.

23 Ms. Skidmore, could you furnish us
24 with copies of Congressman Grijalva's most recent or
25 comprehensive legislation with respect to?

1 MS. SKIDMORE: The last one that he
2 co-sponsored was the SOLVE Act.

3 MR. OSBORN: That would cover his
4 policy?

5 MS. SKIDMORE: Part of it.

6 MR. OSBORN: Part of it, all right.

7 MS. SKIDMORE: He does support the
8 Dream Act and Ag Job still, which was both
9 bipartisan.

10 DR. WEBB-VIGNERY: We have a question
11 from the state chair from New Mexico. Could you
12 state your name?

13 MR. AGUSTIN: Stan Agustin, chair of
14 New Mexico.

15 Listening to the different testimonies
16 this morning, especially one by the consul, Mexican
17 consulate, one of the things that he was really
18 emphasizing is the need for dialogue between the two
19 governments.

20 And what I had heard from the Border
21 Patrol this morning is that they're enforcing
22 immigration laws. And I think what I'm getting also
23 is that the laws that they're enforcing have been
24 enacted years ago.

25 And what I'm also hearing is that

1 conditions have changed. And it seems like you're
2 saying -- and I'm very encouraged by the statement
3 that you read -- that the economy right now would
4 collapse if we did not have the immigrants working in
5 our sectors of our businesses.

6 So is the congressman looking at maybe
7 starting an initiative to really evaluate the current
8 immigration laws and is he going to be opening
9 dialogue with the Mexican government so we can at
10 least address some of the issues that -- I think
11 initially we started with the abuse of -- civil
12 rights abuse, but the bigger picture is the economy.
13 I mean, I think we're going to have to admit that we
14 cannot function without our illegal immigration right
15 now, it would collapse.

16 MS. SKIDMORE: Right.

17 MR. AGUSTIN: So is the congressman
18 looking at these initiatives right now?

19 MS. SKIDMORE: Yes. You asked several
20 questions, and I'll try to answer them.

21 Yes. When the Border Patrol
22 representative was saying that they're enforcing a
23 lot of things, I think when 9/11 happened, a lot
24 things that weren't being done -- I don't know, this
25 culture of fear started where everything was just

1 There's terrorists, terrorists, and they caught six
2 in the last five years.

3 What --

4 MR. GATTONE: Six individuals, for the
5 record. They were unlucky enough to come from a
6 targeted nation.

7 MS. SKIDMORE: So that's pretty much
8 what they're talking about. The last couple of years
9 there was the (unintelligible) INS law and it all
10 came to a bill the last couple of years.

11 That's my response on that. That's
12 why they're doing that.

13 And I do want to make a quick note.
14 Enforcing immigration and border policy, immigration
15 law, this is not something that's very easy, and you
16 almost need to be an attorney to understand all of
17 it.

18 So it's a little scary that they do
19 have agents that are fresh out of high school or
20 community college to try to enforce a policy that
21 they may not have even read.

22 The congressman is -- has been --
23 there's a lot of issues that are a part of his
24 platform, but immigration and border policy, the
25 economy, it's not -- you know, it's not just one

1 thing, it's a whole comprehensive issue that he's
2 definitely working on, he's researching, he wants to
3 be prepared before he presents anything.

4 And like I said, he was a freshman,
5 although he did support a lot of bills this year.
6 But hopefully during the next term we'll see some
7 more change. We're very optimistic.

8 MR. MATUS: Madam Chair, I have a
9 question.

10 DR. WEBB-VIGNERY: Could you state
11 your name?

12 MR. MATUS: Jose Matus from the Pascua
13 Yaqui Tribe, and I'm very interested in knowing if
14 the congressman has any vehicles to deal with
15 indigenous border crossing abuses that we have gone
16 through. As a leader, we always have people that
17 have been mistreated by the American consulate,
18 sometimes here at the border, border officials.

19 What has the congressman done in terms
20 of the Indian community at the border? Because we're
21 talking about the Cocopahs and then the Yaquis and
22 the other -- three tribes that I guess the
23 congressman --

24 MS. SKIDMORE: Well, we have worked
25 with them when become aware. I think what they've

1 been doing is kind of cc'ing us when they're going to
2 cross the border if they have any problems and we
3 call the American consulate in Nogales if there is a
4 problem.

5 I just recently heard -- and this is
6 kind of part of what you were asking -- our
7 conversations with the Mexican government, you know,
8 how are we going to start, how are we going to
9 continue, are we going to intensify the conversation.

10 I just heard that something about the
11 Mexican consulate not supporting the crossing for
12 cultural activities, so that's something that we need
13 to encourage, that we need to continue talking to
14 them and maybe work together. A lot of times we have
15 to work alone.

16 But I know that the congressman
17 supports the passage of the indigenous peoples for
18 full cultural affairs. And just come talk to us.

19 DR. WEBB-VIGNERY: And I believe you
20 heard the consul saying that you need to sit down and
21 talk together. So it sounds like it's a wonderful
22 opportunity.

23 MS. SKIDMORE: And he has had
24 different conversations with this particular
25 consulate and the other one, so...

1 DR. WEBB-VIGNERY: I want to thank you
2 very much for coming today. Thank you.

3 Panel, we have 40 minutes. And
4 actually you're supposed to be back at 1 o'clock.

5 (A recess was taken from 12:35 p.m. to
6 1 p.m.)

7 DR. WEBB-VIGNERY: We have with us
8 this afternoon as our first presenter is Richard
9 Fimbres, who is the director of the Arizona
10 Governor's Office of Highway Safety and who is also
11 representing the governor at this today.

12 So Richard, could you state your name
13 into the record and also what you represent?

14 MR. FIMBRES: Okay. Good afternoon.
15 I'm Richard Fimbres. I am with the governor's office
16 of highway safety. I am the director. On behalf of
17 our great governor Janet Napolitano, I bring you
18 greetings.

19 My office's mission is to be the focal
20 point for highway safety issues in Arizona. GOHS
21 provides leadership by developing, promoting and
22 coordinating programs, influencing public and private
23 policy, and increasing public awareness of highway
24 safety.

25 Motor vehicle crashes are the leading

1 cause of all injury deaths, the principal cause of
2 on-the-job fatalities, and the third leading cause of
3 all deaths in the United States.

4 Among people ages 4 through 33, motor
5 vehicle crashes are the leading cause of death
6 according to NHTSA reports.

7 The injuries and deaths associated
8 with traffic crashes place a significance burden on
9 individuals as well as society. Health care costs
10 associated with transportation-related injuries has
11 been estimated at \$230.6 billion a year, an average
12 of \$820 for every person living in the United States.

13 The 2000 U.S. Census shows that
14 Arizona is the 6th state most heavy populated with
15 Hispanics.

16 Some of the highway safety challenges
17 we face are the lack of seat belt usage; the lack of
18 child/booster seat use; crowded vehicles; unlicensed
19 and uninsured drivers; disregard for signs and
20 signals; old unsafe vehicles; speeding and
21 impairment; youthful inexperienced drivers; recent
22 immigrants; and elderly drivers and pedestrians.

23 In 2003, 1,122 people were killed in
24 Arizona due to motor vehicle crashes, and there was
25 71,901 injuries.

1 Drinking drivers were involved in
2 24.22 percent of all fatalities. Rural crashes
3 accounted for 19.9 percent of all crashes and over
4 53.5 percent of all fatal crashes.

5 In Arizona, one person is killed every
6 7.8 hours as a result of a traffic crash.

7 The Native American mortality rate is
8 nearly three and one half times greater than the
9 overall Arizona rate.

10 Motor vehicle crashes are the leading
11 cause of death for Hispanics between the ages of 1
12 and 34.

13 CDC data indicates that motor vehicle
14 crashes are the leading cause of injury and mortality
15 for American Indian children ages 14 and under in
16 Arizona.

17 According to the 2000 Census Bureau,
18 Hispanics accounted for 25.72 percent of all traffic
19 crash fatalities in Arizona, while only being 18.77
20 percent of the population.

21 Native Americans accounted for 17.34
22 percent, while only making 5.18 percent of the
23 population.

24 The San Carlos Injury Prevention
25 Coalition in Arizona conducted an observational study

1 that showed a zero percent usage rate of car seats
2 for Native American children in 2001 and a 17 percent
3 usage rate in 2002. This percentage has now risen to
4 41 percent in 2003 after extensive outreach and
5 education.

6 Currently, Arizona has a secondary
7 seat belt law. Passing a primary seat belt law in
8 every state is absolutely vital in order to save
9 thousands of lives and to prevent tens of thousands
10 of injuries each year.

11 Additional challenges that we are
12 facing include the impact of NAFTA and the CANAMEX
13 Corridor on commercial vehicle safety.

14 Currently little is known about the
15 condition of Mexican vehicles which will cross the
16 border into Arizona.

17 Border law enforcement is currently
18 conducting special details to inform Mexican carriers
19 about the federal Motor Carrier safety regulations.

20 Offices are also training Mexican law
21 enforcement to conduct inspections in Mexico.

22 Approximately 46,000 truck inspections
23 are conducted each year.

24 Another issue is communication
25 barriers that exist between U.S. inspectors and

1 Mexican commercial drivers.

2 The shortage of trained and bilingual
3 U.S. inspectors is another issue.

4 The Hours of Service continues to be
5 an issue in that the Mexican commercial vehicle
6 driver is seldom in possession of a log book and
7 subsequently is placed out of service.

8 Another issue of concern is that
9 currently the Protect Arizona Now initiative may
10 appear in November's ballot and has a possibility of
11 becoming a law. This brings concerns to the law
12 enforcement community because it will require law
13 enforcement officers to obtain additional training in
14 federal immigration law. Inevitably the PAN
15 initiative will bring burdensome costs to law
16 enforcement agencies and extensive delays for
17 government and emergency services.

18 Our recommendations to address the
19 open border and enforcement issues are to begin a
20 judicial outreach program which enlists the justice
21 courts to properly fine and review commercial vehicle
22 violations.

23 Continue an educational outreach
24 program for the Mexican carriers on the current
25 regulations and the necessary documents that must be

1 carried when operating in the United States. This
2 particular outreach program should be directed at the
3 owners and the drivers of the Mexican commercial
4 vehicles.

5 Continued education for inspectors in
6 standardizing the various levels of commercial
7 vehicle enforcement.

8 Insure that fines are not disparate
9 between the federal government and the state.

10 Expand the coordination of public
11 information efforts with U.S. and Mexican media
12 outlets to educate individuals on both sides of the
13 border regarding highway safety.

14 Work with the Mexican officials to
15 increase educational and enforcement projects along
16 the border.

17 Continue to work towards gaining
18 support for a primary seat belt law in Arizona.

19 Governor Napolitano is committed to
20 keeping Arizona motorists safe. GOHS works hard to
21 fulfill her commitment to Arizona citizens and its
22 visitors.

23 In closing, let me take this
24 opportunity to remind all motorists to buckle up for
25 safety. Seat belts save lives and all motorists

1 should remember this simple task each time they enter
2 a vehicle.

3 Please remember, the easiest thing any
4 Arizonan can do is to insure your child's in a car
5 seat, that you utilize your seat belt, and that you
6 do not get behind the wheel of a vehicle and attempt
7 to drive while impaired.

8 Thank you.

9 DR. WEBB-VIGNERY: Could I ask that
10 you give that statement to our staff from the
11 regional office, Art Palacios, who is behind you,
12 before you leave today.

13 MR. FIMBRES: Okay.

14 DR. WEBB-VIGNERY: And I do have a
15 question. You mentioned Proposition 200 or the PAN
16 initiative?

17 MR. FIMBRES: Yes, ma'am.

18 DR. WEBB-VIGNERY: Do you have figures
19 as to the cost that will be entailed with the
20 training required --

21 MR. FIMBRES: I have some.

22 There was a former report given to our
23 governor. It says with the Department of Public
24 Safety, PAN will cost DPS nearly \$700,000 annually.
25 These are conservative estimates of 10 minutes per

1 application for licenses or renewal, of security
2 guard licenses.

3 Conservative estimates of 10 minutes
4 to verify citizenship at motorist assist contact.

5 Estimates of 15 minutes extra to
6 verify citizenship at traffic collisions. Additional
7 costs to print forms in compliance with PAN
8 requirements.

9 In addition, all DPS officers would
10 need additional training in federal immigration law.

11 This says PAN will cause the public
12 significant delays. 478,000 drivers stopped for
13 traffic violations will be delayed while their
14 immigration status is verified.

15 A hundred and forty-six thousand
16 motorists needing highway assistance will be
17 delayed.

18 29,000 accident investigations will be
19 delayed.

20 10,000 concealed weapon permits and
21 15,000 renewal applications will be delayed.

22 11,500 security guard licenses and
23 renewals will be delayed.

24 PAN will harm public safety.

25 Additional documents review and reporting to the

1 federal authorities would reduce normal service
2 levels or additional staff would be needed to
3 maintain service levels.

4 In virtually all DPS operations where
5 citizen contacts are routine, additional time would
6 be needed to obtain and verify identification.

7 The additional time needed would
8 result in reduced public safety services to Arizona
9 citizens or increased cost for additional manpower.

10 DR. WEBB-VIGNERY: Thank you. Are
11 there other questions from the panel?

12 MR. GATTONE: Thank you. Paul
13 Gattone.

14 Mr. Fimbres, has the governor taken or
15 are you in a position to tell us what the governor's
16 position is on Proposition 200?

17 MR. FIMBRES: I think that she's
18 already publicly stated that it is very problematic
19 for Arizona and that it would cost an additional like
20 \$23 million in services and staffing that it would
21 take for each of the departments.

22 I know that there's been a study
23 there's been introduced or a survey that the
24 department heads were asked to turn in, reports of
25 how much it would impact, and that report's still

1 being compiled by some of the other agencies.

2 MR. GATTONE: Thank you.

3 DR. WEBB-VIGNERY: Is there a
4 possibility that that could be entered into the
5 record?

6 MR. FIMBRES: I would like to make
7 sure it is.

8 DR. WEBB-VIGNERY: Thank you. That
9 also would go to the regional office.

10 MR. FIMBRES: Yes. I can get that
11 from -- I will get that from the chief of staff and
12 just forward it to Mr. Palacios?

13 DR. WEBB-VIGNERY: Yes.

14 Are there any other questions?

15 MR. GATTONE: I have one other
16 question. Thank you.

17 When we were talking about people of
18 color and Native Americans' and Hispanics' use of --
19 I think you said that driving bad vehicles was one
20 source of accidents and not using child restraints or
21 car seats. Is some of this tied to economic status
22 and cultural differences?

23 MR. FIMBRES: A lot of it -- older
24 vehicles, usually after the 1978 or -- don't have the
25 seat belts installed. So yes, there are still old

1 vehicles driven because they are tied to economic
2 status.

3 DR. WEBB-VIGNERY: Yes.

4 MS. LEE: Lorraine Lee.

5 I don't know that this is a fair
6 question, but just on this, as the governor's
7 representative here today -- and I apologize for
8 being late, so I may have missed the opening comments
9 that you may have made; so if you already addressed
10 this, I apologize.

11 Even all of the problems that have
12 happened along the border, particularly the deaths
13 that have occurred, has the governor taken any sort
14 of assessment in terms of what that has meant to the
15 State of Arizona in terms of -- earlier we were
16 talking about dialogue that needed to occur -- and in
17 terms of how to at least to begin to address this?
18 Is there -- are you aware of any dialogue that has
19 taken place in terms of the governor's office and the
20 State of Sonora?

21 MR. FIMBRES: Yes, they have met. The
22 governors, both governors, the governor of Sonora and
23 the governor of Arizona have met several times to
24 discuss, to the U.S. Mexico Border Commission, and
25 several other events that they've met.

1 And she's also met with the president
2 of Mexico, Vicente Fox, to cover issues on the border
3 and have created a dialogue.

4 I think she's also met with the Native
5 American community which is also on the border. The
6 Tohono O'odham Nation is one of them in particular
7 that she's been discussing these issues.

8 DR. WEBB-VIGNERY: Yes.

9 MR. MCKENZIE: Thank you. James
10 McKenzie from Tucson.

11 This dialogue addressing the concerns
12 the along the border, where is the dialogue going?
13 Where do they see where the biggest resistance is or
14 the biggest problem, why that we can't correct this
15 thing yesterday? Now, you only have two minutes.

16 MR. FIMBRES: I was going to say, if
17 you've done this -- this is Richard Fimbres talking.
18 I don't want to get the governor in trouble.

19 But if you've looked at the history of
20 the border, this issue for years has gone on, and
21 it's always been an open border sort of where people
22 came over and provided a service and then went back.
23 But because of the Border Patrol enforcement and the
24 beefing up on that, it has stopped it from coming in,
25 and now the folks are coming in at the most -- worst

1 part of the desert is where they're coming into.

2 And it's always been a stopgap plan.
3 I mean, they stopped them from dying in the rivers in
4 Texas, in the Rio Texas, and now they stopped them in
5 San Diego and now they're in Arizona. And now that
6 we're seeing them starting to slow down in Arizona,
7 they're right back and it's picked up in Texas.

8 So there's other issues that need to
9 be looked at. I think a viable guest worker program
10 should be in the mix here as also one of the
11 recommendations.

12 Dual citizenship for the Native
13 American community is an another issue that was
14 brought up to Congress.

15 The Dream Act was another issue for
16 migrant students to get that educational
17 opportunity.

18 So there are things that should be
19 happening. And also the message of you guys and the
20 recommendations that you give to the president and
21 congress will help have some weight.

22 DR. WEBB-VIGNERY: And the original
23 reason why you, as the director of highway safety,
24 was considered to come and speak to this panel was
25 the question of coyotes and the crashes that we've

1 had on the highways in Arizona. Could you address
2 that in any way?

3 MR. FIMBRES: Well, talking to the
4 Border Patrol -- I don't know if you've had anybody
5 give testimony yet -- but they've talked about the
6 rollovers.

7 And usually what happens is they take
8 a vehicle that's not very well maintained and they
9 stuff them with human cargo and then they rush
10 through. And a lot of times -- the last couple
11 months we've seen blowouts that have occurred of a
12 vehicle and they've had rollovers, and those folks
13 have been injured and several deaths have occurred.

14 And it's a -- the coyotes are another
15 issue. And I think that's a problem on both sides of
16 the border. We need to ask the Mexican government
17 also to increase enforcement and to track those
18 individuals down also as opposed to letting them come
19 across.

20 DR. HERNANDEZ: Fernando Hernandez,
21 California State Advisory Committee.

22 I didn't get a chance to ask the
23 Border Patrol agents this question, but maybe you
24 might know since you have a lot of contact with
25 them.

1 Are they pretty well staffed now? Can
2 they -- are they staffed sufficiently so that they
3 can basically seal the border, or do they -- and they
4 talked about these sensors that they use.

5 And I was wondering, do they have
6 another enough manpower to answer every one of those
7 sensors, when a sensor goes off, or are they -- how
8 is their staffing, if you know? And what would it
9 take to actually seal the border? I mean, what would
10 it actually take in terms of real people power to
11 seal the border?

12 MR. FIMBRES: That's a -- that has to
13 be a hypothetical because, I mean, we may have
14 sufficient manpower, but they're taken from Texas and
15 California and brought those officers over here. And
16 basically, like I said, it's a stopgap plan.

17 I think that what we need to do is ask
18 the Border Patrol to come up with a foolproof plan if
19 they really want to seal the borders. And that's
20 going to take millions of dollars, billions of
21 dollars to do this.

22 And I think sensors are good, but it's
23 not stopping the problem. I don't think it's
24 decreased anything.

25 You can ask Chief Saunders, who is on

1 the Tohono O'odham Nation, to talk about what his
2 agency sees. And I don't know if -- David Aguilar is
3 no longer here, but maybe the new border chief,
4 sector chief could explain to you what's happening.

5 But I think this manpower is not it.
6 There's got to be an economic plan to this also.

7 I mean, the other thing is, if you
8 really want to stop folks from coming over here, then
9 don't hire them, you know.

10 Let's look at the folks that are
11 hiring these folks. You know, hospitality, you know,
12 agriculture, let's look at these folks and let's
13 address it.

14 If you really don't want it, let's
15 start imposing penalties on these individuals. It's
16 a billion dollar industry, you know. And people tend
17 to think it's a law, but they look the other way as
18 long as they're getting theirs, you know. So I don't
19 know.

20 Again, that's Richard Fimbres talking.

21 DR. WEBB-VIGNERY: We have time for
22 one more.

23 MR. PAZ: Ramon Paz, Tucson.

24 Richard, in terms of your other life
25 -- you know what it was like -- do you have a

1 policy, a platform statement as to our issue with the
2 undocumented immigrant?

3 MR. FIMBRES: Well, like LULAC, on a
4 national level or on a state level? We been working
5 on --

6 MR. PAZ: Both, state and national.

7 MR. FIMBRES: One of them is to look
8 at the Dream Act. What we talked about was trying to
9 get that passed through Congress.

10 The other one was creating a viable
11 guest worker program, similar to what they have used
12 in Canada and what they've used in Japan to work with
13 the guest workers.

14 There are other programs out there,
15 and then there's things that we're looking at with
16 the visa and the -- I forgot what it's called
17 officially.

18 But yes, there are things that
19 advocacy groups are going -- not only LULAC but the
20 NAACP has supported us, the National Council, LORASA,
21 and other organizations, statewide organizations.
22 Some of the other forks have all been asking, and
23 they're all rallying right now to hopefully defeat
24 this initiative called PAN.

25 DR. WEBB-VIGNERY: I want to thank you

1 very much for coming and meeting with us today.

2 And if you could provide your
3 statement to --

4 MR. FIMBRES: Yeah.

5 DR. WEBB-VIGNERY: And also as the
6 numbers come through, if we could enter those into
7 the record, hopefully within the next month.

8 MR. FIMBRES: I'll get what I can from
9 the agencies that have them in, hopefully by a week
10 from next week.

11 Thank you for your time.

12 DR. WEBB-VIGNERY: We move on to Greg
13 Lucero, who is the Santa Cruz County Manager.

14 MR. REESE: I'm not Greg Lucero, but I
15 am representing him.

16 DR. WEBB-VIGNERY: Could you read your
17 name into the --

18 MR. REESE: And I will.

19 First of all, good afternoon and
20 welcome to Santa Cruz County.

21 Unfortunately, Greg couldn't make it
22 this afternoon.

23 My name is Manuel Reese. I am a
24 supervisor for Santa Cruz County representing
25 District Number 1.

1 I'm also a member of the Nogales
2 Unified School District Number 1 Governing Board.

3 It's good to see a good friend, a
4 Nogalian, Mr. Paz. Welcome back. I understand
5 you're from Tucson, and Phoenix pretty soon, so it's
6 good to see you.

7 I'm also glad to see Isabel. We've
8 had opportunities to talk many times.

9 A couple of other comments that I will
10 read here, and they're issues that effect health and
11 environment.

12 The first issue I would like to
13 discuss is uncompensated health care. And this
14 occurs anytime that there is an injury with an
15 undocumented immigrant.

16 Most of the times when Border Patrol
17 comes up to or if they are pursuing, if there are
18 injuries in an accident, what happens is the local
19 jurisdiction has to pick up the tab for the injured
20 person.

21 This certainly creates a strain on the
22 local infrastructure. I know our local hospital
23 alone has been losing or has lost in excess of over
24 half a million dollars of revenue to them, which puts
25 them in danger of getting pretty close to closing

1 down and really not having a health facility
2 available to us.

3 Another thing that happens is as they
4 cross into this country -- and unfortunately, there
5 has been quite a few deaths that have occurred here.
6 In fact, I believe the month of May we had five
7 undocumented immigrants that died within our county.

8 That creates also a budgetary concern
9 because every time that they locate them, of course
10 they have to be sent to the state for an autopsy, and
11 that winds up costing the taxpayer \$1500 per
12 autopsy. So that also creates a financial hardship
13 on us.

14 Let me see. Other issues that
15 happen -- and I think that these -- and I think our
16 sheriff will be speaking to you this afternoon -- and
17 certainly we get reports weekly at our board of
18 supervisors meeting. And constantly there is a
19 percentage of inmates, from 18 to 25 percent of the
20 jail population is undocumented immigrants.

21 They have figured out the system very
22 well. Sometimes they have a toothache or they have
23 another problem, they go and they commit a petty
24 crime, they get arrested. Once they got booked in
25 they say my tooth hurts, I have a stomachache or

1 something's wrong with them, we wind up taking them
2 to the local doctor or hospital, to the dentist, and
3 of course the county about picks up the tab.

4 You got to hand it to them, they're
5 creative. But being creative, it also puts a strain
6 on the taxpayer of this community.

7 Other issues too are Nogales wash. It
8 runs down through the middle of Nogales. It's a
9 pathway also where undocumented immigrants come
10 through.

11 A couple of things that happen with
12 that during the monsoon season, and we just had a
13 lady that drowned. We had a couple of officers that
14 jumped into the rushing water and were able to pull
15 the 14- and 12-year-old girls to safety.
16 Unfortunately, they couldn't help the mother.

17 But also another issue as well is raw
18 sewage comes down through there. And we've been
19 fighting with the International Boundary Commission
20 to get money to fix that problem.

21 And unfortunately, it's -- it's an
22 uphill battle. They claim they don't have the
23 money. I know that the problem originates in
24 Nogales, Sonora.

25 The City of Nogales for a long time

1 has been an -- using the treatment facility there
2 that they treat the sewage that comes in from
3 Nogales, Sonora, but occasionally there are breaks
4 along the wash, and that tends to run.

5 We had a few weeks ago about 25
6 million gallons of raw sewage coming through the
7 downtown area. So that creates a health problem for
8 the people that are crossing illegally as well as for
9 the residents of our community.

10 Another issue too, and it deals with
11 our schools. We have a lot of children that are born
12 in the U.S. whose parents live in Mexico and they
13 come across the border every day, and that also
14 creates a tremendous problem for an overcrowded
15 school system.

16 Under the laws that have been passed
17 through the state and the federal government of No
18 Child Left Behind and Arizona Learns, it certainly
19 creates a big logistics problem for the school
20 districts, especially when it comes to this school is
21 performing, this is not, and we want all our children
22 to go here, and then of course we have no way of
23 enforcing immigration laws either at the school
24 district. We've told -- a lot of parents complain to
25 us, and unless we know a name we really can't do much

1 rather than perhaps have a truant officer at the
2 border every day as they come across.

3 You can see that certainly being on
4 the border creates a lot of problems for us.

5 Some of the recommendations certainly
6 I would like to see implemented, number one, is that
7 a guest worker program be supported.

8 I know that right now in the political
9 atmosphere, I guess, at first it was at good, now
10 everybody's against it. They're afraid that they're
11 going to come in and take work from Americans. But I
12 think that there are certain needs that Americans
13 won't fill, especially in the fields.

14 I know I used to work for the
15 Department of Agriculture as an inspector, and some
16 of the hard work that goes on in those fields when
17 they're harvesting, they're packing, you know, I
18 really admire those people. And it certainly would
19 be of benefit.

20 And again, I'm open for questions. I
21 want to thank you for coming down and taking our
22 input.

23 I know I talk a lot, but I guess
24 that's what politicians are supposed to do. So thank
25 you very much.

1 DR. WEBB-VIGNERY: Okay. Yes, Judge
2 Alston.

3 JUDGE ALSTON: Gilbert Alston with the
4 California Advisory Committee.

5 Your opinion as to strict enforcement
6 of the minimum wage laws with respect to these people
7 that are working in the industries where everyone
8 says Americans don't want to work.

9 MR. REESE: Could you repeat the
10 question? I didn't hear your last part of it.

11 JUDGE ALSTON: The last part was the
12 industries that these people work in, hotels and
13 cooking and other, quote, low industries where
14 Americans presumably do not wish to work.

15 MR. REESE: Because of the pay rate?
16 Is that what you're --

17 JUDGE ALSTON: Not necessarily because
18 of the pay rate, but according to the popular and
19 convention wisdom, Americans won't take those jobs.
20 And we have an awful lot of people out of work right
21 now. I don't know what the unemployment rate is, but
22 I read in the newspaper this morning where it's going
23 up.

24 And if we required the people who hire
25 undocumented workers to pay the minimum wage --

1 because one of the benefits of hiring undocumented
2 workers is they'll work for less and they won't
3 demand over time.

4 MR. REESE: Well, not having a
5 business and not knowing, I'm sure you're probably
6 correct. And maybe that's an issue that really needs
7 to be looked at.

8 I know that they just changed the
9 overtime law. It's going to effect a lot of
10 businesses. And that's something that needs to be
11 explored at a federal level, and perhaps that would
12 have an impact and perhaps it would also get
13 Americans to go and look for those jobs.

14 Sometimes personally what I think is
15 they find they demeaning. And when I travel and I
16 see people that are working at the hotels, either for
17 Mexico or South America, they're hard-working people
18 that realize the value of putting in a hard day's
19 work for a good day's pay. And they don't feel that
20 that work is demeaning to them, just as in the
21 fields.

22 I mean, having worked in California,
23 having worked in Phoenix when the onions were being
24 processed, when the broccoli was being packed, when
25 the lettuce was being packed, they're hard-working

1 people and they don't think that it's demeaning to
2 earn an honest living that way.

3 DR. WEBB-VIGNERY: Yes.

4 MS. GARCIA: Isabel Garcia from the
5 Tucson committee.

6 I wanted to know if Santa Cruz County
7 has studied or has some kind of evidence indicating
8 the impact on the economy of the U.S. border strategy
9 ever since the mid 1990s, the beginning of the
10 closing and putting the walls and such, what has been
11 the impact to Nogales and Santa Cruz County
12 businesses?

13 MR. REESE: Well, certainly NAFTA had
14 a tremendous negative affect in our community because
15 a lot of the local and old time businesses, when
16 NAFTA went into effect, then they imposed a \$50
17 limit, certainly had a tremendous effect on high
18 unemployment.

19 DR. HERNANDEZ: A \$50 limit?

20 MR. REESE: Yes, there was -- at one
21 time there was a \$50 limit per person from Mexico
22 when they would come to purchase, and so it was \$50
23 per person.

24 Before NAFTA there was a free zone
25 that it was called, it was 21 kilometers into Mexico

1 where you could pretty much take anything into
2 Mexico. After the 21st kilometer, then I guess the
3 mordida, which is very well known, you could get
4 anything you wanted to.

5 NAFTA came in and basically shut a lot
6 of the businesses and certainly a lot of them went
7 under.

8 We have some local families that are
9 still in business and a lot of Korean families that
10 have come and opened businesses, and I think they're
11 getting along.

12 After 9/11, certainly had a tremendous
13 effect.

14 I think overall our community really
15 depends a lot on our neighbors to the south. They
16 bring a lot of money into our community. In fact,
17 when the Super Wal-Mart was opened here a couple of
18 years ago, there was 10 Super Wal-Marts open
19 throughout the nation, and this was the highest, I
20 guess, grossing store in the nation.

21 There's a lot of buying power that
22 comes from our neighbors to the south. And I think
23 that if we're able to facilitate the crossings, if
24 we're able to have the guest worker program, if we're
25 able to speed up commerce, both commercial and

1 touristic, that this community benefits as well as
2 all the communities along the corridor. Certainly
3 Tucson has a tremendous benefit from the consumer
4 that comes from Mexico. So does Phoenix.

5 And when these people come, they don't
6 care, they pay for it. And we have to kind of look,
7 well, do I really need this shirt this bad or could
8 it wait until next week.

9 So we really do need to find better
10 ways of protecting the country but also allowing the
11 flow of commerce back ways and dealing with
12 undocumented immigrants.

13 DR. WEBB-VIGNERY: I want to thank you
14 and coming and meeting with us this afternoon.

15 And I notice you have a statement. If
16 that's possible, could you please give that to our
17 staff member, Art Palacios, so that he can put it
18 into the record?

19 MR. REESE: I want to thank you for
20 allowing me to participate today.

21 If you need further information from
22 Santa Cruz County, we can certainly make it available
23 to you.

24 The Border Counties Coalition, which
25 we are members, have reports published on the cost of

1 illegal immigration along the Arizona, California and
2 New Mexico and Texas border, as well as health-
3 related costs, and we can make those available to you
4 as well if you need.

5 DR. WEBB-VIGNERY: Thank you.

6 MR. REESE: Thank you very much.

7 DR. WEBB-VIGNERY: We move to --

8 DR. HERNANDEZ: June, could you ask
9 the staff to give some of those reports that he
10 mentioned so we can put them into the record?

11 DR. WEBB-VIGNERY: I've already done
12 that. I've been doing that.

13 DR. HERNANDEZ: Perfect. Great.

14 DR. WEBB-VIGNERY: Now we have Richard
15 Saunders, Tohono O'odham Chief of Police.

16 And could you state your name for the
17 record.

18 And I forgot to tell our last person,
19 but it's eight minutes of testimony and then seven
20 minutes of questions.

21 MR. SAUNDERS: Thank you. Good
22 afternoon. My name is Richard Saunders. I'm the
23 chief of police of the Tohono O'odham Nation, tribal
24 member, reside with the boundaries of my reservation
25 and I speak to the Tohono O'odham language as well.

1 Give thanks to my grandparents who took the time, the
2 opportunity to teach me the language as well, and I
3 utilize it on a daily basis in my various work and at
4 home.

5 I bring to you warm wishes from the
6 chairwoman Vivian-Juan sanders as well as the vice
7 chairman Ned Norris, Jr., who wasn't able to make it
8 today.

9 As I mentioned, I have lived on the
10 Tohono O'odham Nation most of my entire adult life
11 there, and so I see the day-to-day, and then my
12 working relationship as a police chief for 17-plus
13 years, have had the opportunity to work in a variety
14 of aspects of law enforcement, and within the last
15 couple of years, certainly just with the high
16 increase of border- related activities, and I'll talk
17 about that briefly.

18 I have Power Point presentation
19 handout material that I'll provide to the Commission
20 as well as a CD that I'll make available for the
21 record there.

22 It gives a background on the Tohono
23 O'odham Nation located in southern Arizona. If you
24 don't know, the nation comprises some 28,000 tribal
25 members, the second largest in the United States,

1 with a land base of some 2.8 million acres, and 75
2 miles of our reservation contiguous with the U.S.
3 Mexico border.

4 Over the years, particularly the last
5 five to eight years, we've seen an absolute increase
6 in the number of border-related activities involving
7 migrants traveling through the Tohono O'odham Nation
8 lands, and particularly drug smuggling, and just
9 large, large numbers of migrants coming through, and
10 I'll talk about that, and all the other related
11 criminal activity as a result of this activity
12 there.

13 We were up against national policy
14 operations, if you will, federal mandates as it
15 relates to an attempt to close down the border there,
16 Operation Desert Risk, many initiatives, Operation
17 Gatekeeper, to name but a few there.

18 And particularly these -- these
19 operations have perhaps worked in other parts of the
20 United States, but particularly along the stretch of
21 the Tohono O'odham Nation, it was ineffective.

22 As a result, it pushed a lot of
23 illegal activity to out to the Tohono O'odham Nation
24 and created a bottleneck effect, if you will,
25 contributing to our increase in crime and activity,

1 and most notably migrants dying within the lands of
2 the Tohono O'odham Nation.

3 My Power Point describes some of the
4 activities, the numbers as of yesterday.

5 Keep in mind Border Patrol, because of
6 the large size of the Tohono O'odham Nation, three
7 stations comprise their area of operations, Tucson
8 sector Border Patrol handles one-third, if you will;
9 Casa Grande station handles the main body, and the
10 Ajo Border Patrol station handles the western portion
11 of the nation.

12 And their latest numbers as of
13 yesterday for the Casa Grande station -- this doesn't
14 include Ajo or Tucson station there -- there's been
15 more than 82,959 migrants apprehended in their area
16 of operations.

17 Ninety -- I think it's safe to say
18 that 95 percent of Casa Grande's area of operation
19 lays within the nation, Tohono O'odham Nation lands
20 there.

21 Within the 24-hour period there on the
22 25th, there were 228 apprehensions, if you will.

23 Now, the Tohono O'odham police
24 department, we don't have federal immigration
25 authority, so all we do is some detainments and then

1 turn them over to the appropriate authority, customs
2 and border protection in this case. Annually,
3 however, we do apprehend and detain some 6,000
4 migrants annually.

5 Those numbers of are down from the
6 highest point earlier this year was some 800 migrants
7 were apprehended by Customs and Border Protection.

8 Our intelligence tell us that some
9 1500 per day attempt to cross through the Tohono
10 O'odham Nation lands, and those are intelligence from
11 Customs and Border Protection, from our intelligence
12 sources in Mexico, the staging area south of the
13 Tohono O'odham Nation and another intelligence
14 gathering.

15 Some statistics on drugs. We've
16 absolutely seen a tremendous increase on narcotics
17 activity up to date. I have a two-man narcotics unit
18 with the police department, and we've seized in
19 excess of 50,000 pounds of narcotic, compared to last
20 year, the entire calendar year, we seized in excess
21 of a hundred and seven thousand pounds of narcotics
22 coming through the Tohono O'odham Nation lands
23 destined for points throughout Arizona, the rest of
24 the United States.

25 Earlier it was mentioned automobile

1 deaths. Last year we investigated about 18 crashes
2 that occurred on the Tohono O'odham Nation, with
3 about 15 migrants dying as a result.

4 So those are significant numbers for
5 us as well.

6 Automobiles. The Tohono O'odham
7 Nation police department has recovered last year in
8 excess of 500 stolen vehicles stolen from points
9 throughout Arizona.

10 Last year's numbers on abandoned
11 vehicles, if you will, vehicles that are used
12 directly in migrant smuggling and/or narcotic
13 smuggling, we facilitated the removal of more than
14 6,000 vehicles that fell into this category. A
15 tremendous burden on our local law enforcement.

16 Deaths was mentioned. This year,
17 since January, we have investigated 37 migrant deaths
18 within our nation's lands.

19 Last year's number, we investigated 69
20 migrant deaths. In the year before, in 2001, was 85
21 migrant deaths that died on our nation's lands. And
22 those are significant -- significant resources taken
23 away from the Tohono O'odham Nation police
24 department. We've estimated we've spent in excess of
25 2.2 million dollars already this year just on these

1 border-related activities. So those are significant
2 numbers for us. And we continually annually spend in
3 excess of \$3 million. I'm just speaking from a law
4 enforcement entity, I'm not even talking about health
5 and human services, the hospital costs and the
6 trash. Those are other significant numbers.

7 On a daily basis the tribal members
8 life in fear of migrants and suspicious activity
9 coming through the community. The tribal members are
10 afraid to go out and leave their homes there and
11 teach the traditional gathering of cactus fruit to
12 continue the tradition and culture of the Tohono
13 O'odham people.

14 The community and children are enticed
15 by these smugglers of illegal activity, whether it be
16 smuggling people and/or narcotics. They're very
17 lucrative enticing tribal our members, and that's an
18 issue that we're continuing to deal with.

19 It has been our philosophy to respond
20 to these calls for service there. The Tohono O'odham
21 police department responds to assess the situation
22 and then make the referral. So we spend sometimes in
23 excess of 60 percent of our time and resources geared
24 at the nations -- at the responsibility that we feel
25 is the federal immigration authority and

1 responsibility.

2 So that's it in a nutshell. And I
3 have -- I'd be happy to answer questions. And much
4 of this information is contained within the
5 information package I will provide to you.

6 DR. WEBB-VIGNERY: Yes, if you can
7 provide that to Art Palacios, who is behind you, for
8 the regional office.

9 MR. SAUNDERS: Okay.

10 DR. WEBB-VIGNERY: And he'll get it
11 into the record.

12 And I'd like to recognize Paul
13 Gattone.

14 MR. GATTONE: Yes, Paul Gattone from
15 Tucson.

16 Sir, are you aware -- well, I'm just
17 wondering if you have any statistics or reports of
18 negative interactions that members of the tribe have
19 with the Border Patrol themselves, is that a problem
20 on the reservation, and do you have information about
21 that?

22 MR. SAUNDERS: At one point in time I
23 was charged in compiling that information, negative
24 contacts with the -- on traffic stops, if you will,
25 on Customs and Border Protection following -- and

1 allegation of harassment. About two years ago I was
2 charged with gathering that information and compiling
3 it and sending it out for appropriate action.

4 As of lately, I do facilitate -- as a
5 matter of fact, two weekends ago I received three
6 phone calls within a 24-hour period from community
7 members citing various allegations, if you will, and
8 I facilitated those to be passed out.

9 I've got a very good working
10 relationship with the Tucson and the Casa Grande
11 station, and immediately called up that information
12 and encouraged the tribal members to document the
13 time, the location and the incidents that they are
14 addressing.

15 So I do facilitate and follow that up
16 with the appropriate supervisor within that area
17 there.

18 MR. GATTONE: Are they primarily
19 traffic stops, or could you maybe just give us an
20 idea of the type of reports you receive?

21 MR. SAUNDERS: On occasion there
22 there's continued traffic stops by tribal members
23 living south -- in the southern portion of the nation
24 there. So, you know, being stopped several times a
25 week, not becoming familiar with their vehicles.

1 There are allegations of smuggling of people and/or
2 narcotics, tailgating and allegations of
3 unprofessional behavior.

4 Spotlighting, if you will, that
5 occasionally comes up there. And just -- off the top
6 of my head, those are the few that come to mind
7 there.

8 MR. GATTONE: Just for the record,
9 spotlighting is when they -- the Border Patrol shines
10 their -- like a search light?

11 MR. SAUNDERS: They'll be stationed --
12 yeah, as they're driving past a certain junction
13 there, they'll hit their lights there or follow them
14 for a distance there with their lights shining upon
15 them there before making traffic stops.

16 MR. GATTONE: Thank you.

17 DR. WEBB-VIGNERY: Chair recognizes --

18 JUDGE ALSTON: Gilbert Alston,
19 California Advisory Committee.

20 We have been led at a meeting in
21 Tucson before by a member of your tribe to believe
22 that the boundaries of the nation actually go south
23 of the -- what is recognized as the international
24 border. Is that correct? Is that what you're --

25 MR. SAUNDERS: Yes.

1 JUDGE ALSTON: You made a statement
2 before that the boundaries were contiguous with the
3 border.

4 MR. SAUNDERS: Yes. As the -- as
5 identified as the international border there, yes.
6 But much of our traditional O'odham lands extend into
7 Mexico, yes. In excess of 1400 tribal members do
8 reside across in Mexico and as I understand nine
9 traditional O'odham communities.

10 JUDGE ALSTON: Could you give us some
11 indication as to how that -- or is there a problem
12 with that as you see it?

13 MR. SAUNDERS: From a law enforcement
14 perspective?

15 JUDGE ALSTON: Yes, sir.

16 MR. SAUNDERS: Back on that note of
17 complaints that may be lodged forward there,
18 there's -- early on there was occasions that I'd get
19 a report of tribal members attempting to come through
20 and receive services of the nation there and being
21 stopped and supposedly being deported through other
22 points.

23 And the -- there is a Border Patrol
24 usually stationed at an area, the infamous San Miguel
25 Gate, for instance. It is a nonlegal point of

1 entry. However, Customs and Border Protection has
2 used tremendous discretion in allowing tribal members
3 to cross back and forth there, back and forth, and
4 particularly into the United States if they recognize
5 them.

6 And then certainly identifying the
7 members would certainly need to -- I think that would
8 be their responsibility to check on all or most of
9 the people that they're not familiar with crossing
10 north into the United States at that particular
11 location there.

12 So I've heard in the past, yes,
13 some -- some allegations, if you will. But most
14 recently, it's really been very good discretion of
15 customs and border protection in the area of that San
16 Miguel Gate that I mentioned.

17 DR. WEBB-VIGNERY: I would like to
18 follow up on that. We also were informed that there
19 was a requirement -- they were not considered
20 citizens at this point in time, although they were
21 actually part of the Tohono O'odham Nation.

22 Has the tribe changed its view on
23 granting citizenship? I know there's been a bill
24 before Congress for citizenship for these groups that
25 live below --

1 MR. SAUNDERS: That obviously is still
2 an ongoing issue. In Congress there's certainly -- I
3 have become familiar that most -- or not most -- some
4 of the tribal members that reside in Mexico do
5 possess tribal identification, if you will, and
6 registered as nondistrict.

7 Unfortunately, in the process we've
8 got some fraudulent documents from individuals
9 attempting to disguise themselves as O'odham in
10 Mexico or O'odham of northern Sonora, tribal members
11 disguising themselves in the fraudulent documents.

12 So we've had to educate ourselves on
13 identifying those because they've been brought to our
14 attention, local law enforcement, in the event
15 Customs and Border Protection comes across them, is
16 in fact, say, a valid -- a legitimate identification
17 there, and we determine that through the tribal
18 enrollment office, if you do a verification check
19 with the enrollment office and to determine if these
20 individuals are registered O'odham in Mexico or
21 O'odham in Sonora members there.

22 DR. WEBB-VIGNERY: We have time for
23 one more question.

24 MS. GARCIA: My understanding was that
25 the O'odham in Mexico and even those O'odham in the

1 United States that could not prove their citizenship
2 had such extreme problems with Border Patrol and the
3 buildup in the border and the restrictive immigration
4 policies that the communities held meetings upon
5 meetings, came up with a citizenship bill in order to
6 alleviate.

7 You're not saying that those issues
8 have been have been alleviated for them, have you?
9 And why is this administration retracting from full
10 support of the U.S. citizenship program? Is that
11 part of your agreement with Homeland Security?

12 MR. SAUNDERS: In terms of Homeland
13 Security, no, I -- those are issues that are ongoing
14 in discussions, if you will.

15 I know there was some attempt from
16 previous administration in dealing with that
17 citizenship issue. I know the new administration has
18 reevaluated, if you will, and continues to look at
19 moving forward in trying to address those
20 particulars.

21 Homeland Security certainly is a
22 consideration. There's, you know, congressional pros
23 and cons and opposition and support of that.

24 Absolutely, with all intent and
25 purpose of protecting not only the nation's members

1 and the United States, the rest of Arizona and the
2 rest of the United States is certainly at hand
3 there.

4 But I think those are two separate
5 issues. The immigration issue, and then as it
6 relates to O'odham in Mexico, and then homeland
7 security issue, I think those are all separate
8 individual issues there.

9 MS. GARCIA: And you have received
10 monies from Homeland Security to beef up that part of
11 the border, is that right, and equipment that kind of
12 thing?

13 MR. SAUNDERS: Compared to what we
14 have expended over the years, as I mentioned, in
15 excess of \$3 million annually, up to date since
16 January we've spent in excess of 2.\$2 million, we
17 have merely received \$24,000 from Homeland Security,
18 and those are emergency preparedness, if you will,
19 dollars for equipment. That's all we have received
20 up to date.

21 MS. GARCIA: Didn't you receive a big
22 chunk of money for equipment and military kind of
23 equipment in September of last year?

24 I saw this on the TV. Mr. Norris and
25 Border Patrol saying that this is the new equipment

1 that's been given by Homeland Security to the Tohono
2 O'odham Nation police force.

3 MR. SAUNDERS: We received Special
4 Operations bulletproof vests that will expire come
5 September. That's all we got from -- it was a
6 hand-me-down, if you will, from Customs and Border
7 Protection.

8 Up to date we have received -- it's
9 just been recently that we even got the mutual aid
10 agreement signed between the nation and Pima County
11 in order to meet that federal requirement in
12 receiving Homeland Security dollars.

13 The nation certainly met the agreement
14 and signed to the mutual aid there by allowing monies
15 to be funneled down.

16 So to the best of my knowledge, about
17 \$24,000 in -- not in actual dollars, just equipment,
18 if you will. You have to use those dollars
19 specifically for equipment and training and emergency
20 preparedness needs there.

21 DR. WEBB-VIGNERY: I'm sorry, we're
22 going to have to -- thank you very much for your
23 testimony. And if you could provide Mr. Palacios
24 with the materials, it would be quite helpful.

25 MR. SAUNDERS: Thank you.

1 DR. WEBB-VIGNERY: Thank you.

2 And we have next on the agenda the
3 representative from the Pascua Yaqui Tribe?

4 And we have no one here from Pascua
5 Yaqui. That would be Herminia Frias?

6 Well, we'll take a break till 2:30.

7 (A recess was taken.)

8 DR. WEBB-VIGNERY: Okay. We have
9 eight minutes for testimony and seven minutes for
10 questions from the panel.

11 MR. ESTRADA: Okay. Well, first of
12 all, thank you and welcome to Nogales.

13 I did talk to Mr. Palacios sometime
14 back. He indicated that he was going to be here. He
15 also told me that this the first time that this
16 particular special group has done this at a border
17 community. And I thought that was very appropriate
18 because if you need to hear or know about the
19 problem, you better go to the location where it's at
20 and not inland.

21 So again, welcome to all of you. I am
22 the sheriff of Santa Cruz County. A little bit about
23 myself.

24 I was born in Nogales, Mexico. I
25 immigrated when I was about a year and a half. Went

1 to school here, became a U.S. citizen at age 22.
2 Been in law enforcement since 1966, all of it here in
3 Nogales and Santa Cruz County.

4 I retired as a captain with the
5 Nogales Police Department in 1991. I ran for sheriff
6 and was successful and I'm running for my fourth term
7 as Santa Cruz County Sheriff.

8 So with that, I think I have vast
9 experience and hopefully enough knowledge about this
10 border region and the evolution of Nogales and Santa
11 Cruz County.

12 Nogales, Arizona has grown from 8,000
13 to -- still a small community, 20-some thousand.

14 County-wide, we're in the area of
15 about 40,000 people.

16 Nogales, Sonora, as you're aware of,
17 is separated by nothing other than chain link fence,
18 a wall, and that has 3-, 400,000 people.

19 We have a major highway in Sonora that
20 connects with a major highway on the Arizona side.
21 That provides for a lot of opportunities, for a lot
22 of good things, and definitely a lot of opportunities
23 for a lot of bad things that happen.

24 So we're very busy here. We're very
25 busy in Nogales and Santa Cruz County.

1 One of the things that obviously we
2 have struggled with and grappled with on our own --
3 and I have indicated before to a legislative
4 commission out of Arizona -- is that for decades we
5 have dealt with illegal immigration and cross-border
6 crime and all of the issues that spill over from
7 Mexico into this little piece of America here.

8 We are a small county, we are a poor
9 county. And as a result of that, obviously we have
10 suffered in a lot of ways.

11 There are opportunities I think that
12 we have missed because we have to deal with illegal
13 immigration. We have to deal with drugs coming
14 across the border. We have to deal with money
15 laundering. We have to deal with a lot of issues.

16 And being a small county and a small
17 community and a small port, obviously it's
18 overwhelming for us.

19 Just to you forgive you an example,
20 1995 was, in my opinion, a peak year for Nogales and
21 Santa Cruz County. Things were terrible.

22 And then Ramon Paz -- thank you,
23 Ramon, for being here -- will recall it was a peak
24 year for problems in the border. Crime was spilling
25 over because we had no control at the border. The

1 fence was full of holes. They would come back in and
2 out. So we had that cross-border problem.

3 The county jail at that time probably
4 was holding -- 50, 60, 70 percent of the inmates were
5 Mexican nationals. A large majority of them were
6 illegal border crossers. So we were dealing with all
7 of that financially, dealing with all those issues.

8 Even in the juvenile detention the
9 majority of the juveniles were from Mexico.

10 You might have read at some time they
11 used to refer to them as tunnel rats, which I thought
12 was very demeaning, but they called them all kinds of
13 names. And these were poor -- poor children had no
14 place to go. We had to deal with that in some way.

15 But 1995 was a bad year for us because
16 we had a lot of crime. Tourism was really hurt
17 because we had robberies, assaults there by the
18 border, and we had very little control.

19 At about that time, the Border Patrol
20 contingency here was less than a hundred county
21 wide.

22 Shortly after that they started
23 beefing up Border Patrol. Now we have roughly about
24 500, and you might have been given those numbers
25 previously today.

1 That coupled with the fence being set
2 up, they have set up a more decorative wall. They
3 had land pads over there that are really, really
4 degrading for this community.

5 But for a long time this community and
6 this county has had to bear the cost of dealing with
7 an international and a federal issue that we just did
8 not have the financial means to do that.

9 As a result of that, I think the
10 quality of life suffered tremendously in this border
11 community.

12 Being in law enforcement for 37 years,
13 I can tell you that we lost countless of qualified
14 experienced police officers because we couldn't pay
15 them, because we couldn't give them good benefits
16 because we couldn't give them good equipment because
17 we couldn't provide technology, so they'd go
18 somewhere else.

19 But for a long time we never
20 complained. We just assumed that that was our role,
21 that we were supposed to do that to protect people.

22 Well, it got overwhelming and we just
23 couldn't to it anymore and things started changing.
24 So we did start, I think, raising red flags at some
25 point and started getting assistance.

1 And we're still hurting. That report
2 that I gave to the legislative committee, I think it
3 was in 2001, and I don't think things have changed
4 that much since. We're still having problems.

5 The majority of the illegal border
6 crossers that come through here are on their way
7 through the community.

8 Nogales and Santa Cruz County is one
9 of the safest counties in the state of Arizona. It
10 is the safest border community in the state of
11 Arizona and that is because we have a large
12 contingency of law enforcement officers.

13 500 Border Patrol, highway patrol,
14 sheriffs, police, Customs, Immigration. Everybody's
15 armed and everybody's got a marked unit and we're all
16 over the place. So that provides for a lot of
17 security in this community.

18 But we're still a small entity. We're
19 very small. We are poor. And we're dealing with an
20 issue that's of international proportion, we really
21 have a problem dealing with.

22 SCAP helped us at the very beginning.
23 The first year that we got some funding from the
24 federal government was about \$225,000. It was
25 earmarked for border counties. After that everybody

1 got to be a border county and -- just like Highland.
2 Highland was for high intensity drug trafficking
3 area, and now it's all over the nation. So it
4 doesn't take long before everybody piggybacks on it.

5 So I think one of the ways we can
6 really try to address this issue is to put more
7 resources obviously here at the border, provide more
8 resources to the local agencies that are here.

9 I know we've got some appropriations
10 in the past from Senator Kyle and the state
11 legislature has also provided some relief for us as
12 well. They've also given us a different taxing
13 formula, taken into account the residents that come
14 in from Mexico. Because they were looking at us as a
15 little a piece of the pie and all the revenues that
16 were coming in from the Mexican consumer were going
17 to the state.

18 So we're getting a little bit more. I
19 think as a border community we're being recognized
20 more, we're -- the importance and how vital we are as
21 you go into the United States.

22 And I've always liked to tell people
23 that I think that Nogales should be a show place, you
24 know, should be a showcase for the rest of the
25 state.

1 When our visitors from Mexico come in
2 here, they should be able to look at Nogales as a
3 clean, safe community, an example of what the rest of
4 the United States should be.

5 So we work very hard. But because of
6 the expenses that we have to deal with, illegal
7 immigration -- and I'm talking about the detention,
8 the apprehension, the defense, the adjudication, the
9 medication, everything that happens here, it comes
10 out of the general fund. So we do have some
11 problems.

12 We spent -- I think one of the last
13 studies, that we spent about \$2 million a year.

14 About 37 percent of our general fund
15 goes to law and criminal justice, and the national
16 average is about 16 percent.

17 So you can see that we pay a
18 disproportionate amount to deal with those issues.

19 But like I indicated to you, these
20 are, in most cases, people that were on their way
21 through.

22 Right now we do have a problem of
23 course with the vast majority of drugs coming through
24 here, and they are being brought over by illegal
25 border crossers.

1 We do catch a lot of those and they
2 are in our jail and they're there for the long haul.
3 They can't post bond. They're there till they appear
4 in court and then get adjudicated. That could be
5 months down the line. And then eventually maybe
6 serve time at the county jail.

7 So we've had numerous cases where we
8 have had to provide medical assistance and treatment
9 to people that require it, major surgeries, sometimes
10 5, \$60,000.

11 And in the past, when somebody was
12 really sick from Mexico, they would come over and
13 shoplift so they could be arrested and treated
14 because they couldn't find treatment in their native
15 country.

16 They'd be deported and they come back
17 again, and they come back and come back until you
18 finally decided that you were going to put them away,
19 and then they would get the treatment that they
20 needed.

21 So, you know, we have -- and I have a
22 lot of compassion for these people. I do. Being
23 from Mexico, I can understand how difficult it must
24 be for them to try to make a life for themselves.
25 How difficult it must be for them to try to cross

1 that desert.

2 I go to Puerto Penasco, driving in my
3 car with air-conditioning, and I get out there for a
4 minute and I wonder how can these people be walking
5 miles and miles through the desert with nothing. So
6 you have to be desperate in order to do something
7 like that.

8 I don't have the answer to that. I
9 don't know if anybody does. I think it's a
10 combination of things.

11 But as a small community, we have
12 been, like I indicated, dealing with this problem for
13 a long time, for decades, and we do need help so that
14 we can improve the quality of life here, so that we
15 can improve the situation that law enforcement is in,
16 so we can expand our forces.

17 As it is, like I said, if we spend a
18 million dollars on illegal immigration, that's a
19 million dollars that's taken out of the community.
20 So we need to have that money funneled back in
21 somehow.

22 The Mexican consumer obviously
23 provides a large amount of the funds that we have
24 here, the income, through the sales tax.

25 And I believe the Mexico consumer is

1 welcome in Tucson and Phoenix and everywhere else.
2 That's why they opened up the 60-mile free zone so
3 that they could have more of them go up there.

4 So this is just something that we deal
5 on a daily basis.

6 The coyotes obviously are a major
7 concern. I think they're very despicable people that
8 will use their own people, bring them over, sell
9 them, warehouse them, leave them out in the desert.
10 They don't care.

11 Of course we have accidents, we have
12 deaths that. We have search and rescue missions.

13 Did I run out of time?

14 DR. WEBB-VIGNERY: I'm sorry, we've
15 gone over. So I think it's time for questions and
16 answers.

17 MS. GARCIA: My name is Isabel Garcia
18 and I'm from Tucson.

19 You said that in 1995, that was a year
20 where you had huge problems. Was that a result of
21 the Operation Gatekeeper sealing the ports of the
22 entry in --

23 MR. ESTRADA: That was before that.
24 That was before that that we started having that
25 problem.

1 In 1995, for some reason, it just
2 kicked in big time. Subsequent to that Gatekeeper
3 kicked in and then we started getting more agents
4 here, they started working on the wall as you saw it
5 now.

6 There were a lot of precautions and
7 measures that were taken that made it a little more
8 secure, especially in the downtown area because
9 that's where we were having the major problems with
10 shoplifting, thefts and things of that nature.

11 As they did that, as Border Patrol
12 beefed up their units in the downtown area and they
13 put up a fence, it was a little more secure. Well,
14 people had to go further out. And of course then the
15 county got involved. Now we are dealing with people
16 on the rural areas going out there. But we weren't
17 having the numbers of incidents of crime that we had
18 before because the majority were being committed
19 within the city. So that kind of sealed it off a
20 little bit.

21 But Gatekeeper obviously didn't help
22 the situation because, I mean, they just made people
23 come over through this area.

24 But this is an area that I think
25 provides opportunities for everybody because it's a

1 major thoroughfare through here to Tucson and
2 everywhere else.

3 So irregardless, I think we will
4 continue to have a problem no matter what pressure is
5 put on. People will find a way. We have tunnels, as
6 you've heard. Since 1995 we have discovered about 13
7 drug tunnels here. And before that the tunnel kids
8 were the ones that had access to it. Now the drug
9 dealers are the ones that control the tunnels.

10 DR. HERNANDEZ: Fernando Hernandez,
11 California committee.

12 I don't think I've heard an estimate,
13 and maybe you can tell the committee. We got some
14 estimates that on the Tohono Indian Nation's
15 property, I think the chief there said that about
16 82,000 people had been apprehended going through
17 there. And that means that there are thousands and
18 thousands of people coming across the border.

19 Does law enforcement have a handle on
20 what percent of the people you actually catch going
21 across the border?

22 So if a hundred thousand people go
23 through the border at any given time, what percent of
24 the -- of those people do you actually catch with all
25 this technology, with all the fences, with all the

1 measures and all the law enforcement people you have,
2 do you have any estimates of that?

3 A. I don't think so. I think if anybody
4 has it, maybe Border Patrol, because you will recall
5 that that is not our function. That is not our
6 function. So we don't keep records of who's here
7 legal or illegal.

8 The only records we keep are the
9 people that we arrest and that land in jail. And the
10 percentage, as I indicated, at one time it was 60, 70
11 percent. Right now we're running 20, 30 percent
12 Mexican nationals.

13 DR. HERNANDEZ: Just a quick
14 follow-up. You've been around here a long time. You
15 got a gut on what percent you might -- of the people
16 that come across, just your gut feeling as a cop all
17 these years and dealing with this situation?

18 MR. ESTRADA: You know, I wouldn't
19 know because things have changed tremendously.

20 Before, I would like to think that
21 there were a lot more people going through because
22 there were less attention being paid to the problem.

23 I think now that probably there are
24 less people going through, more people getting
25 caught, but I think that because of the numbers, the

1 numbers are still high.

2 I don't know what percentage that
3 would be. But definitely, it's -- if they want to
4 come through this part of the area, they will.

5 DR. WEBB-VIGNERY: Yes.

6 MR. AGUSTIN: Stan Agustin, New Mexico
7 chair from Albuquerque.

8 Just listening to the testimony this
9 morning from the different agencies, Indian tribes,
10 and also from representatives from Mexico, you know,
11 coming from Albuquerque, we read about it in the
12 paper, but I had no idea the intensity and the huge
13 amount of time and personnel that you devote to this
14 problem. So we I commend you for the work that you
15 guys have done.

16 Some of the speakers this morning have
17 given us some recommendations that they felt would
18 alleviate some of the problems that we are facing
19 with illegal immigrants and some of the things that
20 they've had to face in trying to cross.

21 What would be your recommendation, if
22 you could make a recommendation to the committee,
23 that we could look at in alleviating the travel?

24 MR. ESTRADA: Well, my feeling has
25 always been that the only way that this is going to

1 be solved or addressed is that somehow in Mexico the
2 economic situation improves, and that the United
3 States, as a friendly neighbor, do everything that
4 they possibly can.

5 I had recommended foreign aid and
6 things of that nature, and they told me Mexico won't
7 accept foreign aid. And I said I can't believe a
8 Mexican that won't take somebody's money. But that's
9 what they told me.

10 I think there has to be some work done
11 to improve the situation over there. Because if it
12 doesn't, it will continue to happen.

13 If it means providing opportunities
14 for people from Mexico to help out the United States
15 in the work force, wherever the areas there are
16 needed, to be able to accommodate those areas and be
17 able to kind of help each other in one way or the
18 other, facilitate that, I guess. The guest worker
19 program is one concept, and I think that's been
20 looked at.

21 But something has to happen where
22 Mexico's situation has to improve. Otherwise, we're
23 going to still have the same problem if we're not
24 doing anything here to deal with it right now.

25 Obviously we're -- we need to secure

1 the border as best we can. Because I think
2 especially for us, it's a great drain on our
3 resources.

4 JUDGE ALSTON: I have a very brief
5 practical question. Mr. Lopez this morning used the
6 term "rescue beacon." I don't know what a rescue
7 beacon is. Can you explain that to me?

8 MR. ESTRADA: Who mentioned that?

9 JUDGE ALSTON: Lopez.

10 DR. HERNANDEZ: From Border Patrol.

11 MR. ESTRADA: No idea. I'm just
12 assuming that it's some kind of a signal that's out
13 there to alert or -- are you familiar with --

14 MS. GARCIA: They're a tower with --
15 you know.

16 MR. ESTRADA: It's a Border Patrol
17 resource I'm assuming, yeah.

18 MR. PAZ: Sheriff Estrada, you
19 probably heard about what happens in Cochise County
20 with vigilantes and people taking the matters on
21 their own hands. Do you face similar situations,
22 particularly the Sonoita area, Patagonia area or any
23 other area that you have to deal with people playing
24 cops?

25 MR. ESTRADA: You know, we've been

1 very lucky, Mr. Paz. At one time those groups kind
2 of raised their ugly head here. But fortunately, the
3 people from this community said we don't want you
4 here, and it didn't go well with them.

5 They were here for a little while.
6 They made once seizure of marijuana and they gave it
7 to the press and they made a big deal out of it.

8 And we actually said hey, you can't be
9 transporting those drugs. They picked them up and
10 transported them. So, you know, that kind of put
11 them on notice.

12 They left. They left. And as far as
13 I know, they haven't been back.

14 And I think it's attributed to the
15 community and the residents of Santa Cruz County.

16 We understand the problem. I think
17 we're compassionate about the situation. We do have
18 problems with it. The rural areas do have problems
19 with trespassers, things of that nature.

20 But we haven't gotten to that stage
21 where they come up, you know, put up their arms up
22 and decide we're going to stop these people or we're
23 going to hurt these people, we're going to kidnap
24 them. It hasn't gotten to that stage.

25 I think they've had the faith and the

1 confidence in law enforcement to be able to deal with
2 those issues. So we've been fortunate.

3 But vigilante are a major -- obviously
4 a major concern to everybody.

5 And I know Cochise has been the worst
6 county for that. Maybe it's the water up there, I
7 don't know.

8 MS. GARCIA: Isabel Garcia from
9 Tucson. I know that we don't have anybody testifying
10 here from the City of Nogales or the businesses of
11 Nogales, so you're it. And I know you're from law
12 enforcement perspective.

13 But I would like to know from you what
14 the impact of this new border buildup has been to the
15 economy. The building of walls and the imposition of
16 stricter requirements to come in, what has been the
17 impact to Nogales, Arizona?

18 MR. ESTRADA: Well, I think, as you
19 talk to the merchants, obviously they like everybody
20 that can purchase to come over and make it as easy as
21 possible. But I think they -- they've come to the
22 realization that that's not practical and that that's
23 not going to happen.

24 But it has had an impact. But at the
25 same time, like I indicated to you, the populations

1 on both sides of the border, and especially in
2 Sonora, they have more consumers coming over. So I
3 think the merchants here are not really hurting.

4 One of the things that has happened
5 and evolved in this community is that you used to
6 have a particular family or a group of families that
7 would have kind of the business control downtown.
8 And of course that changed as Wal-Mart and some of
9 these stores, and people going to Tucson has
10 changed.

11 So the downtown area has taken a new
12 look. Now you have Korean stores down there catering
13 to another group of consumers from across the line,
14 from the maquiladoras.

15 So they have these consumers coming
16 over that obviously provide enough purchase power in
17 the downtown area to keep those shops open, and then
18 everybody else goes to Wal-Mart or Tucson or
19 whatever.

20 So I think everybody's getting their
21 share of the consumer coming across the border.

22 I know that before they wouldn't
23 necessarily come through the border, they'd come
24 through the hole and through the fence and nobody
25 would bother them, you know. They'd come in shopping

1 and then go back.

2 But after a while there got to be a
3 point where they weren't all coming over to shop, and
4 it got to be a problem.

5 MR. MCKENZIE: James McKenzie from
6 Tucson.

7 I've got a question about Initiative
8 200. Do you see any sort of impact on your
9 department, and if so, to what degree?

10 MR. ESTRADA: I think, you know, in
11 being involved for a long time in the domestic
12 violence task force for years and having, I think, a
13 pretty good handle on that, one of the things that I
14 see with that proposition, that it's going to set up
15 another barrier for victims.

16 Women will be afraid to report it to
17 the police. Women will be afraid to go to the
18 hospital if they've been hurt if they are here
19 illegally. Because all of a sudden they're going to
20 have to think about the fact that somebody is going
21 to report them and that somehow they're going to be
22 deported, and they will not risk that.

23 So as a result of that, probably the
24 cycle of violence will continue and we will have more
25 victims.

1 I think that that is probably one of
2 the areas that I think will be very harmful, that the
3 victims will refrain from coming forward and
4 reporting to the authorities because of the fear.

5 One of the things that I think is
6 available right now is that they may not have that
7 fear, that they know that they can call the police
8 and that they will be helped without us asking who
9 are you and where are you from. We just want to know
10 are you a victim and what are you a victim of can we
11 help you.

12 Maybe Proposition 200 will change
13 that. And if it does set up that barrier, that wall,
14 I think we will continue to see more domestic
15 violence.

16 DR. WEBB-VIGNERY: Yes.

17 JUDGE ALSTON: Gilbert Alston.

18 You used a term, "maquiladoras"? My
19 Spanish is not that good --

20 MR. ESTRADA: That is the twin plant
21 concept.

22 Let me tell you what -- and it's a
23 good point that you brought up -- because Nogales,
24 Sonora in the '60s, late '50s and '60s, was probably
25 about 40,000 people.

1 The maquila industry kicked in about
2 '65 or so, give or take, about 30, 40 years ago.

3 With the maquila industry, it's a twin
4 plan concept. They take the raw products into Mexico
5 and they put them together and then they ship them
6 back at a very economical price for labor.

7 So these plants started setting up
8 across the line and you started getting more and more
9 people coming in, from 40,000 to 400,000 people.

10 In other words, what it did is it
11 provided opportunities for people and jobs, so that
12 the needy people in the interior of Mexico would come
13 to the border to find those jobs.

14 So they were looking for jobs. That's
15 all they wanted. They wanted jobs, and they found
16 them.

17 Well, a few years back the maquila
18 industry started suffering some major blows. They
19 started losing people. They lost 20-, 30-, 40,000
20 workers or more. And these are people that support
21 two or three or four people.

22 So all of a sudden you have people
23 that are displaced in this community. Then what do
24 they do? They either stay here, they do something
25 illegal, they become coyotes, they transport drugs.

1 You know, it gets to be a real vicious circle.

2 But the maquiladoras industry is still
3 in Nogales, Sonora, it's still healthy, but there's
4 still a lot of these jobs that are going overseas.

5 But that happened about 30, 40 years
6 ago.

7 And that's what increased the
8 population in Nogales, Sonora, from about 40-, 50,000
9 to 300- or 400,000 people. And they haven't been
10 able to keep infrastructure and services is still
11 something that they have not been able to catch up.

12 You see shanty towns, cardboard homes
13 up in the hills, you know. It's a whole new
14 different world all right.

15 DR. WEBB-VIGNERY: Okay. I want to
16 thank you very much for coming and sharing the
17 information with us today.

18 And if you have anything that you
19 could provide our regional office that you brought
20 with you, that would be appreciated too.

21 MR. ESTRADA: Thank you very much.

22 And I wanted to give you a cartoon
23 that I got from the Daily Star, and I think it
24 expresses both sides' views. So maybe you can share
25 with your thoughts with me on it.

1 MR. DULLES: Madam Chair, can I ask
2 one question?

3 DR. WEBB-VIGNERY: Yes.

4 MR. DULLES: John Dulles, regional
5 director in Denver.

6 Are you familiar with the Clear Act,
7 Sheriff?

8 MR. ESTRADA: Yes.

9 MR. DULLES: The Clear Act was
10 proposed legislation in Congress which would
11 essentially require all local law enforcement
12 agencies to be directly involved in the enforcement
13 of immigration law, regardless of training or
14 funding, and there would even be penalties for those
15 agencies that did not participate, as I understand
16 it.

17 Just very quickly, do you support that
18 proposed legislation and could you explain your
19 reason for opposing it or supporting it?

20 MR. ESTRADA: Definitely I am against
21 it and I would not support it.

22 One thing I will support is all other
23 agencies in protecting and providing public safety
24 for whoever it may be.

25 But no, we don't have the resources to

1 deal with immigration issues, so I definitely would
2 not want my people to get involved in that. I think
3 we have enough work to do already.

4 I think it would be similar to
5 Proposition 200. That again, you would have people
6 that would be afraid to come to me. I'm their
7 friend, they would be afraid to come to me because
8 they would feel that I would have to report them, and
9 I think that's something I would not like to see.

10 MR. DULLES: Thank you very much,
11 Sheriff.

12 MR. PAZ: Ramon Paz.

13 Have you had conversations with the
14 chief of police regarding that issue? He failed to
15 come in today.

16 MR. ESTRADA: I think he feels the
17 same way. I can't speak for him, but I think we all
18 are on the same position on that with regard to not
19 having the resources to be able to do that, and it
20 really presents a very difficult situation for us if
21 we were to start doing that.

22 DR. WEBB-VIGNERY: Thank you very
23 much.

24 MR. ESTRADA: Thank you. Good luck.

25 DR. WEBB-VIGNERY: We've been allowing

1 eight minutes for testimony and then seven minutes
2 for panel discussion. However, you are the last of
3 the day, so maybe if we have further questions, we'll
4 have time for that.

5 So the first thing is if you could
6 state your name for the record.

7 MS. NOONAN: I'm Deborah Noonan.

8 MS. BERNINI-GALUP: And my name is
9 Brook Bernini-Galup.

10 MS. NOONAN: And we are both
11 delegation organizers with BorderLinks in Tucson.

12 Good afternoon.

13 DR. WEBB-VIGNERY: Good afternoon.

14 MS. NOONAN: BorderLinks is a
15 bi-national nonprofit dedicated to building
16 relationships and understanding between North and
17 Latin Americans and encouraging a shared analysis of
18 the implications of the global economy.

19 We facilitate experiential educational
20 delegations to the border with the goal of exposing
21 groups to the issues present in the borderlands.

22 Our trips include talks with Nogales,
23 Sonora city officials, community and religious
24 leaders, residents in their homes and visits to
25 foreign-owned assembly plants.

1 We also often visit migrant kitchens
2 and shelters in Agua Prieta and Nogales, Sonora to
3 speak with migrants who have often been recently
4 returned or deported from the U.S.

5 Another component of our trips is time
6 spent at CCAMYN, a Catholic community center offering
7 aid to migrants in Altar, Sonora.

8 In the past few years, Altar has
9 become part of the most frequented migratory corridor
10 into the U.S. and is considered to be the converging
11 point for migrants coming from farther south looking
12 to cross into the United States.

13 In our time at CCAMYN, we have had the
14 opportunity to speak with migrants from Mexico and
15 Central America who are either making plans to cross
16 for the first time or who have been returned or
17 deported and are looking to cross the border again.

18 MS. BERNINI-GALUP: During our visits
19 to these shelters, migrants often speak of both the
20 push and pull factors influencing migration across
21 the U.S.-Mexico border.

22 Conditions in Mexico, especially rural
23 central and southern Mexico, have made it impossible
24 for many families to live off the land.

25 In the 1980s, World Bank and

1 International Monetary Fund Structural Adjustment
2 programs were implemented in Mexico that cut
3 government subsidies on staple foods and social
4 service spending.

5 This increased the cost of public
6 education to families and lowered the quality of
7 education and health care.

8 The 1994 passage of NAFTA pushed many
9 small Mexican business owners out of the Mexican
10 market, opening it up to large foreign corporations
11 providing jobs that don't pay livable wages and that
12 don't pay taxes to support local economies.

13 It also allowed subsidized U.S.
14 products, such as corn, to flood the Mexican market,
15 making it impossible for small Mexican farmers to
16 compete.

17 Much of the land once farmed by small
18 farmers has been bought by agro businesses which
19 offer jobs at unlivable wages.

20 Wages earned in northern Mexican
21 border cities like Nogales are higher than in other
22 parts of Mexico, but the cost of living is also
23 significantly higher.

24 The highest wages are offered by
25 foreign-owned assembly plants called maquiladoras,

1 but few people are able to survive on the wages they
2 are paid.

3 Maquiladoras pay minimal local taxes
4 and the local governments have been unable to provide
5 the necessary infrastructure to support the rapid
6 population growth.

7 Another inhibiting factor is
8 corruption within local governments that often do not
9 have the interests of their citizens in mind.

10 These are some of the reasons both
11 urban Mexican workers and poor farmers feel that in
12 order to support their families, they must seek work
13 in the U.S.

14 The pull factors are equally strong,
15 the jobs exist and much of the U.S. economy is based
16 on the work of undocumented workers throughout the
17 country.

18 A recurring theme in many of our talks
19 with migrants is that they do not want to stay
20 permanently in the United States. They want to work
21 for a few years in order to put their children
22 through school, save to start their open business or
23 build their open house and then return to their place
24 of origin.

25 When asked, many of them feel that

1 risking death crossing through the desert is better
2 than watching their children starve to death at home
3 because of their inability to feed them.

4 Over the past 10 years, BorderLinks
5 has observed a growing culture of violence on both
6 sides of the border.

7 The closing of traditional migration
8 corridors like San Diego, El Paso, and Nogales
9 through operations Gatekeeper, Hold the Line, and
10 Safeguard, have pushed migrants into dangerous areas
11 of the border, such as the deserts and mountains of
12 Arizona.

13 There is a parallel relationship
14 between U.S. spending on border enforcement and the
15 size and sophistication of drug and people-smuggling
16 organizations.

17 The fortification of urban areas along
18 the border, and the resulting redirection of
19 migration into the most remote and treacherous areas
20 of the border, have made people smuggling more
21 difficult and thus increased the price of the
22 service.

23 Whereas several years ago the cost of
24 smuggling between the border and Phoenix was several
25 hundred dollars, it is now around \$1500.

1 The remoteness of the areas where
2 migrants are crossing makes them very vulnerable to
3 bandits. Women are especially vulnerable to abuse
4 and rape by bandits and smugglers.

5 We have heard cases of groups of
6 migrants being kidnapped away from their smugglers by
7 other smugglers and held for ransom until their
8 families sent money.

9 With the increase in the value per
10 person of smuggling, there seems to be a decrease in
11 the value of human life, contributing to the 2,000-
12 plus deaths that have occurred on this border since
13 1996.

14 When a profit can be made in assisting
15 the remaining members of a group in reaching their
16 destination, one weak member becomes expendable.

17 In conversations with migrants in
18 Nogales, Altar and Agua Prieta, Sonora, many share
19 with us their experiences of being detained by the
20 Border Patrol.

21 These experiences vary widely, from
22 humane treatment, to physical and verbal abuse.

23 We've heard many accounts of migrants
24 being held in a detention center for eight hours and
25 only being fed some crackers and a little water, or

1 of being refused food and drink altogether.

2 One group of migrants said that when
3 they asked for food and water, they were told that
4 they had been without water in the desert and that
5 one more day without food was not going to hurt
6 them.

7 We recently met a young woman from
8 southern Mexico who was being held as a witness in a
9 smuggling case. She was held in the Border Patrol
10 detention center for over two days without being
11 given any food. She spent the two days in a cell
12 containing only chairs.

13 CCAMYN has documented a case of a man
14 who was not fed in the first 24 hours of detention
15 and was subsequently held for 24 days without
16 knowledge of the reason for his detention.

17 They have documented many cases where
18 detainees were not allowed access to a lawyer or
19 someone who could explain their rights.

20 CCAMYN has also documented that while
21 migrants were being transported in Border Patrol
22 vehicles, the officers alternated between turning the
23 air from extremely cold to extremely hot.

24 One group of migrants told us that
25 they went from shivering to feeling that they were

1 almost suffocating.

2 Even after banging on the window
3 separating them from the officers, they received no
4 response.

5 Others say that the temperatures in
6 the detention centers are also kept so low that the
7 migrants feel very cold.

8 We have spoken with recently deported
9 migrants in Nogales, Sonora, whose money and all
10 documents, including their Mexican identification
11 card, were confiscated by border officials. This
12 makes it very difficult for them to find work when
13 they arrive back in Mexico.

14 In February at CCAMYN in Altar we
15 spoke with a group of migrants who had been hit on
16 the head with flashlights until they bled from the
17 ears as they were being put into Border Patrol
18 vehicles. They were also verbally abused.

19 CCAMYN has also documented an increase
20 in the use of firearms by Border Patrol agents, for
21 example, holding migrants at gunpoint.

22 Current border enforcement policies
23 criminalize men and women who are seeking to come to
24 the United States to work, and this is reflected in
25 the treatment they receive.

1 Up until May we regularly took groups
2 of participants to meet with the public information
3 officers at the Border Patrol sector offices in
4 Tucson and Nogales.

5 These visits were an important part of
6 our educational program, allowing the group
7 participants to see Border Patrol facilities and
8 learn about border enforcement from the government's
9 perspective. As of May, we are no longer allowed to
10 schedule visits.

11 As a public institution, the
12 Department of Homeland Security has a responsibility
13 to be accessible to U.S. citizens.

14 From our experiences hearing the
15 stories of migrants, there is also a need for a
16 transparent and accountable mechanism to ensure that
17 the human rights of both migrants and border
18 residents are protected.

19 MS. NOONAN: The crossing of men,
20 women and children through the deserts and mountains
21 of the Sonora, Arizona border and the resulting
22 deaths will not stop until there are legal
23 immigration and migration options as well as
24 opportunities for sustainable work in Mexico.

25 The North American Free Trade

1 Agreement, or NAFTA, needs to be reworked so that the
2 people of Mexico would benefit.

3 Clauses protecting small Mexican
4 businesses as well as farmers should be inserted.

5 Based on the model of the European
6 Union, the U.S. and Canada could invest money and
7 resources into Mexico to help raise the standard of
8 living and create an infrastructure so that Mexico
9 could be an equal trading partner with the U.S. and
10 Canada.

11 Wages in Mexico, as well as in other
12 parts of Latin America, need to be raised to the
13 level where families can support themselves.

14 The Central American Free Trade
15 Agreement, CAFTA, is currently waiting for approval
16 by Congress.

17 Without protection for small business
18 owners and farmers, it can only be expected that the
19 implementation of CAFTA, just like NAFTA, would only
20 increase poverty in Central America and the migration
21 of Central Americans to the United States in greater
22 numbers.

23 The reevaluation of trade policies
24 with Latin America needs to be a central component of
25 the government's solution to preventing deaths on the

1 border.

2 Immigration reform must address the
3 status of workers currently living in the United
4 States and provide opportunities for permanent
5 residence and eventual citizenship for workers and
6 their families.

7 New laws should also provide
8 opportunities to legalize the status of workers who
9 only want to work in the United States temporarily.

10 Many migrants we encounter say that
11 they only want to work in the United States for a
12 year or two and send money to their families, but
13 they might end up staying longer because of the
14 difficulty, danger and cost of crossing the border
15 without documents.

16 Family reunification should be an
17 important part of immigration reform, allowing
18 families to immigrate and migrate together.

19 Both workers seeking permanent
20 residence, citizenship and temporary work permits
21 should have the right to travel between the United
22 States and their country of origin in order to
23 maintain ties to their families.

24 Under any immigration reform, workers'
25 rights to change jobs, organize, and make complaints

1 against their employers must be protected.

2 If efforts are going to be made to
3 stop deaths in the desert, a comprehensive reform of
4 both trade and immigration policies is needed.

5 However, in the short-term, an
6 independent counsel is needed to investigate claims
7 of abuse by Department of Homeland Security
8 officials.

9 Human rights for citizens, residents
10 and undocumented persons on the border should be the
11 priority of both local and federal governments.

12 We are also submitting a copy of the
13 report for public record and have also attached a
14 document that we referenced from the human rights
15 office at CCAMYN, which is the community center of
16 attention to migrants and those in need in Altar,
17 Sonora, and that's found at the back of the packet.

18 Thank you.

19 DR. WEBB-VIGNERY: Thank you. It's
20 open to questions.

21 Paul?

22 MR. GATTONE: Paul Gattone from
23 Tucson.

24 A couple of questions. Do you have
25 other documentation of abuse that you could provide

1 to this committee?

2 I know that there's some compelling
3 stories inside. Any other compilations of abuse
4 reports that you would feel comfortable in submitting
5 to the committee?

6 MS. NOONAN: Unfortunately, the
7 purpose of our organization is not to document cases
8 of abuse, so this is -- I mean, these are all cases
9 that we've heard and experience with the groups, but
10 we don't have further documentation of them.

11 MR. GATTONE: My other question is as
12 you hear from people you come in contact with, have
13 you ever had any reports about the use of the pepper
14 balls, the paint balls filled with some sort of
15 pepper spray?

16 MS. NOONAN: No, I haven't heard of
17 that to this point.

18 MR. GATTONE: Okay. Thank you.

19 DR. WEBB-VIGNERY: Yes.

20 DR. HERNANDEZ: Fernando Hernandez,
21 California committee.

22 You were talking about the need for an
23 a more humane and comprehensive approach to
24 legislation and new laws.

25 Are there any -- is there any pending

1 legislation that has been introduced that you see as
2 a model, or do you have any models out there that you
3 might reference or help us with and that we might be
4 able to introduce into the record?

5 MS. BERNINI-GALUP: Again, our -- the
6 function of our organization is not to be dealing
7 with legislation, an it's educational organization.
8 But from personal experience, what I am aware of the
9 SOLVE Act, that seems to be a step in the right
10 direction.

11 DR. HERNANDEZ: Thank you.

12 DR. WEBB-VIGNERY: Could you repeat
13 that?

14 MS. BERNINI-GALUP: The SOLVE Act.

15 DR. WEBB-VIGNERY: The SOLVE Act?

16 MS. BERNINI-GALUP: Yes.

17 DR. WEBB-VIGNERY: Could you spell
18 that?

19 MS. GARCIA: If I could, it's an
20 acronym.

21 Isabel Garcia from Tucson.

22 The SOLVE Act that was referenced also
23 by Congressman Grijalva's aide today is a legislative
24 proposal put forward basically by democrats with
25 large support, but it stands for the safe and orderly

1 legal visa enforcement. Safe and orderly legal visa
2 enforcement.

3 And I have a question. I understand
4 you don't document abuse and all, but do you know who
5 to file complaints with if you had a complaint here
6 in the United States? You know, an undocumented
7 migrant that has a case of abuse.

8 MS. BERNINI-GALUP: Here in the United
9 States?

10 MS. GARCIA: Here in the U.S.

11 MS. BERNINI-GALUP: We're aware of
12 organizations in Tucson such as the Coalicion de
13 Derechos Humanos.

14 MS. GARCIA: But I'm talking about
15 governmental officials. Have you been made aware of
16 any --

17 MS. NOONAN: We recently became aware
18 that there is an office in Washington DC that
19 complaints can be made to, and hope that they'll also
20 be able to accept complaints from organizations we
21 work with, such as CCAMYN in Mexico as well.

22 MS. GARCIA: But since INS came under
23 the Department of Homeland Security, have you as an
24 organization, do you know, ever been advised by the
25 INS this is a place to lodge complaints?

1 MS. NOONAN: No.

2 MS. GARCIA: Okay.

3 MR. PAZ: Ramon Paz, Tucson.

4 I'm impressed with what you say. And
5 if you would have been here earlier and heard the
6 Border Patrol chief talk -- this makes sense. For
7 some reason I can't connect both of them.

8 I see the Border Patrol today as a
9 humanitarian group.

10 MR. GATTONE: Or at least that was the
11 gist of his presentation.

12 MR. PAZ: You have so much valuable
13 information, but not to have a system to put it into,
14 something that will create what you would like, is
15 that policy, sort of spins around.

16 And along the line we hear stories, I
17 could tell you stories myself. But without having a
18 systemic way of putting them down and presenting them
19 so that they can be used, what's the use?

20 MS. NOONAN: We are an educational
21 institution so that -- I mean, all these experiences
22 I have experienced along with 15 to 20 people from
23 universities and other institutions, churches,
24 throughout the United States, and in Canada as well.

25 So, I mean, our goal as an institution

1 is to educate people to what the reality is on the
2 border so that they can also go back to their
3 communities and advocate for change.

4 MR. PAZ: But the education of
5 politicians is supposedly based on data. And that's
6 what we're missing sometimes.

7 Border Patrol tell me, oh, we took
8 care of that, oh, we have no record.

9 I just think it's so valuable what you
10 have to offer, I just wish we had more ways to act on
11 it.

12 MS. NOONAN: Thank you.

13 DR. WEBB-VIGNERY: And I would second
14 what Ramon just said. That's true.

15 MR. MCKENZIE: James McKenzie from
16 Tucson.

17 Initiative 200, I take it you're
18 familiar with that?

19 MS. NOONAN: Uh-huh.

20 MR. MCKENZIE: How do you see that
21 impacting the -- how do you see that impacting the
22 people you're dealing with, maybe your organization?
23 Or some of the pros and cons I guess would be a
24 better way of asking the question?

25 MS. BERNINI-GALUP: Our trips take on

1 two different facets. We do a lot of work in
2 Nogales, Sonora with residents who are there for the
3 long term. So Proposition 200 would not affect them
4 in any direct way.

5 With the people, the migrants that we
6 speak with, if they do end up staying in Arizona,
7 which many of them do not, I think it would most
8 definitely have a detrimental effect. And also on
9 all of the residents that are currently living in
10 Arizona and U.S. citizens living in Arizona in terms
11 of increased bureaucracy and governmental spending
12 here in the state of Arizona.

13 MR. MCKENZIE: Thank you.

14 JUDGE ALSTON: Gilbert Alston from the
15 Southern California advisory committee.

16 We've heard a lot here today about
17 sexual harassment of female undocumented workers.
18 Have you ever heard of a case of sanctions for that
19 by the employer? And if so, what are they?

20 MS. NOONAN: The only case I've
21 interacted with was long before I even started
22 working for BorderLinks, so I could only respond from
23 my personal experiences.

24 But I remember hearing of a case in
25 Texas where a woman was held against her will by an

1 employer. And it was informal employment. And I'm
2 not sure what the eventually outcome of that was.
3 But she was held for several days and finally was
4 able to escape.

5 And he did threaten her with reporting
6 her to the authorities if she tried to say anything
7 against him.

8 But she had made connections with a
9 legal advocacy center for migrants and refugees in
10 southern Texas and they were trying to help her with
11 that case.

12 But I haven't heard of anything just
13 in my work here in southern Arizona yet, to this
14 point.

15 JUDGE ALSTON: Your co-worker there?

16 MS. BERNINI-GALUP: I have not heard
17 of any cases.

18 JUDGE ALSTON: Thank you.

19 DR. WEBB-VIGNERY: Well, it looks like
20 that's it. And I want to thank you for coming.

21 And you gave a copy of your statement
22 to our regional staff, to Art?

23 MS. NOONAN: Yes.

24 DR. WEBB-VIGNERY: So I guess that's
25 it.

1 MS. NOONAN: Thank you very much.

2 MS. BERNINI-GALUP: Thank you for this
3 opportunity.

4 DR. WEBB-VIGNERY: And we will suspend
5 our fact-finding until tomorrow morning.

6 MS. GARCIA: What happened to the
7 mayor?

8 DR. WEBB-VIGNERY: He didn't show up.

9 (Hearing recessed at 4:21 p.m., August
10 27, 2004.)

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